

WISCONSIN LEGISLATIVE COUNCIL STAFF



RULES CLEARINGHOUSE

Ronald Sklansky
Director
(608) 266-1946

Richard Sweet
Assistant Director
(608) 266-2982



Terry C. Anderson, Director
Legislative Council Staff
(608) 266-1304

One E. Main St., Ste. 401
P.O. Box 2536
Madison, WI 53701-2536
FAX: (608) 266-3830

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 00-044

AN ORDER to create chapter TCS 16, relating to grants for students.

Submitted by **WISCONSIN TECHNICAL COLLEGE SYSTEM BOARD**

02-28-00 RECEIVED BY LEGISLATIVE COUNCIL.

03-27-00 REPORT SENT TO AGENCY.

RNS:JLK;jal;rv

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES NO

WISCONSIN LEGISLATIVE COUNCIL STAFF

RULES CLEARINGHOUSE

Ronald Sklansky
Director
(608) 266-1946

Richard Sweet
Assistant Director
(608) 266-2982



Terry C. Anderson
Director
Legislative Council Staff
(608) 266-1304

One E. Main St., Ste. 401
P.O. Box 2536
Madison, WI 53701-2536
FAX: (608) 266-3830

CLEARINGHOUSE RULE 00-044

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

1. Statutory Authority

a. Section 38.305, Stats., provides for a grant program for a student who enrolls in a technical college within three years of graduating from a high school in this state if certain other criteria are met. However, ss. TCS 16.02 (2) (the second s. TCS 16.02 (2)), 16.03 (4) and 16.06 provide for deferments under which an exception is made to the requirement that a student enroll within three years of high school graduation. The deferments may be based on personal hardship, as determined by the technical college district, or on entering the U.S. armed forces on active duty. There appears to be no statutory authority to create these exceptions.

Even if it were appropriate to create these exceptions, it is inappropriate for s. TCS 16.06 (4) to specify that each district must establish policies for approving deferments, other than military deferments. Under ss. 227.01 (13) and 227.10 (1), Stats., these policies should be promulgated by administrative rule, rather than being established by each district.

b. Section 38.305 (4), Stats., requires that the rules promulgated by the Wisconsin Technical College System Board include rules on refunding a grant if a student becomes ineligible for the grant. Chapter TCS 16 fails to provide rules on refunding a grant for students who become ineligible.

c. Section 38.305 (1), Stats., specifies that the board must award a grant of \$500 to a first-year student who meets the criteria specified in s. 38.305 (1) (a) to (c), Stats. The statute does not specify the use which must be made of the grant money.

In contrast, s. TCS 16.04 (1) and (2) specify that the grant is to be applied toward a student's cost of tuition and fees. It is not clear why this limitation is specified in the rules. If, for example, a student had already received a scholarship or had another source of funding that was applied toward the student's tuition and fees, is there a reason that the grant cannot be awarded outright to the student without restriction as to its use?

d. Section 38.505 (1) (c), Stats., provides that one of the eligibility criteria for a grant is maintaining a grade point average (GPA) of at least 2.0. Section TCS 16.07 (1) provides that a student who fails to maintain a 2.0 GPA may be placed on probation for a semester; however, s. TCS 16.07 (4) sets forth a process under which a student may request an exemption from probation due to personal hardship. This would appear to negate the requirement that a 2.0 GPA be maintained in all cases. There appears to be no statutory authority for this exemption.

e. Section TCS 16.08 provides that each district must establish policies and procedures for students to appeal grant eligibility, deferment approvals, probation determinations and probation exemptions. Under ss. 227.01 (13) and 227.10 (1), Stats., these policies and procedures should be promulgated by administrative rule, rather than being established by each district.

2. Form, Style and Placement in Administrative Code

a. There are two sections labeled s. TCS 16.02. This problem should be remedied, and all affected cross-references should be changed appropriately.

b. Several of the terms defined in s. TCS 16.02 are out of alphabetical order. See subs. (3), (7), (8) and (9).

c. In s. TCS 16.02 (7), "means" should replace "is."

d. Section TCS 16.02 (8), (9) and (11) are definitions which include the phrase "for purposes of TOP grant eligibility" or a slight variation of that phrase. This phrase should be eliminated in all of the definitions. It is unnecessary because all of the definitions in ch. TCS 16 relate to eligibility for a technical and occupational program (TOP) grant.

e. In s. TCS 16.02 (8), an Arabic number is used and then the number is written out and set off in parentheses, for example, "18 (eighteen)." The number should be written in Arabic numerals without parenthetical repetition of the number in text. [See s. 1.01 (5), Manual.] This problem occurs throughout the rule and should be remedied. It should be noted that the number "one" should be written out. For example, in s. TCS 16.04 (4), "1 (one)" should be changed to "one."

f. In s. TCS 16.02 (8), the phrase "shall not be counted" should be changed to "may not be counted." [See s. 1.01 (2), Manual.]

g. In s. TCS 16.02 (10) and (13), two terms are defined in each subsection. Each of the terms should be set forth in quotation marks, e.g., ““Grade point average” or “GPA” means”

h. In ss. TCS 16.03 and 16.05, each of the subunits should end with a period.

i. In s. TCS 16.04 (1), the reference to “s. TCS 16.03 (1)-(4)” should be changed to “s. TCS 16.03 (1) to (4).” [See s. 1.01 (9) (d), Manual.]

j. In s. TCS 16.04 (4), the first sentence following the colon should be labeled as par. (a).

k. In s. TCS 16.04 (4), “must receive” should be changed to “shall receive.” [See s. 1.01 (2), Manual.] Similarly, in s. TCS 16.06 (3), the two references to “must be made” should be changed to “shall be made.”

l. In s. TCS 16.06 (1), the introductory material should be redrafted as par. (a) since it does not follow the format for an (intro.). [See s. 1.03 (8), Manual.]

m. In s. TCS 16.06 (1) (a), the reference to “s. 16.03” should be changed to “s. TCS 16.03.” [See s. 1.07 (2), Manual.] Similarly, in the last sentence of s. TCS 16.06 (1) (b), the reference to “s. 16.04 (4)” should be changed to “s. TCS 16.04 (4).”

n. In ss. TCS 16.06 and 16.08, the subsection titles should be in solid capital letters and should not be underlined. [See s. 1.05 (2) (c), Manual.]

o. In s. TCS 16.06 (1) (a), (b) and (c), the paragraph titles should be italicized and should not be underlined. [See s. 1.05 (2) (d), Manual.]

p. In s. TCS 16.06 (2), the reference to “subs. (1)” should be changed to “sub. (1).” [See s. 1.07 (2), Manual.]

q. In s. TCS 16.07 (1), “will be given” should be changed to “may be given.” [See s. 1.01 (2), Manual.]

r. In s. TCS 16.07 (4), the subsection title should be eliminated since none of the other subsections in s. TCS 16.07 have titles. [See s. 1.05 (1), Manual.]

s. The effective date provision incorrectly states that the rule is an emergency rule. It also states that the rule will take effect on the date of publication in the official state newspaper as provided in s. 227.24 (1) (c), Stats. Unless a different effective date is intended, the effective date provision should indicate that the rule will take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2) (intro.), Stats. [See s. 1.02 (4), Manual.]

4. Adequacy of References to Related Statutes, Rules and Forms

a. In s. TCS 16.02 (6), the reference to “s. 38.12 (3) (a), Stats.” should be changed to “s. 38.12 (3) (a) 1., Stats.”.

b. In s. TCS 16.02 (11), “ss. 118.33.” should be changed to “s. 118.33, Stats.”.

c. Section TCS 16.04 (2) specifies that if a grant applicant meets the eligibility criteria for the continuation of a TOP grant “under s. TCS 16.05 (1)” the student must receive a grant. It appears that the cross-reference to the eligibility criteria should be to s. TCS 16.05, rather than just s. TCS 16.05 (1).

d. In s. TCS 16.06 (1) (b), it appears that the reference to “ss. 16.03 or 16.05” should be changed to “s. TCS 16.04 or 16.05.” Similarly, in s. TCS 16.07 (4) (a), it appears that the reference to “ss. TCS 16.03 or 16.05” should be changed to “s. TCS 16.04 or 16.05.”

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. Section TCS 16.01 refers to grants to students enrolling in “technical and occupational educational programs.” However, s. 38.305, Stats., provides that the grant program applies to students enrolled in an “associate degree program or a vocational diploma program.” The statutory terms should be used in the purpose section of chapter TCS 16, especially since technical and occupational educational programs are not defined terms in chapter TCS 16.

Also, s. TCS 16.05 (2) refers to grant eligibility for a student who is enrolled in an “occupational associate degree program.” This is not a defined term. Again, s. 38.305 (1) (b), Stats., refers to eligibility for a student who is enrolled in an “associate degree program.” The rule would be less confusing and ambiguous if a term were selected and used consistently.

b. In the second sentence of s. TCS 16.02 (7), the phrase “first full month” should be changed to “first date of the first full month.” Also, it is unclear how to calculate the initial eligibility end date if the person has earned a high school equivalency diploma. It would appear to be more appropriate to rephrase this sentence using the defined term “graduated from high school.” It appears that the entire definition could be simplified by redrafting it along the following line: “(7) “Initial eligibility end date” means the last day of the 36th full month following the date on which the student graduated from high school.”

c. In s. TCS 16.02 (8), it appears that the phrase “while serving on active duty” should be changed to “while serving on active duty in the U.S. armed forces.”

d. Section TCS 16.06 (1) (intro.) incorrectly uses the term “must receive” rather than “shall receive.” [See s. 1.01 (2), Manual.] However, it appears that this phrase would be more accurate if it referred to the number of semesters in which a “student is eligible to receive a TOP grant.”

Section TCS 16.06 (1) (b) refers to the time in which a student “has to receive all of his or her TOP grants.” Again, it appears that this phrase would be more accurate if it referred to the time in which a “student is eligible to receive a TOP grant.”

e. Section TCS 16.06 (2) refers to a “high school graduate.” It is not clear if this refers to those who either received a diploma or a high school equivalency diploma. This ambiguity could be avoided by using the term defined in s. TCS 16.01 (11) (“graduated from high school”) in the sentence. For example, the sentence could begin: “A person who has graduated from high school who may otherwise”

f. Section TCS 16.07 (4) (b) provides that a request for a probation exemption “must be approved before the end of the semester” It is not appropriate to use the word “must.” [See s. 1.01 (2), Manual.] Moreover, it seems to be inappropriate to require that the request be approved. It would appear to be more appropriate to use a phrase that requires that a decision on the request be made before the end of the semester.

WISCONSIN LEGISLATIVE COUNCIL STAFF



RULES CLEARINGHOUSE

Ronald Sklansky
Director
(608) 266-1946

Richard Sweet
Assistant Director
(608) 266-2982



Terry C. Anderson
Director
Legislative Council Staff
(608) 266-1304

One E. Main St., Ste. 401
P.O. Box 2536
Madison, WI 53701-2536
FAX: (608) 266-3830

PROCESSING INSTRUCTIONS TO AGENCY HEADS

[ENCLOSED ARE THE SENATE AND ASSEMBLY RULE JACKETS CONTAINING THE LEGISLATIVE COUNCIL CLEARINGHOUSE REPORT. AN ADDITIONAL COPY OF THE CLEARINGHOUSE REPORT IS ENCLOSED FOR YOUR FILES.]

PLEASE NOTE: Your agency must complete the following steps in the legislative process of administrative rule review:

1. On the appropriate line on the face of both clearinghouse rule jackets, enter, in column 1, the appropriate date and, in column 2, "Report Received by Agency."
2. On the appropriate line or lines on the face of both clearinghouse rule jackets, enter, in column 1, the appropriate date or dates and, in column 2, "Public Hearing Held" OR "Public Hearing Not Required."
3. Enclose in both clearinghouse rule jackets, in triplicate, the notice and report required by s. 227.19 (2) and (3), Stats. [The report includes the rule in final draft form.]
4. Notify the presiding officer of the Senate and Assembly that the rule is in final draft form by hand delivering the Senate clearinghouse rule jacket to the Senate Chief Clerk and the Assembly clearinghouse rule jacket to the Assembly Chief Clerk. At the time of this submission, on the appropriate line on the face of the clearinghouse rule jacket, each Chief Clerk will enter, in column 1, the appropriate date and, in column 2, "Report Received from Agency." Each clearinghouse rule jacket will be promptly delivered to each presiding officer for referral of the notice and report to a standing committee in each house.
5. If the agency does not proceed with the rule-making process on this rule, on the appropriate line on the face of both clearinghouse rule jackets, enter, in column 1, the appropriate date and, in column 2, "Rule Draft Withdrawn by Agency" and hand deliver the Senate clearinghouse rule jacket to the Senate Chief Clerk and the Assembly clearinghouse rule jacket to the Assembly Chief Clerk.

FOR YOUR INFORMATION: A record of all actions taken on administrative rules is contained in the Bulletin of Proceedings of the Wisconsin Legislature. The clearinghouse rule jackets will be retained by the Legislature as a permanent record.

[See reverse side for jacket sample.]

WLCS
TCA:jal;kja
3/00



Wisconsin Technical College System Board

July 18, 2000

Senator Richard Grobschmidt
Chair, Senate Committee on Education
104 South, State Capitol

Representative Robin Kreibich
Chair, Assembly Committee on Colleges and
Universities
107 West, State Capitol

Dear Senator Grobschmidt and Representative Kreibich:

Pursuant to Wis. Stats. § 227.19(4)(b)3, I hereby submit the enclosed germane modifications to Clearinghouse Rule 00-044, creating TCS 16, relating to grants to students. These germane modifications are also subject to the approval of the Wisconsin Technical College System Board, which will take action on the rules at their next meeting on July 26, 2000. Alternative rule changes, if any, approved by the Board at that time will be submitted to the standing committees as germane modifications prior to the end of the legislative review period.

As you are aware, the Joint Committee for Review of Administrative Rules (JCRAR) extended the effective date of Emergency Rule TCS 16 Grants to Students, except for the second TCS 16.02(2) relating to eligibility and TCS 16.06 relating to deferment. The JCRAR took this action based on the opinion of Legislative Council staff that the Wisconsin Technical College System Board did not appear to have the statutory authority to extend the time period for grant eligibility using deferments. The JCRAR co-chairs communicated this action to your standing committees, requesting further scrutiny of the identical provisions in the permanent version of the rule (Clearinghouse Rule 00-044, TCS 16) that is currently under your review. In addition, the JCRAR co-chairs suggested that section TCS 16.09 relating to appeals should be put in rule form. To allow for further legislative review and discussion of Clearinghouse Rule 00-044, TCS 16, both of your standing committees have extended the legislative review period through the end of July 2000. It is in response to the concerns raised by JCRAR and your standing committees that the enclosed rule modifications are submitted.

The attached text includes the language of the proposed permanent rules with the germane modifications shown as either underlined text (additions) or shadowed text (deletions), including:

1. Deletion of TCS 16.03(2) re: deferments of initial eligibility periods
2. Deletion of TCS 16.07 re: deferments
3. Deletion of language in TCS 16.04(4) re: deferments
4. Deletion of language in TCS 16.05(4) re: deferments
5. Addition of provision on probation for personal hardship [renumbered TCS 16.07(5)]
6. Revision of appeals process [renumbered TCS 16.08]

310 Price Place, PO Box 7874, Madison, WI 53707-7874 ♦ Edward Chin, State Director

(608) 266-1207 ♦ TTY (608) 267-2483 ♦ Fax (608) 266-1690 ♦ Email wtnsb@board.tec.wi.us ♦ www.board.tec.wi.us

The proposed rules, as modified, now contain a more specific appeal process and no longer contain the section pertaining to deferments. In addition, there is an expansion of the "probation exemption" provision in the rules. This expansion allows a student (who first gets permission before the start of the semester for personal hardship reasons) to not meet the grant requirements in their 2nd and/or 3rd semester and remain eligible for future TOP grants. Although these students will not be eligible for a grant in that semester, neither will they lose their eligibility for future grants.

I appreciate the help of you and your staff in addressing the legislative concerns with the proposed TOP grant administrative rules. Your thoughts and suggestions have been crucial to ensuring the timely implementation of a program that will benefit many technical college students.

Sincerely,



Edward Chin
State Director

Attachment: text of germane modifications to Clearinghouse Rule 00-044 relating to grants to students entitled: Technical and Occupational Program Grants (TOP Grants) and creating Wis. Admin. Code ch. TCS 16.

Cc: Russ Whitesel, Legislative Council
Mary Matthias, Legislative Council
Gary Poulson, Revisor of Statutes Bureau

TEXT OF RULE

SECTION 1. Chapter TCS 16 (title) is created to read:

CHAPTER TCS 16 (title)

TECHNICAL AND OCCUPATIONAL PROGRAM GRANTS

TCS 16.01 Purpose. The purpose of this chapter is to establish procedures to implement and administer grants to students enrolling in an associate degree program or a vocational diploma program at a Wisconsin technical college as authorized under s. 38.305, Stats.

TCS 16.02 Definitions. In this chapter:

- (1) "Associate degree program" has the meaning given in s. 38.01(1), Stats.
- (2) "Board" means the Wisconsin technical college system board.
- (3) "Date of record" means all of the following: (a) The 14th day of the semester for courses which are scheduled to meet a semester or longer.
(b) The day on which 10% of the potential course hours of instruction are completed for courses which are scheduled to meet less than a semester or are non-traditional offerings.
- (4) "Disability" means a permanent physical or developmental impairment which substantially limits the major life activity of learning. In this subsection, "substantially limits" means significantly restricts the ability to learn compared to the average person who has comparable knowledge, skills and abilities.
- (5) "District" means a technical college district established under ch. 38, Stats.
- (6) "District board" means the district board in charge of the technical colleges of a district.
- (7) "District director" means the person employed by a district board under s. 38.12(3)(a), Stats.
- (8) "Enrolled full-time" means any of the following: (a) To enroll in and complete at least 12 program credits per semester.
(b) To enroll in and complete at least 6 program credits per semester if the student is a person with a disability as determined by a qualified professional and as verified by the district director or designee.
- (9) "First-year student" means any technical college student who has earned, completed, or received no more than 18 postsecondary credits after graduating from high school. Any postsecondary credit earned while serving on active duty in the U.S. armed forces may not be counted against this credit limitation.
- (10) "Grade point average" or "GPA" means the semester grade point average earned by a student.
- (11) "Graduated from high school" means having received a diploma in satisfaction of school board requirements under s. 118.33, or a high school equivalency diploma under s. 115.29(4), Stats.
- (12) "Grant applicant" means any person who has applied for a TOP grant under this chapter.
- (13) "Grant" or "TOP grant" means a technical and occupational program grant for students as authorized under s. 38.305, Stats.
- (14) "Grant recipient" means a student who has been awarded a TOP grant under this chapter.

(15) "Initial eligibility end date" means the last day of the 36th full month following the date on which the student graduated from high school.

(16) "Program credits" are those academic credits that count toward a board approved degree or diploma program.

(17) "Postsecondary credit" means credit earned at a nationally or regionally accredited institution of higher education.

(18) "Qualified professional" means a doctor or physician, psychologist, psychiatrist, rehabilitation vocational counselor, high school special education teacher or counselor, or counselor at the division of vocational rehabilitation.

(19) "School year" has the meaning given in s. 38.01(9), Stats.

(20) "State director" means the person appointed by the board under s. 38.04(2), Stats.

(21) "Student" means a person enrolled at a technical college.

(22) "Technical college" means a Wisconsin technical college established under ch. 38, Stats.

(23) "Technical diploma" is synonymous with vocational diploma.

(24) "Vocational diploma program" has the meaning given in s. 38.01(11), Stats.

TCS 16.03 Period of initial eligibility. (1) The eligibility period for an initial TOP grant begins on the date a person graduates from high school and ends on his or her initial eligibility end date.

(2) ~~Unless a deferment has been granted under s. TCS 16.07(1)(a) or (3), a student may not be awarded an initial TOP grant beyond his or her initial eligibility end date.~~

TCS 16.04 Initial TOP grant eligibility. A student is eligible for an initial TOP grant only upon meeting all of the following eligibility requirements on the date of record: (1) The student has graduated from high school as verified by the district.

(2) The student is a first-year student at a technical college.

(3) The student has enrolled full-time in a technical diploma or associate degree program.

(4) The student is registered for classes that are scheduled to begin at the technical college on or before the student's initial eligibility end date, ~~unless a deferment has been approved under s. TCS 16.07(1)(a) or (3).~~

TCS 16.05 Awarding of the TOP grant. (1) A grant applicant meeting all of the eligibility criteria under s. TCS 16.04(1) to (4) shall receive an initial TOP grant of \$250 to be applied toward a student's costs of tuition and fees in the semester in which the student is eligible.

(2) A grant applicant meeting the eligibility criteria for the continuation of a TOP grant under s. TCS 16.06 shall receive a TOP grant of \$250 to be applied toward a student's costs of tuition and fees in the semester in which a student is eligible.

(3) A grant recipient is eligible to receive up to 2 TOP grants totaling no more than \$500 per school year. In no case shall a grant recipient be awarded more than 4 TOP grants in total.

(4) A student must receive all 4 TOP grants within 6 consecutive semesters, ~~unless a general deferment has been approved under s. TCS 16.07(1)(b) in which case the following applies:~~

(a) ~~If a student has received one general deferment, then he or she shall receive all TOP grants within 6 consecutive semesters, plus one fall or spring semester, whichever first follows these 6 semesters.~~

(b) ~~If a student has received 2 general deferments, then he or she shall receive all 4 TOP grants within 6 consecutive semesters, plus one fall and one spring semester immediately following those 6 semesters.~~

TCS 16.06 Continuation of TOP grant eligibility. To receive a TOP grant for a 2nd, 3rd, or 4th semester after receiving an initial grant award, a student shall meet all of the following eligibility requirements on the date of record:

(1) The student is not serving a probationary semester under s. TCS 16.08 16.07.

(2) The student has enrolled full-time in a technical diploma or associate degree program.

TCS 16.07 Deferment. (1) **GENERAL.** General deferments may be authorized for any of the following:

(a) *Postpone initial eligibility.* A person, who may otherwise meet the eligibility requirements for an initial TOP grant award under s. TCS 16.04, may request, from the district director or designee, a general deferment for reasons owing to personal hardship anytime before the start of the semester for which a general deferment is requested and before a student's initial eligibility end date. A deferment approved under this paragraph shall stop the running of a student's initial eligibility end date for the duration of that semester and any remaining TOP grant eligibility time shall be recalculated from the last day of the semester for which the deferment was approved.

(b) *Extend continued eligibility.* A student who has received a TOP grant under s. TCS 16.05 or 16.06 may request from the district director or designee a general deferment for reasons owing to personal hardship anytime before the start of the semester for which a general deferment is requested. A deferment approved under this paragraph shall extend the time period in which a student is eligible to receive a TOP grant. Deferments approved under this paragraph are subject to the provisions of s. TCS 16.05(4).

(2) **NUMBER OF DEFERMENTS ALLOWED.** A person may apply for up to 2 general deferments under sub. (1).

(3) **MILITARY SERVICE.** (a) A person who has graduated from high school, who may otherwise meet the eligibility requirements for a TOP grant under s. TCS 16.04 and who enters the U.S. armed forces on active duty before his or her initial eligibility end date, shall be eligible for a military deferment for up to 2 years. The time that a student serves on active duty in the U.S. armed forces shall stop the running of his or her initial eligibility end date and any remaining TOP grant eligibility time shall be calculated from the date of discharge from active duty. A deferment under this paragraph shall be in addition to a deferment under sub. (1). Application for a military deferment shall be made to the district director or designee within 30 days of discharge from active duty in the military service or before the end of the member's original initial eligibility end date, whichever is later.

(b) A grant recipient who is ordered or inducted into active duty in the U.S. armed forces other than for training purposes during the semester in which he or she received a TOP grant shall be granted a deferment for the duration of active duty not to exceed 2 years. The time that a student serves on active duty in the U.S. armed forces shall extend the time period in which a student is eligible to receive any remaining TOP grants. A student who fails to complete the requirements of continued TOP grant eligibility in the first full spring or fall semester immediately following discharge from active duty in the U.S. armed forces forfeits any remaining eligibility for subsequent TOP grant awards. A student who has received a deferment under this paragraph is not required to refund the grant monies awarded to him or her for the semester in which the grant was awarded.

(c) A student who is serving a probationary semester under s. TCS 16.08 at the time that he or she is ordered or inducted into active duty in the U.S. armed forces shall fulfill the TOP grant eligibility requirements of probation in the first full spring or fall semester immediately following

discharge from active duty in the U.S. armed forces. A student who fails to complete the requirements of a probationary semester in the first full spring or fall semester immediately following discharge from active duty in the U.S. armed forces forfeits any remaining eligibility for subsequent TOP grant awards.

(4) APPROVAL. Each district shall establish policies and procedures for approving TOP grant deferments other than military deferments under sub. (3). Such policies and procedures shall be approved by the district board and are subject to review and approval by the board.

TCS 16.08 16.07 Refunding policy. (1) A student who either fails to attain a 2.0 GPA or who is not enrolled full-time during the semester in which he or she was awarded a TOP grant shall be placed on probation for the following semester in which he or she is eligible for a TOP grant unless an exemption is approved under s. TCS 16.08(4). No grant award may be given to a student during a probationary semester.

(2) A student who either fails to attain a 2.0 GPA or who is not enrolled full-time during a probationary semester forfeits any remaining eligibility for subsequent TOP grant awards.

(3) A student who attains a 2.0 GPA and who is enrolled full-time during a probationary semester shall be eligible for subsequent TOP grant awards based on the following:

(a) If a student's probationary semester follows the semester in which he or she received his or her 1st TOP grant, then a student may be eligible to receive up to 2 additional TOP grants.

(b) If a student's probationary semester follows the semester in which he or she received his or her 2nd TOP grant, then a student may be eligible to receive one additional TOP grant.

(c) If a student's probationary semester follows the semester in which he or she received his or her 3rd TOP grant, then a student is no longer eligible to receive a TOP grant award.

(4) A student who has received a TOP grant under s. TCS 16.05 or 16.06 may request a probation exemption for reasons owing to personal hardship during the semester in which he or she received the grant. The district director or designee shall approve or deny a probation exemption request before the end of the semester in which the request was made.

(5) A student who has received approval for a probation exemption is not subject to the provisions of sub. (1) for the subsequent semester in which he or she is eligible for a TOP grant, following the approval of the exemption.

(5) A student who has received a TOP grant under s. TCS 16.05 or 16.06 may request a probation exemption from the district director or designee for reasons owing to personal hardship anytime before the start of the semester following the semester in which he or she received a grant. The district director or designee shall approve or deny a probation exemption request under this subsection before the start of the semester for which the exemption is requested. A student who has received approval for a probation exemption under this subsection is not subject to the provisions of sub. (1) to (3). No grant award may be given to a student in a semester for which the student has received approval for a probation exemption under this subsection.

(6) A student may apply for up to 2 probation exemptions under sub. (4) and (5).

(7) The district director or designee shall seek a full refund of all TOP grant monies from any student awarded such funds if the district director or designee finds, after giving notice and an opportunity to be heard, that the student received a grant as a result of deception, fraud, misinformation, or error in providing his or her registration information for an initial or continued TOP grant award. A student who is found to have received a grant award based upon any of the aforementioned reasons forfeits any remaining eligibility for subsequent TOP grant awards. No student may be required to refund any grant award if the findings result in a

determination that the award was due to error not attributable to the student. In such a case, the student is no longer eligible for any remaining TOP grant awards.

TCS 16.09 Appeals. (1) **DISTRICT POLICIES.** Districts shall establish policies and procedures for students to appeal grant eligibility, deferment approvals, probation determinations, probation exemptions, and refund determinations. Such policies and procedures shall be approved by the district board and are subject to review and approval by the board.

(2) **DECISION OF STATE DIRECTOR.** Decisions by the district director or designee may be appealed to the state director. Review of a district decision is limited to a review of the record established at the district level.

(3) **TIME LIMIT.** The time limit for filing an appeal to the state director shall be 30 days after a student is notified of the district's decision.

TCS 16.08 Appeals. (1) **DISTRICT DETERMINATIONS.** (a) A student may appeal any decision by the district director or designee that affects his or her participation in the TOP grant program.

(b) The district director, upon receipt of a timely appeal, shall appoint an impartial hearing officer who shall conduct a hearing and issue a decision on an action under par. (a).

(2) **HEARING.** (a) A hearing under sub. (1) shall be conducted during regular business hours and within 10 working days of receipt of a timely appeal. A student who has filed a timely appeal shall be given notice of the date of the hearing and an opportunity to be heard. An advocate may accompany a student during the hearing.

(b) Failure of a student to appear at the hearing shall constitute withdrawal of the appeal with prejudice.

(c) The hearing officer shall issue a written decision on an action under sub. (1) within 10 working days of the hearing.

(3) **REVIEW BY DISTRICT BOARD.** (a) Decisions by the district hearing officer may be appealed to the district board. Review of a hearing officer decision is limited to a review of the record established at the district level.

(b) After review of available documentation, the district board shall issue a written decision on an action under sub. (2) within 30 days after the date a written appeal is received.

(4) **REVIEW BY STATE DIRECTOR.** Decisions by the district board may be appealed to the state director. Review of a district board decision is limited to a review of the record established at the district level.

(b) After review of available documentation, the state director shall issue a written decision on an action under sub. (3) within 30 days after the date a written appeal is received.

(4) **FORM.** All appeals filed under this section shall be in writing.

(5) **TIME LIMIT FOR APPEAL.** (a) The time limit for filing an appeal under sub. (1) shall be 15 days after a student is notified of the adverse decision.

(b) The time limit for filing an appeal to the district board under sub. (3) shall be 30 days after a student is notified of the hearing officer's decision.

(c) The time limit for filing an appeal to the state director under sub. (4) shall be 30 days after a student is notified of the district board's decision.

Note: The address for filing appeals to the state director is: Wisconsin Technical College System Board, 310 Price Place, P.O. Box 7874, Madison, Wisconsin 53707-7874.

EFFECTIVE DATE

This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2) (intro.), Stats.

Date: July ____, 2000

Wisconsin Technical College System Board

Edward Chin, Director



Wisconsin Technical College System Board

Edward Chin, State Director

May 30, 2000

State Senator Judith Robson, Chairperson
Joint Committee for Review of Administrative Rules
Room 15 South
State Capitol
P.O. Box 7882
Madison, WI 53707-7882

Dear Senator Robson:

Enclosed please find a modification to the Report to the Legislature on Clearinghouse Rule 00-044, to Wis. Admin. Code ch. TCS 16, relating to technical and occupational program grants (TOP Grants) to students, dated May 24, 2000, and which was submitted to your office on May 26, 2000.

The enclosed 2 pages replace the last page of the current Report. The modification reflects the Wisconsin Technical College System Board's response to the second paragraph of Comment 1.a., and Comment 1.e., by Legislative Council staff.

Should you have any questions, please do not hesitate to contact me at (608) 267-9540.

Very truly yours,

A handwritten signature in cursive script that reads "Jesús G.Q. Garza".

Jesús G.Q. Garza
General Counsel

Enclosure

cc: Edward Chin, State Director

original last page

Limiting the use of TOP grants to tuition and fee costs also minimizes the administrative costs of this program. Grant funds can be electronically transferred directly into eligible student accounts at the technical college and applied toward outstanding tuition and fee charges. Individual checks are not issued to students and students who become ineligible after receiving a grant award are not required to refund to the district grant funds in cash.

1.d. WTCSB authority to create an exemption from the TOP grants continuing eligibility GPA requirement due to personal hardship.

WTCSB believes that the overarching legislative intent in establishing the TOP grant program is to encourage recent high school graduates to choose technical college programs for their postsecondary education and, thereby, increase the state's labor pool of technically- and occupationally-skilled workers as quickly as possible.

WTCSB believes that the Legislature imposed a minimum GPA requirement on TOP grant recipients to safeguard that grant students complete their educational programs in a timely manner and that students achieve competency levels in the technical and occupational knowledge and skills in demand in the workforce.

WTCSB believes that it is within this legislative intent to support recent high school graduates who are attending technical college full-time but whose academic performance is negatively affected, on a temporary basis, by an unanticipated event or condition. The probation exemption in the proposed TOP grant administrative rules is limited to two semesters, requires District approval to ensure a legitimate hardship exists, and requires the student to initiate the exemption process prior to knowledge of their final semester grades.

Allowing an exemption to the TOP grant probation penalty for failing to earn a semester GPA of 2.0 because of personal hardship reasons is also consistent with the implementation of other postsecondary educational program requirements. For example, under current district grading policies, a student who can demonstrate a legitimate need, based on a personal hardship, may receive additional time to complete course requirements or may drop courses late in the semester without affecting the student's semester grade point average.

All other recommendations of the Legislative Council Clearinghouse were accepted and incorporated into the final draft of the proposed rule.

V. FINAL REGULATORY FLEXIBILITY ANALYSIS

None required.

FISCAL ESTIMATE

DOA-2048 N(R10/96)

- ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

Subject

Grants to students

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

Increase Costs - May be possible to Absorb Within Agency's Budget
 Yes No

- Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues
 Create New Appropriation Decrease Costs

Local: No local government costs

- | | | |
|--|---|---|
| 1. <input checked="" type="checkbox"/> Increase Costs
<input checked="" type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 3. <input type="checkbox"/> Increase Revenues
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 5. Types of Local Governmental Units Affected:
<input type="checkbox"/> Towns <input type="checkbox"/> Villages <input type="checkbox"/> Cities
<input type="checkbox"/> Counties <input type="checkbox"/> Others _____
<input type="checkbox"/> School Districts <input checked="" type="checkbox"/> WTCS Districts |
| 2. <input type="checkbox"/> Decrease Costs
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 4. <input type="checkbox"/> Decrease Revenues
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | |

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

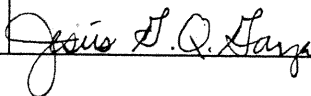
S. 20.292((1)(ep))

Assumptions Used in Arriving at Fiscal Estimate

This rule implements § 38.305, Wis. Stats., which allows the awarding of grants to students attending state technical colleges. The State Board is required to award grants to all eligible students. This order creates rules establishing policies and procedures to implement and administer the grant funds, including a provision for refunding a grant if a student becomes ineligible for the grant. A total of \$6,600,000 is available for the 2000-01 school year. This grant program is the result of 1999 Wisconsin Act 9.

Long-Range Fiscal Implications

Agency/Prepared by: (Name & Phone No.) WTCSB
 Jesús G.Q. Garza (608) 267-9540

Authorized Signature/Telephone No.
 (608) 267-9540

Date
 January 26, 2000

FISCAL ESTIMATE WORKSHEET

1999 Session

Detailed Estimate of Annual Fiscal Effect
DOA-2047 (R10/96)

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.
TCS 16

Amendment No.

Subject

Grants to students

I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

II. Annualized Costs:	Annualized Fiscal impact on State funds from:	
	Increased Costs	Decreased Costs
A. State Costs by Category		
State Operations - Salaries and Fringes	\$	\$ -
(FTE Position Changes)	(FTE)	(- FTE)
State Operations - Other Costs		-
Local Assistance		-
Aids to Individuals or Organizations	+6,600,000	-
TOTAL State Costs by Category	\$ +6,600,000	\$
B. State Costs by Source of Funds	Increased Costs	Decreased Costs
GPR	\$ +6,600,000	\$ -
FED		-
PRO/PRS		-
SEG/SEG-S		-
State Revenues Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)	Increased Rev.	Decreased Rev.
GPR Taxes	\$	\$ -
GPR Earned		-
FED		-
PRO/PRS		-
SEG/SEG-S		-
TOTAL State Revenues	\$ - 0 -	\$ -

NET ANNUALIZED FISCAL IMPACT

STATE

LOCAL

NET CHANGE IN COSTS \$ +6,600,000 \$ _____

NET CHANGE IN REVENUES \$ _____ \$ _____

Agency/Prepared by: (Name & Phone No.) WTCSB Jesús G.Q. Garza (608) 267-9540	Authorized Signature/Telephone No. <i>Jesús G.Q. Garza</i> (608) 267-9540	Date January 26, 2000
---	--	--------------------------



Wisconsin Technical College System Board
Edward Chin, State Director

MAY 26 2000

May 26, 2000

State Senator Judith Robson, Chairperson
Joint Committee for Review of Administrative Rules
Room 15
17 South Fairchild Street
Madison, WI 53703

Dear Senator Robson:

Pursuant to your request, I hereby submit a copy of the final draft of Clearinghouse Rule 00-044, on Wis. Admin. Code ch. TCS 16, relating to technical and occupational program grants (TOP Grants) to students, and the reports required under Wis. Stats. § 227.19(3).

Sincerely,

A handwritten signature in cursive script, appearing to read "Edward Chin".

Edward Chin
State Director

Attachments

APR 06 2000



Wisconsin Technical College System Board

Edward Chin, State Director

Date: April 5, 2000
To: Members, Wisconsin State Legislature
From: Edward Chin, Director
Wisconsin Technical College System Board
Subject: Notification of Emergency Rule

A handwritten signature in black ink, appearing to read "Edward Chin".

Pursuant to Wis. Stats. § 227.24 (3), the Wisconsin Technical College System Board (WTCSB) hereby provides each member of the State Legislature with a copy of an emergency rule promulgated by the Board, the finding of emergency and related fiscal note. This rule was filed with the Secretary of State and Revisor of Statutes on January 28, 2000. We apologize for any inconvenience in providing notification of this rule to you at this time.

The emergency rule relates to grants to students. The rule was also published in the *Wisconsin State Journal* on February 1, 2000, and became effective on that date. If you have any questions, please contact Jesse Garza, WTCSB Legal Counsel, at (608) 267-9540.

FINDING OF EMERGENCY

The Wisconsin Technical College System (WTCS) Board finds that an emergency exists and that the attached rule is necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of facts constituting the emergency is:

1999 Wis. Act 9 (the 2000-2001 biennial budget bill) took effect on October 29, 1999. That act created Wis. Stats. §§ 20.292(1)(ep) and 38.305. An annual appropriation of \$6,600,000 GPR in the second fiscal year of the 2000-2001 biennium was established. These funds are to be awarded by the WTCS Board as grants to students who are attending a Wisconsin technical college on a full-time basis and who are enrolled in a vocational diploma or associate degree program.

The Act requires the WTCS Board to promulgate rules to implement and administer the awarding of these grants. The Board has begun the permanent rule making process for establishing administrative rules for these student grants, but cannot complete the required public hearing and review of these rules prior the start of the upcoming school year, which begins on July 1, 2000. Moreover, prospective students evaluate their educational options, including costs,

as early as February preceding their graduation from high school. Therefore, for the TOP Grant program to be implemented and the funds distributed to each technical college district, and in turn to each eligible student, in time for the upcoming school year, emergency administrative rules must be established immediately.

**ORDER OF THE
WISCONSIN TECHNICAL COLLEGE SYSTEM BOARD
ADOPTING EMERGENCY RULES**

The Wisconsin Technical College System Board proposes an order adopting the following emergency rule to create Chapter TCS 16, relating to Grants to students.

ANALYSIS PREPARED BY THE TECHNICAL COLLEGE SYSTEM BOARD

Statutory authority: Wis. Stats. § 38.305(4).

Statutes interpreted: Wis. Stats. § 38.305.

The purpose of the rule is to implement and administer the awarding of grants to first-year students who are enrolled full-time at a technical college within three years of graduating from a Wisconsin high school and who maintain a grade point average of 2.0.

Section 38.305(4), Stats., authorizes the technical college system board to establish, by administrative rule, policies and procedures to implement, and thereafter administer, the awarding of grants of \$500 per school year for educational programs in occupational and technical areas. An eligible student may also receive a subsequent award of \$500 for a second year of study. When granting an award, the board must determine the eligibility of the prospective student using the following criteria:

- (a) The student has enrolled in a technical college within 3 years of graduating from a Wisconsin high school;
- (b) The student is a first-year student at a technical college;
- (c) The student is enrolled full-time in an associate degree program or a vocational (technical) diploma program; and
- (d) The student maintains a grade point average of at least 2.0.

Certain policies and procedures, including the right to appeal adverse decisions affecting a student's initial or continued eligibility for receiving a grant, are contained in the rule.

TEXT OF RULE

SECTION 1. Chapter TCS 16 (title) is created to read:

CHAPTER TCS 16 (title)

TECHNICAL AND OCCUPATIONAL PROGRAM GRANTS

TCS 16.01 PURPOSE. The purpose of this chapter is to establish procedures to implement and administer grants to students enrolling in technical and occupational educational programs at a Wisconsin technical college as authorized under s. 38.305, Stats.

TCS 16.02 DEFINITIONS. In this chapter:

- (1) "Associate degree program" has the meaning given in s. 38.01(1), Stats.
- (2) "Board" means the Wisconsin technical college system board.
- (3) "State director" means the person appointed by the board under s. 38.04(2), Stats.
- (4) "District" means a technical college district established under ch. 38, Stats.
- (5) "District board" means the district board in charge of the technical colleges of a district.
- (6) "District director" means the person employed by a district board under s. 38.12(3)(a), Stats.
- (7) "Initial eligibility end date" is the date that a student's period of eligibility for an initial TOP grant ends. It is calculated from the first full month immediately following the date of high school graduation and ends on the last day of the 36th month.
- (8) "First-year student" for purposes of eligibility for a TOP grant, means any technical college student who has earned, completed, or received no more than 18 (eighteen) program credits from or at a technical college after graduating from high school. Any postsecondary program credit earned while serving on active duty shall not be counted against this credit limitation.
- (9) "Enrolled full-time" for purposes of TOP grant eligibility, means enrolled in at least 12 (twelve) program credits per semester.
- (10) "Grade point average or GPA" means the semester grade earned by a student, calculated by dividing the total grade points earned by the number of credits earned during the semester.
- (11) "Graduated from high school" for purposes of TOP grant eligibility, means having received a diploma in satisfaction of school board requirements under ss. 118.33., or a high school equivalency diploma under s. 115.29(4), Stats.
- (12) "Grant applicant" means any person who has applied for a TOP grant under this chapter.
- (13) "Grant or TOP grant" means a technical and occupational program grant for students as authorized under s. 38.305, Stats.
- (14) "Grant recipient" means a student who has been awarded a TOP grant under this chapter.
- (15) "Program credits" are those academic credits that count toward a board approved degree or diploma program.
- (16) "School year" has the meaning given in s. 38.01(9), Stats.
- (17) "Student" means a person enrolled at a technical college.
- (18) "Technical college" means a Wisconsin technical college established under ch. 38, Stats.
- (19) "Technical diploma" is synonymous with vocational diploma.

(20) "Vocational diploma program" has the meaning given in s. 38.01(11), Stats.

TCS 16.02 PERIOD OF INITIAL ELIGIBILITY. (1) The eligibility period for an initial TOP grant begins on the date a person graduates from high school and ends on his or her initial eligibility end date.

(2) Unless a deferment has been granted under s. TCS 16.06(1)(a) or (2), a student may not be awarded an initial TOP grant beyond his or her initial eligibility end date.

TCS 16.03 INITIAL TOP GRANT ELIGIBILITY. A student is eligible for an initial TOP grant only upon meeting all of the following eligibility requirements: (1) The student has graduated from high school as verified by the district;

(2) The student is a first-year student at a technical college;

(3) The student has enrolled full-time in a technical diploma or associate degree program; and

(4) The student is registered for classes that are scheduled to begin at the technical college on or before the student's initial eligibility end date, unless a deferment has been approved under s. TCS 16.06(1)(a) or (2).

TCS 16.04 AWARDING OF THE TOP GRANT. (1) A grant applicant meeting all of the eligibility criteria under s. TCS 16.03(1)-(4) shall receive an initial TOP grant of \$250 to be applied toward a student's costs of tuition and fees at the beginning of the semester in which the student is eligible.

(2) A grant applicant meeting the eligibility criteria for the continuation of a TOP grant under s. TCS 16.05(1) shall receive a TOP grant of \$250 to be applied toward a student's costs of tuition and fees at the beginning of the semester in which a student is eligible.

(3) A grant recipient is eligible to receive up to 2 (two) TOP grants totaling no more than \$500 (five hundred) per school year. In no case shall a grant recipient be awarded more than 4 (four) TOP grants in total.

(4) A student must receive all 4 (four) TOP grants within 6 (six) consecutive semesters, unless a general deferment has been approved under s. TCS 16.06(1) in which case the following applies:

(a) If a student has received 1 (one) general deferment, then he or she must receive all TOP grants within 6 (six) consecutive semesters, plus 1 (one) fall or spring semester, whichever first follows these 6 (six) semesters.

(b) If a student has received 2 (two) general deferments, then he or she must receive all 4 (four) TOP grants within 6 (six) consecutive semesters, plus 1 (one) fall and 1 (one) spring semester immediately following those 6 (six) semesters.

TCS 16.05 CONTINUATION OF TOP GRANT ELIGIBILITY. To receive a TOP grant for a 2nd, 3rd, or 4th semester after receiving an initial grant award, a student shall meet all of the following eligibility requirements:

(1) The student is not serving a probationary semester under s. TCS 16.07; and

(2) The student has enrolled full-time in a technical diploma or occupational associate degree program.

TCS 16.06 DEFERMENT. (1) General. General deferments are given to either postpone a student's initial eligibility end date or extend the number of semesters in which a student must receive all of his or her TOP grants.

(a) Postponing initial eligibility. A person, who may otherwise meet the eligibility requirements for an initial TOP grant award under s. 16.03, may request a general deferment for reasons owing to personal hardship, as determined by the district, anytime before the start of the semester for which a general deferment is requested and before a student's initial eligibility end date. A deferment approved under this paragraph shall stop the running of a student's initial eligibility date for the duration of that semester and any remaining TOP grant eligibility time shall be recalculated from the last day of the semester for which the deferment was approved.

(b) Extending continued eligibility. A student who has received a TOP grant under ss. 16.03 or 16.05 may request a general deferment for reasons owing to personal hardship, as determined by the district, anytime before the start of the semester for which a general deferment is requested. A deferment approved under this paragraph shall extend the time in which a student has to receive all of his or her TOP grants. Deferments approved under this paragraph are subject to the provisions of s. 16.04(4).

(c) Number of deferments allowed. A person may apply for up to 2 general deferments under this subsection.

(2) Military deferment. A high school graduate, who may otherwise meet the eligibility requirements for a TOP grant under s. TCS 16.03 and who enters the U.S. armed forces on active duty before his or her initial eligibility end date, shall be eligible for a military deferment for up to 2 years. The time that a student serves on active duty in the U.S. armed forces shall stop the running of his or her initial eligibility end date and any remaining TOP grant eligibility time shall be calculated from the date of discharge from active duty. A deferment under this subsection shall be in addition to a deferment under subs. (1).

(3) Application. In order to receive a deferment, a student shall apply to the district director or designee. Application for a general deferment must be made before the start of the semester for which the deferment is requested. Application for a military deferment must be made within 30 days of discharge from active duty in the military service or before the end of the member's original initial eligibility end date, whichever is later.

(4) Approval. Each district shall establish policies for approving TOP grant deferments other than military deferments under sub. (2).

TCS 16.07 PROBATIONARY SEMESTER. (1) A student who either fails to attain a 2.0 GPA or does not complete at least 12 (twelve) program credits during the semester in which he or she was awarded a TOP grant shall be placed on probation for the following semester in which he or she is eligible for a TOP grant unless an exemption is approved under s. TCS 16.07(4). No grant award will be given to a student during a probationary semester.

(2) A student who either fails to attain a 2.0 GPA or does not complete at least 12 (twelve) program credits during a probationary semester forfeits any remaining eligibility for subsequent TOP grant awards.

(3) A student who attains a 2.0 GPA and completes at least 12 (twelve) program credits during a probationary semester shall be eligible for subsequent TOP grant awards based on the following:

(a) If a student's probationary semester follows the semester in which he or she received his or her 1st TOP grant, then a student may be eligible to receive up to 2 (two) additional TOP grants.

(b) If a student's probationary semester follows the semester in which he or she received his or her 2nd TOP grant, then a student may be eligible to receive up to 1 (one) additional TOP grant.

(c) If a student's probationary semester follows the semester in which he or she received his or her 3rd TOP grant, then a student is no longer eligible to receive a TOP grant award.

(4) Probation exemption. (a) A student who has received a TOP grant under ss. TCS 16.03 or 16.05 may request a probation exemption for reasons owing to personal hardship as determined by the district during the semester in which he or she received the grant.

(b) Such a request must be approved before the end of the semester in which the grant was received.

(c) A student who has received approval for a probation exemption is not subject to the provisions of sub. (1) for the subsequent semester in which he or she is eligible for a TOP grant, following the approval of the exemption.

(d) A student may apply for up to 2 probation exemptions under this subsection.

TCS 16.08 APPEALS. (1) District policies. Districts shall establish policies and procedures for students to appeal grant eligibility, deferment approvals, probation determinations, and probation exemptions. Such policies and procedures shall be approved by the district board and filed with the office of the state director.

(2) Decision of State Director. Decisions by the district director or designee may be appealed to the state director. Review of a district decision is limited to a review of the record established at the district level.

(3) Time limit. The time limit for filing an appeal to the state director shall be 30 days after a student is notified of the district's decision.

Note: The address for filing appeals to the state director is: Wisconsin Technical College System Board, 310 Price Place, P.O. Box 7874, Madison, Wisconsin 53707-7874.

EFFECTIVE DATE

This emergency rule shall take effect on the date of publication in the official state newspaper as provided in s 227.24(1)(c), Wis. Stats.

(a) If a student's probationary semester follows the semester in which he or she received his or her 1st TOP grant, then a student may be eligible to receive up to 2 (two) additional TOP grants.

(b) If a student's probationary semester follows the semester in which he or she received his or her 2nd TOP grant, then a student may be eligible to receive up to 1 (one) additional TOP grant.

(c) If a student's probationary semester follows the semester in which he or she received his or her 3rd TOP grant, then a student is no longer eligible to receive a TOP grant award.

(4) Probation exemption. (a) A student who has received a TOP grant under ss. TCS 16.03 or 16.05 may request a probation exemption for reasons owing to personal hardship as determined by the district during the semester in which he or she received the grant.

(b) Such a request must be approved before the end of the semester in which the grant was received.

(c) A student who has received approval for a probation exemption is not subject to the provisions of sub. (1) for the subsequent semester in which he or she is eligible for a TOP grant, following the approval of the exemption.

(d) A student may apply for up to 2 probation exemptions under this subsection.

TCS 16.08 APPEALS. (1) District policies. Districts shall establish policies and procedures for students to appeal grant eligibility, deferment approvals, probation determinations, and probation exemptions. Such policies and procedures shall be approved by the district board and filed with the office of the state director.

(2) Decision of State Director. Decisions by the district director or designee may be appealed to the state director. Review of a district decision is limited to a review of the record established at the district level.

(3) Time limit. The time limit for filing an appeal to the state director shall be 30 days after a student is notified of the district's decision.

Note: The address for filing appeals to the state director is: Wisconsin Technical College System Board, 310 Price Place, P.O. Box 7874, Madison, Wisconsin 53707-7874.

EFFECTIVE DATE

This emergency rule shall take effect on the date of publication in the official state newspaper as provided in s 227.24(1)(c), Wis. Stats.

FISCAL ESTIMATE

DOA-2048 N(R10/96)

- ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

Subject

Grants to students

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

Increase Costs - May be possible to Absorb Within Agency's Budget
 Yes No

- Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues
 Create New Appropriation

Decrease Costs

Local: No local government costs

1. Increase Costs
 Permissive Mandatory
 2. Decrease Costs
 Permissive Mandatory

3. Increase Revenues
 Permissive Mandatory
 4. Decrease Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:
 Towns Villages Cities
 Counties Others _____
 School Districts WTCS Districts

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

S. 20.292((1)(ep))

Assumptions Used in Arriving at Fiscal Estimate

This rule implements § 38.305, Wis. Stats., which allows the awarding of grants to students attending state technical colleges. The State Board is required to award grants to all eligible students. This order creates rules establishing policies and procedures to implement and administer the grant funds, including a provision for refunding a grant if a student becomes ineligible for the grant. A total of \$6,600,000 is available for the 2000-01 school year. This grant program is the result of 1999 Wisconsin Act 9.

Long-Range Fiscal Implications

Agency/Prepared by: (Name & Phone No.) WTCSB
 Jesús G.Q. Garza (608) 267-9540

Authorized Signature/Telephone No.
 (608) 267-9540

Jesús G.Q. Garza

Date
 January 26, 2000

FISCAL ESTIMATE WORKSHEET

1999 Session

Detailed Estimate of Annual Fiscal Effect
DOA-2047 (R10/96)

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.
TCS 16

Amendment No.

Subject

Grants to students

I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

II. Annualized Costs:		Annualized Fiscal impact on State funds from:	
		Increased Costs	Decreased Costs
A. State Costs by Category			
State Operations - Salaries and Fringes		\$	\$ -
(FTE Position Changes)		(FTE)	(- FTE)
State Operations - Other Costs			-
Local Assistance			-
Aids to Individuals or Organizations		+6,600,000	-
TOTAL State Costs by Category		\$ +6,600,000	\$
B. State Costs by Source of Funds			
GPR		\$ +6,600,000	\$ -
FED			-
PRO/PRS			-
SEG/SEG-S			-
State Revenues	<small>Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)</small>	Increased Rev.	Decreased Rev.
GPR Taxes		\$	\$ -
GPR Earned			-
FED			-
PRO/PRS			-
SEG/SEG-S			-
TOTAL State Revenues		\$ - 0 -	\$ -

NET ANNUALIZED FISCAL IMPACT

		<u>STATE</u>		<u>LOCAL</u>
NET CHANGE IN COSTS	\$	+6,600,000	\$	
NET CHANGE IN REVENUES	\$		\$	

Agency/Prepared by: (Name & Phone No.) Jesús G.Q. Garza (608) 267-9540	Authorized Signature/Telephone No. <i>Jesús G.Q. Garza</i> (608) 267-9540	Date January 26, 2000
---	--	--------------------------

FISCAL ESTIMATE

DOA-2048 N(R10/96)

- ORIGINAL
- CORRECTED
- UPDATED
- SUPPLEMENTAL

Subject

Grants to students

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

Increase Costs - May be possible to Absorb Within Agency's Budget Yes No

- Increase Existing Appropriation
- Decrease Existing Appropriation
- Create New Appropriation
- Increase Existing Revenues
- Decrease Existing Revenues
- Decrease Costs

Local: No local government costs

- | | | |
|--|--|---|
| 1. <input checked="" type="checkbox"/> Increase Costs
<input checked="" type="checkbox"/> Permissive <input type="checkbox"/> Mandatory
2. <input type="checkbox"/> Decrease Costs
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 3. <input type="checkbox"/> Increase Revenues
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory
4. <input type="checkbox"/> Decrease Revenues
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 5. Types of Local Governmental Units Affected:
<input type="checkbox"/> Towns <input type="checkbox"/> Villages <input type="checkbox"/> Cities
<input type="checkbox"/> Counties <input type="checkbox"/> Others _____
<input type="checkbox"/> School Districts <input checked="" type="checkbox"/> WTCS Districts |
|--|--|---|

Fund Sources Affected

- GPR
- FED
- PRO
- PRS
- SEG
- SEG-S

Affected Ch. 20 Appropriations

S. 20.292((1))(ep)

Assumptions Used in Arriving at Fiscal Estimate

This rule implements § 38.305, Wis. Stats., which allows the awarding of grants to students attending state technical colleges. The State Board is required to award grants to all eligible students. This order creates rules establishing policies and procedures to implement and administer the grant funds, including a provision for refunding a grant if a student becomes ineligible for the grant. A total of \$6,600,000 is available for the 2000-01 school year. This grant program is the result of 1999 Wisconsin Act 9.

Long-Range Fiscal Implications

Agency/Prepared by: (Name & Phone No.) WTCSB

Jesús G.Q. Garza (608) 267-9540

Authorized Signature/Telephone No.

(608) 267-9540

Jesús G.Q. Garza

Date

January 26, 2000

FISCAL ESTIMATE WORKSHEET

1999 Session

Detailed Estimate of Annual Fiscal Effect
DOA-2047 (R10/96)

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.
TCS 16

Amendment No.

Subject

Grants to students

I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

II. Annualized Costs:	Annualized Fiscal impact on State funds from:	
	Increased Costs	Decreased Costs
A. State Costs by Category		
State Operations - Salaries and Fringes	\$	\$ -
(FTE Position Changes)	(FTE)	(- FTE)
State Operations - Other Costs		-
Local Assistance		-
Aids to Individuals or Organizations	+6,600,000	-
TOTAL State Costs by Category	\$ +6,600,000	\$
B. State Costs by Source of Funds	Increased Costs	Decreased Costs
GPR	\$ +6,600,000	\$ -
FED		-
PRO/PRS		-
SEG/SEG-S		-
State Revenues Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)	Increased Rev.	Decreased Rev.
GPR Taxes	\$	\$ -
GPR Earned		-
FED		-
PRO/PRS		-
SEG/SEG-S		-
TOTAL State Revenues	\$ - 0 -	\$ -

NET ANNUALIZED FISCAL IMPACT

	<u>STATE</u>	<u>LOCAL</u>
NET CHANGE IN COSTS	\$ <u>+6,600,000</u>	\$ _____
NET CHANGE IN REVENUES	\$ _____	\$ _____

Agency/Prepared by: (Name & Phone No.) WTCSE Jesús G.Q. Garza (608) 267-9540	Authorized Signature/Telephone No. <i>Jesús G.Q. Garza</i> (608) 267-9540	Date January 26, 2000
---	--	--------------------------

SENATOR JUDITH B. ROBSON
CO-CHAIR
PO BOX 7882
MADISON, WI 53707-7882
(608) 266-2253



REPRESENTATIVE GLENN GROTHMAN
CO-CHAIR
PO BOX 8952
MADISON, WI 53708-8952
(608) 264-8486

JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

June 26, 2000

Senator Richard Grobschmidt
Chair, Committee on Education
104 South

Representative Robin Kreibich
Chair, Committee on Colleges and Universities
107 West

Re: Clearinghouse Rule 00-044, TCS 16

Dear Senator Grobschmidt and Representative Kreibich:

We are writing on behalf of the Joint Committee for Review of Administrative Rules (JCRAR) and in regards to the above referenced administrative rule. This rule has been referred to your committees for legislative review.

The JCRAR held a public hearing and executive session on the version of this rule currently in effect as an emergency rule. The JCRAR agreed to extend most of the emergency rule, but not extend certain parts that lack statutory authority.

Because portions of the rule lack statutory authority, the JCRAR urges your committees to give this rule careful scrutiny.

In particular, the JCRAR refused to extend section 16.02(2) and 16.06 of the emergency rule, relating to deferments. (Because of redrafting, these sections of the emergency rule correspond to sections 16.03(2) and 16.07 of the permanent rule.) The committee refused to extend these portions of the rule because the statute that authorizes this rule did not create any exceptions for deferments. Instead, the Tech College System made up this policy on its own.

In addition, the JCRAR strongly feels that section 16.09 of the permanent rule should be put in rule form. This provision of the rule grants Tech College districts the authority to create policies and procedures on appeals of grant decisions.

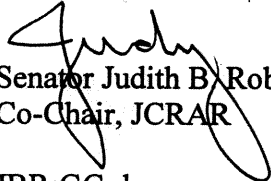
The problem with this provision is that this grant program is a statewide program and should be administered as such. Allowing each Tech College district to establish its own policies and procedures for appeals is inappropriate because students participating in the same program would be treated differently in different parts of the state. In addition, the appeal policies and

procedures fit the definition of a rule found in section 227.01(13) and should be put in rule form for that reason.


Administrative rules are extensions of state statutes. As such, they must be based on statutes. Rules that are not based on statutes violate the Legislature's constitutional authority to write the laws of the state. In short, rules without statutory authority are an assault on the integrity of the Legislature and should not be tolerated.

For these reasons, the JCRAR respectfully requests that your committees give careful scrutiny to administrative rule TCS 16.

Sincerely,


Senator Judith B. Robson
Co-Chair, JCRAR

JBR:GG:da


Representative Glenn Grothman
Co-Chair, JCRAR

MAY 08 2000



Wisconsin Technical College System Board

Edward Chin, State Director

April 26, 2000

State Senator Judith Robson, Senate Co-Chair
Joint Committee for Review of Administrative Rules
Room 156, State Capitol
P.O. Box 7882
Madison, WI 53707-7882

State Representative Glenn Grothman, Assembly Co-Chair
Joint Committee for Review of Administrative Rules
P.O. Box 8952
Room 15N, State Capitol
Madison, WI 53708-8952

RE: Request for Extension of Emergency Administrative Rule

Dear Senator Robson and Representative Grothman:

On February 1, 2000, the Wisconsin Technical College System Board published an emergency rule establishing policies and procedures to implement and administer grant funds, entitled Technical and Occupational Program Grants (TOP Grants), to students enrolled at local technical college districts under Wis. Stats. § 38.305(4). The emergency rule expires on June 30, 2000.

A permanent rule on the TOP Grants is currently being developed and we expect to submit the permanent rule to the Revisor of Statutes at the beginning of July with an anticipated effective date of September 1, 2000, which is several weeks beyond the expiration date of the emergency rule.

The rationale for this extension is as follows:

- I. Evidence of a threat to the public welfare that can only be avoided by an extension of the emergency rule.

If the emergency rule is not extended, the state technical College System Board will be unable to process and subsequently award TOP Grants to students as provided for by state law. It is imperative that the policies and procedures established by the emergency rule continue in full force and effect thus allowing the State Board to distribute the grant funds to the local technical colleges and in-turn to each eligible student. The appropriations, if not awarded, will lapse to the general fund. In addition, prospective students evaluate their educational options, including costs,

Senator Judith Robson
Representative Glenn Grothman
Page 2
April 26, 2000

and make final decisions well before the start of the fall semester after their graduation from high school. The potential for the loss of funds and the uncertainty of how the funds will be administered will have a detrimental effect on the ability of the local technical college districts to attract students to enroll in a technical or occupational program under this statutory provision.

II. Evidence that it is impossible for the agency to promulgate a permanent rule prior to the expiration date of the emergency rule.

As noted previously, the State Board, upon publication of the emergency rule, immediately commenced the process to promulgate a permanent rule. Upon receipt of the Legislative Council's Clearinghouse Report a public hearing was scheduled and is to be held on May 1, 2000, with additional written comments being permitted until May 4, 2000. Considering the State Board's meeting schedule, the final draft of the permanent rule cannot be considered by the State Board until its May 26, 2000, meeting. Following this meeting the rule is to be referred to the Legislature for its review. Due to the 7-day referral period, 30-day committee review, and Revisor of Statutes publication timeline, this rule will not be published and effective until September 1, 2000.

For these reasons, we request a 60-day extension of the emergency rule. A copy of the emergency rule is attached.

Your committee's favorable response to our request will be greatly appreciated. Please contact Mr. Jesús Garza at (608) 267-9540 if you have any questions.

Sincerely,



Edward Chin
State Director

Attachment

ORDER OF THE
WISCONSIN TECHNICAL COLLEGE SYSTEM BOARD
ADOPTING EMERGENCY RULES

The Wisconsin Technical College System Board proposes an order adopting the following emergency rule to create Chapter TCS 16, relating to grants for students.

ANALYSIS PREPARED BY THE
WISCONSIN TECHNICAL COLLEGE SYSTEM BOARD

Statutory authority: Wis. Stats. § 38.305(4).

Statutes interpreted: Wis. Stats. § 38.305.

The purpose of the rule is to implement and administer the awarding of grants to first-year students who are enrolled full-time at a technical college within three years of graduating from a Wisconsin high school and who maintain a grade point average of 2.0.

Section 38.305(4), Stats., authorizes the technical college system board to establish, by administrative rule, policies and procedures to implement, and thereafter administer, the awarding of grants of \$500 per school year for educational programs in occupational and technical areas. An eligible student may also receive a subsequent award of \$500 for a second year of study.

When granting an award, the board must determine the eligibility of the prospective student using the following criteria:

- (a) The student has enrolled in a technical college within 3 years of graduating from a Wisconsin high school;
- (b) The student is a first-year student at a technical college;
- (c) The student is enrolled full-time in an associate degree program or a vocational (technical) diploma program; and
- (d) The student maintains a grade point average of at least 2.0.

Certain policies and procedures, including the right to appeal adverse decisions affecting a student's initial or continued eligibility for receiving a grant, are contained in the rule.

TEXT OF RULE

SECTION 1. Chapter TCS 16 (title) is created to read:

CHAPTER TCS 16 (title)

TECHNICAL AND OCCUPATIONAL PROGRAM GRANTS

TCS 16.01 PURPOSE. The purpose of this chapter is to establish procedures to implement and administer grants to students enrolling in technical and occupational educational programs at a Wisconsin technical college as authorized under s. 38.305, Stats.

TCS 16.02 DEFINITIONS. In this chapter:

- (1) "Associate degree program" has the meaning given in s. 38.01(1), Stats.
- (2) "Board" means the Wisconsin technical college system board.
- (3) "State director" means the person appointed by the board under s. 38.04(2), Stats.
- (4) "District" means a technical college district established under ch. 38, Stats.
- (5) "District board" means the district board in charge of the technical colleges of a district.
- (6) "District director" means the person employed by a district board under s. 38.12(3)(a), Stats.
- (7) "Initial eligibility end date" is the date that a student's period of eligibility for an initial TOP grant ends. It is calculated from the first full month immediately following the date of high school graduation and ends on the last day of the 36th month.
- (8) "First-year student" for purposes of eligibility for a TOP grant, means any technical college student who has earned, completed, or received no more than 18 (eighteen) program credits from or at a technical college after graduating from high school. Any postsecondary program credit earned while serving on active duty shall not be counted against this credit limitation.
- (9) "Enrolled full-time" for purposes of TOP grant eligibility, means enrolled in at least 12 (twelve) program credits per semester.
- (10) "Grade point average or GPA" means the semester grade earned by a student, calculated by dividing the total grade points earned by the number of credits earned during the semester.

(11) "Graduated from high school" for purposes of TOP grant eligibility, means having received a diploma in satisfaction of school board requirements under ss. 118.33., or a high school equivalency diploma under s. 115.29(4), Stats.

(12) "Grant applicant" means any person who has applied for a TOP grant under this chapter.

(13) "Grant or TOP grant" means a technical and occupational program grant for students as authorized under s. 38.305, Stats.

(14) "Grant recipient" means a student who has been awarded a TOP grant under this chapter.

(15) "Program credits" are those academic credits that count toward a board approved degree or diploma program.

(16) "School year" has the meaning given in s. 38.01(9), Stats.

(17) "Student" means a person enrolled at a technical college.

(18) "Technical college" means a Wisconsin technical college established under ch. 38, Stats.

(19) "Technical diploma" is synonymous with vocational diploma.

(20) "Vocational diploma program" has the meaning given in s. 38.01(11), Stats.

TCS 16.02 PERIOD OF INITIAL ELIGIBILITY. (1) The eligibility period for an initial TOP grant begins on the date a person graduates from high school and ends on his or her initial eligibility end date.

(2) Unless a deferment has been granted under s. TCS 16.06(1)(a) or (2), a student may not be awarded an initial TOP grant beyond his or her initial eligibility end date.

TCS 16.03 INITIAL TOP GRANT ELIGIBILITY. A student is eligible for an initial TOP grant only upon meeting all of the following eligibility requirements: (1) The student has graduated from high school as verified by the district;

(2) The student is a first-year student at a technical college;

(3) The student has enrolled full-time in a technical diploma or associate degree program; and

(4) The student is registered for classes that are scheduled to begin at the technical college on or before the student's initial eligibility end date, unless a deferment has been approved under s. TCS 16.06(1)(a) or (2).

TCS 16.04 AWARDING OF THE TOP GRANT. (1) A grant applicant meeting all of the eligibility criteria under s. TCS 16.03(1)-(4) shall receive an initial TOP grant of \$250 to be applied toward a student's costs of tuition and fees at the beginning of the semester in which the student is eligible.

(2) A grant applicant meeting the eligibility criteria for the continuation of a TOP grant under s. TCS 16.05(1) shall receive a TOP grant of \$250 to be applied toward a student's costs of tuition and fees at the beginning of the semester in which a student is eligible.

(3) A grant recipient is eligible to receive up to 2 (two) TOP grants totaling no more than \$500 (five hundred) per school year. In no case shall a grant recipient be awarded more than 4 (four) TOP grants in total.

(4) A student must receive all 4 (four) TOP grants within 6 (six) consecutive semesters, unless a general deferment has been approved under s. TCS 16.06(1) in which case the following applies:

(a) If a student has received 1 (one) general deferment, then he or she must receive all TOP grants within 6 (six) consecutive semesters, plus 1 (one) fall or spring semester, whichever first follows these 6 (six) semesters.

(b) If a student has received 2 (two) general deferments, then he or she must receive all 4 (four) TOP grants within 6 (six) consecutive semesters, plus 1 (one) fall and 1 (one) spring semester immediately following those 6 (six) semesters.

TCS 16.05 CONTINUATION OF TOP GRANT ELIGIBILITY. To receive a TOP grant for a 2nd, 3rd, or 4th semester after receiving an initial grant award, a student shall meet all of the following eligibility requirements:

(1) The student is not serving a probationary semester under s. TCS 16.07; and

(2) The student has enrolled full-time in a technical diploma or occupational associate degree program.

TCS 16.06 DEFERMENT. (1) General. General deferments are given to either postpone a student's initial eligibility end date or extend the number of semesters in which a student must receive all of his or her TOP grants.

(a) Postponing initial eligibility. A person, who may otherwise meet the eligibility requirements for an initial TOP grant award under s. 16.03, may request a general deferment for reasons owing to personal hardship, as determined by the district, anytime before the start of the semester for which a general deferment is requested and before a student's initial eligibility end date. A deferment approved under this paragraph shall stop the running of a student's initial

eligibility date for the duration of that semester and any remaining TOP grant eligibility time shall be recalculated from the last day of the semester for which the deferment was approved.

(b) Extending continued eligibility. A student who has received a TOP grant under ss. 16.03 or 16.05 may request a general deferment for reasons owing to personal hardship, as determined by the district, anytime before the start of the semester for which a general deferment is requested. A deferment approved under this paragraph shall extend the time in which a student has to receive all of his or her TOP grants. Deferments approved under this paragraph are subject to the provisions of s. 16.04(4).

(c) Number of deferments allowed. A person may apply for up to 2 general deferments under this subsection.

(2) Military deferment. A high school graduate, who may otherwise meet the eligibility requirements for a TOP grant under s. TCS 16.03 and who enters the U.S. armed forces on active duty before his or her initial eligibility end date, shall be eligible for a military deferment for up to 2 years. The time that a student serves on active duty in the U.S. armed forces shall stop the running of his or her initial eligibility end date and any remaining TOP grant eligibility time shall be calculated from the date of discharge from active duty. A deferment under this subsection shall be in addition to a deferment under subs. (1).

(3) Application. In order to receive a deferment, a student shall apply to the district director or designee. Application for a general deferment must be made before the start of the semester for which the deferment is requested. Application for a military deferment must be made within 30 days of discharge from active duty in the military service or before the end of the member's original initial eligibility end date, whichever is later.

(4) Approval. Each district shall establish policies for approving TOP grant deferments other than military deferments under sub. (2).

TCS 16.07 PROBATIONARY SEMESTER. (1) A student who either fails to attain a 2.0 GPA or does not complete at least 12 (twelve) program credits during the semester in which he or she was awarded a TOP grant shall be placed on probation for the following semester in which he or she is eligible for a TOP grant unless an exemption is approved under s. TCS 16.07(4). No grant award will be given to a student during a probationary semester.

(2) A student who either fails to attain a 2.0 GPA or does not complete at least 12 (twelve) program credits during a probationary semester forfeits any remaining eligibility for subsequent TOP grant awards.

(3) A student who attains a 2.0 GPA and completes at least 12 (twelve) program credits during a probationary semester shall be eligible for subsequent TOP grant awards based on the following:

(a) If a student's probationary semester follows the semester in which he or she received his or her 1st TOP grant, then a student may be eligible to receive up to 2 (two) additional TOP grants.

(b) If a student's probationary semester follows the semester in which he or she received his or her 2nd TOP grant, then a student may be eligible to receive up to 1 (one) additional TOP grant.

(c) If a student's probationary semester follows the semester in which he or she received his or her 3rd TOP grant, then a student is no longer eligible to receive a TOP grant award.

(4) Probation exemption. (a) A student who has received a TOP grant under ss. TCS 16.03 or 16.05 may request a probation exemption for reasons owing to personal hardship as determined by the district during the semester in which he or she received the grant.

(b) Such a request must be approved before the end of the semester in which the grant was received.

(c) A student who has received approval for a probation exemption is not subject to the provisions of sub. (1) for the subsequent semester in which he or she is eligible for a TOP grant, following the approval of the exemption.

(d) A student may apply for up to 2 probation exemptions under this subsection.

TCS 16.08 APPEALS. (1) District policies. Districts shall establish policies and procedures for students to appeal grant eligibility, deferment approvals, probation determinations, and probation exemptions. Such policies and procedures shall be approved by the district board and filed with the office of the state director.

(2) Decision of State Director. Decisions by the district director or designee may be appealed to the state director. Review of a district decision is limited to a review of the record established at the district level.

(3) Time limit. The time limit for filing an appeal to the state director shall be 30 days after a student is notified of the district's decision.

Note: The address for filing appeals to the state director is: Wisconsin Technical College System Board, 310 Price Place, P.O. Box 7874, Madison, Wisconsin 53707-7874.

EFFECTIVE DATE

This emergency rule shall take effect on the date of publication in the official state newspaper as provided in s 227.24(1)(c), Wis. Stats.

FISCAL ESTIMATE

These rules implement s. 38.305, Wis. Stats., which allow the technical college system board to establish administrative rules to implement and administer grants to students.

The functions required by these rules can be absorbed within existing staff. Therefore, there is no fiscal effect on the agency.

CONTACT PERSON

Questions concerning these rules may be directed to Jesús G.Q. Garza, Legal Counsel, Wisconsin Technical College System Board, 310 Price Place, P.O. Box 7874, Madison, Wisconsin 53707-7874, telephone (608) 267-9540.

Date: 1/26/00

Wisconsin Technical College System Board

/s/
Edward Chin, Director

**ORDER OF THE
WISCONSIN TECHNICAL COLLEGE SYSTEM BOARD
ADOPTING RULES RELATING TO GRANTS TO STUDENTS
(Clearinghouse Rule 00-044)**

The Wisconsin Technical College System Board proposes an order to create TCS ch. 16, relating to grants for students.

**ANALYSIS PREPARED BY THE
WISCONSIN TECHNICAL COLLEGE SYSTEM BOARD**

Statutory authority: Wis. Stats. § 38.305(4).

Statutes interpreted: Wis. Stats. § 38.305.

The purpose of the rule is to implement and administer the awarding of grants to first-year students who are enrolled full-time at a technical college within three years of graduating from a Wisconsin high school and who maintain a grade point average of 2.0.

Section 38.305(4), Stats., authorizes the technical college system board to establish, by administrative rule, policies and procedures to implement, and thereafter administer, the awarding of grants of \$500 per school year for educational programs in occupational and technical areas. An eligible student may also receive a subsequent award of \$500 for a second year of study.

When granting an award, the board must determine the eligibility of the prospective student using the following criteria:

- (a) The student has enrolled in a technical college within 3 years of graduating from a Wisconsin high school;
- (b) The student is a first-year student at a technical college;
- (c) The student is enrolled full-time in an associate degree program or a vocational (technical) diploma program; and
- (d) The student maintains a grade point average of at least 2.0.

Certain policies and procedures, including the right to appeal adverse decisions affecting a student's initial or continued eligibility for receiving a grant, are contained in the rule.

TEXT OF RULE

SECTION 1. Chapter TCS 16 (title) is created to read:

CHAPTER TCS 16 (title)

TECHNICAL AND OCCUPATIONAL PROGRAM GRANTS

TCS 16.01 Purpose. The purpose of this chapter is to establish procedures to implement and administer grants to students enrolling in an associate degree program or a vocational diploma program at a Wisconsin technical college as authorized under s. 38.305, Stats.

TCS 16.02 Definitions. In this chapter:

- (1) "Associate degree program" has the meaning given in s. 38.01(1), Stats.
- (2) "Board" means the Wisconsin technical college system board.
- (3) "Date of record" means all of the following: (a) The 14th day of the semester for courses which are scheduled to meet a semester or longer.
(b) The day on which 10% of the potential course hours of instruction are completed for courses which are scheduled to meet less than a semester or are non-traditional offerings.
- (4) "Disability" means a permanent physical or developmental impairment which substantially limits the major life activity of learning. In this subsection, "substantially limits" means significantly restricts the ability to learn compared to the average person who has comparable knowledge, skills and abilities.
- (5) "District" means a technical college district established under ch. 38, Stats.
- (6) "District board" means the district board in charge of the technical colleges of a district.
- (7) "District director" means the person employed by a district board under s. 38.12(3)(a), Stats.
- (8) "Enrolled full-time" means any of the following: (a) To enroll in and complete at least 12 program credits per semester.
(b) To enroll in and complete at least 6 program credits per semester if the student is a person with a disability as determined by a qualified professional and as verified by the district director or designee.
- (9) "First-year student" means any technical college student who has earned, completed, or received no more than 18 postsecondary credits after graduating from high school. Any postsecondary credit earned while serving on active duty in the U.S. armed forces may not be counted against this credit limitation.
- (10) "Grade point average" or "GPA" means the semester grade point average earned by a student.
- (11) "Graduated from high school" means having received a diploma in satisfaction of school board requirements under s. 118.33, or a high school equivalency diploma under s. 115.29(4), Stats.
- (12) "Grant applicant" means any person who has applied for a TOP grant under this chapter.
- (13) "Grant" or "TOP grant" means a technical and occupational program grant for students as authorized under s. 38.305, Stats.
- (14) "Grant recipient" means a student who has been awarded a TOP grant under this chapter.

(15) "Initial eligibility end date" means the last day of the 36th full month following the date on which the student graduated from high school.

(16) "Program credits" are those academic credits that count toward a board approved degree or diploma program.

(17) "Postsecondary credit" means credit earned at a nationally or regionally accredited institution of higher education.

(18) "Qualified professional" means a doctor or physician, psychologist, psychiatrist, rehabilitation vocational counselor, high school special education teacher or counselor, or counselor at the division of vocational rehabilitation.

(19) "School year" has the meaning given in s. 38.01(9), Stats.

(20) "State director" means the person appointed by the board under s. 38.04(2), Stats.

(21) "Student" means a person enrolled at a technical college.

(22) "Technical college" means a Wisconsin technical college established under ch. 38, Stats.

(23) "Technical diploma" is synonymous with vocational diploma.

(24) "Vocational diploma program" has the meaning given in s. 38.01(11), Stats.

TCS 16.03 Period of initial eligibility. (1) The eligibility period for an initial TOP grant begins on the date a person graduates from high school and ends on his or her initial eligibility end date.

(2) Unless a deferment has been granted under s. TCS 16.07(1)(a) or (3), a student may not be awarded an initial TOP grant beyond his or her initial eligibility end date.

TCS 16.04 Initial TOP grant eligibility. A student is eligible for an initial TOP grant only upon meeting all of the following eligibility requirements on the date of record: (1) The student has graduated from high school as verified by the district.

(2) The student is a first-year student at a technical college.

(3) The student has enrolled full-time in a technical diploma or associate degree program.

(4) The student is registered for classes that are scheduled to begin at the technical college on or before the student's initial eligibility end date, unless a deferment has been approved under s. TCS 16.07(1)(a) or (3).

TCS 16.05 Awarding of the TOP grant. (1) A grant applicant meeting all of the eligibility criteria under s. TCS 16.04(1) to (4) shall receive an initial TOP grant of \$250 to be applied toward a student's costs of tuition and fees in the semester in which the student is eligible.

(2) A grant applicant meeting the eligibility criteria for the continuation of a TOP grant under s. TCS 16.06 shall receive a TOP grant of \$250 to be applied toward a student's costs of tuition and fees in the semester in which a student is eligible.

(3) A grant recipient is eligible to receive up to 2 TOP grants totaling no more than \$500 per school year. In no case shall a grant recipient be awarded more than 4 TOP grants in total.

(4) A student must receive all 4 TOP grants within 6 consecutive semesters, unless a general deferment has been approved under s. TCS 16.07(1)(b) in which case the following applies:

(a) If a student has received one general deferment, then he or she shall receive all TOP grants within 6 consecutive semesters, plus one fall or spring semester, whichever first follows these 6 semesters.

(b) If a student has received 2 general deferments, then he or she shall receive all 4 TOP grants within 6 consecutive semesters, plus one fall and one spring semester immediately following those 6 semesters.

TCS 16.06 Continuation of TOP grant eligibility. To receive a TOP grant for a 2nd, 3rd, or 4th semester after receiving an initial grant award, a student shall meet all of the following eligibility requirements on the date of record:

- (1) The student is not serving a probationary semester under s. TCS 16.08.
- (2) The student has enrolled full-time in a technical diploma or associate degree program.

TCS 16.07 Deferment. (1) GENERAL. General deferments may be authorized for any of the following:

(a) *Postpone initial eligibility.* A person, who may otherwise meet the eligibility requirements for an initial TOP grant award under s. TCS 16.04, may request, from the district director or designee, a general deferment for reasons owing to personal hardship anytime before the start of the semester for which a general deferment is requested and before a student's initial eligibility end date. A deferment approved under this paragraph shall stop the running of a student's initial eligibility end date for the duration of that semester and any remaining TOP grant eligibility time shall be recalculated from the last day of the semester for which the deferment was approved.

(b) *Extend continued eligibility.* A student who has received a TOP grant under s. TCS 16.05 or 16.06 may request from the district director or designee a general deferment for reasons owing to personal hardship anytime before the start of the semester for which a general deferment is requested. A deferment approved under this paragraph shall extend the time period in which a student is eligible to receive a TOP grant. Deferments approved under this paragraph are subject to the provisions of s. TCS 16.05(4).

(2) NUMBER OF DEFERMENTS ALLOWED. A person may apply for up to 2 general deferments under sub. (1).

(3) MILITARY SERVICE. (a) A person who has graduated from high school, who may otherwise meet the eligibility requirements for a TOP grant under s. TCS 16.04 and who enters the U.S. armed forces on active duty before his or her initial eligibility end date, shall be eligible for a military deferment for up to 2 years. The time that a student serves on active duty in the U.S. armed forces shall stop the running of his or her initial eligibility end date and any remaining TOP grant eligibility time shall be calculated from the date of discharge from active duty. A deferment under this paragraph shall be in addition to a deferment under sub. (1). Application for a military deferment shall be made to the district director or designee within 30 days of discharge from active duty in the military service or before the end of the member's original initial eligibility end date, whichever is later.

(b) A grant recipient who is ordered or inducted into active duty in the U.S. armed forces other than for training purposes during the semester in which he or she received a TOP grant, shall be granted a deferment for the duration of active duty not to exceed 2 years. The time that a student serves on active duty in the U.S. armed forces shall extend the time period in which a student is eligible to receive any remaining TOP grants. A student who fails to complete the requirements of continued TOP grant eligibility in the first full spring or fall semester immediately following discharge from active duty in the U.S. armed forces forfeits any remaining eligibility for subsequent TOP grant awards. A student who has received a deferment under this paragraph is not required to refund the grant monies awarded to him or her for the semester in which the grant was awarded.

(c) A student who is serving a probationary semester under s. TCS 16.08 at the time that he or she is ordered or inducted into active duty in the U.S. armed forces shall fulfill the TOP grant eligibility requirements of probation in the first full spring or fall semester immediately following

discharge from active duty in the U.S. armed forces. A student who fails to complete the requirements of a probationary semester in the first full spring or fall semester immediately following discharge from active duty in the U.S. armed forces forfeits any remaining eligibility for subsequent TOP grant awards.

(4) APPROVAL. Each district shall establish policies and procedures for approving TOP grant deferments other than military deferments under sub. (3). Such policies and procedures shall be approved by the district board and are subject to review and approval by the board.

TCS 16.08 Refunding policy. (1) A student who either fails to attain a 2.0 GPA or who is not enrolled full-time during the semester in which he or she was awarded a TOP grant shall be placed on probation for the following semester in which he or she is eligible for a TOP grant unless an exemption is approved under s. TCS 16.08(4). No grant award may be given to a student during a probationary semester.

(2) A student who either fails to attain a 2.0 GPA or who is not enrolled full-time during a probationary semester forfeits any remaining eligibility for subsequent TOP grant awards.

(3) A student who attains a 2.0 GPA and who is enrolled full-time during a probationary semester shall be eligible for subsequent TOP grant awards based on the following:

(a) If a student's probationary semester follows the semester in which he or she received his or her 1st TOP grant, then a student may be eligible to receive up to 2 additional TOP grants.

(b) If a student's probationary semester follows the semester in which he or she received his or her 2nd TOP grant, then a student may be eligible to receive one additional TOP grant.

(c) If a student's probationary semester follows the semester in which he or she received his or her 3rd TOP grant, then a student is no longer eligible to receive a TOP grant award.

(4) A student who has received a TOP grant under s. TCS 16.05 or 16.06 may request a probation exemption for reasons owing to personal hardship during the semester in which he or she received the grant. The district director or designee shall approve or deny a probation exemption request before the end of the semester in which the request was made.

(5) A student who has received approval for a probation exemption is not subject to the provisions of sub. (1) for the subsequent semester in which he or she is eligible for a TOP grant, following the approval of the exemption.

(6) A student may apply for up to 2 probation exemptions under sub. (4).

(7) The district director or designee shall seek a full refund of all TOP grant monies from any student awarded such funds if the district director or designee finds, after giving notice and an opportunity to be heard, that the student received a grant as a result of deception, fraud, misinformation, or error in providing his or her registration information for an initial or continued TOP grant award. A student who is found to have received a grant award based upon any of the aforementioned reasons forfeits any remaining eligibility for subsequent TOP grant awards. No student may be required to refund any grant award if the findings result in a determination that the award was due to error not attributable to the student. In such a case, the student is no longer eligible for any remaining TOP grant awards.

TCS 16.09 Appeals. (1) DISTRICT POLICIES. Districts shall establish policies and procedures for students to appeal grant eligibility, deferment approvals, probation determinations, probation exemptions, and refund determinations. Such policies and procedures shall be approved by the district board and are subject to review and approval by the board.

(2) DECISION OF STATE DIRECTOR. Decisions by the district director or designee may be appealed to the state director. Review of a district decision is limited to a review of the record established at the district level.

(3) TIME LIMIT. The time limit for filing an appeal to the state director shall be 30 days after a student is notified of the district's decision.

Note: The address for filing appeals to the state director is: Wisconsin Technical College System Board, 310 Price Place, P.O. Box 7874, Madison, Wisconsin 53707-7874.

SECTION 2. INITIAL APPLICABILITY

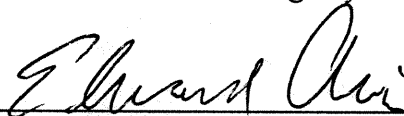
This chapter first applies to students who apply for a grant on or after October 1, 2000.

EFFECTIVE DATE

This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2) (intro.), Stats.

Date: May 26, 2000

Wisconsin Technical College System Board



Edward Chin, Director

REPORT TO THE LEGISLATURE

CLEARINGHOUSE RULE 00-044
WISCONSIN TECHNICAL COLLEGE SYSTEM BOARD
CHAPTER TCS 16, WIS. ADMIN. CODE

Submitted by:

Wisconsin Technical College
System Board
P.O. Box 7874
310 Price Place
Madison, Wisconsin 53707-7874

May 24, 2000

I. STATEMENT EXPLAINING THE NEED FOR THE PROPOSED RULE

1999 Wis. Act 9 (the 1999-2000 biennial budget bill) took effect on October 29, 1999. That act created Wis. Stats. §§ 20.292(1)(ep) and 38.305. An appropriation of \$6,600,000 in the second year of the biennium was established. These funds are to be awarded by the technical college system board as grants to students who enroll in an associate degree program or vocational diploma program, as these terms are defined in current law. The law establishes five eligibility criteria that a student must fulfill in order to receive an initial grant award and to remain eligible to receive a subsequent award during the second year of his or her degree or diploma program.

Wis. Stats. § 39.305(4), requires the Wisconsin Technical College System Board to promulgate administrative rules to implement and administer these grants to eligible students. This statutory provision also requires the board to promulgate rules for refunding a grant award in the instance where a student becomes ineligible for the grant.

II. EXPLANATION OF MODIFICATIONS MADE IN THE PROPOSED RULE AS A RESULT OF TESTIMONY RECEIVED AT THE PUBLIC HEARING

The following modifications were made to the proposed rule as a result of the written testimony received by the agency.

A. Provision for persons with disabilities.

One of the grants to students eligibility criterion requires that "[t]he student is enrolled full-time" in an associate degree or vocational diploma program. (See, Wis. Stats. § 38.305(1)(b).) The proposed administrative rule initially defined this phrase to mean "enrolled in at least 12 program credits per semester." Written testimony was received from a number of technical college districts indicating that the administrative rules should allow a provision for students with a verified disability to be able to receive a grant award if that student was enrolled in a qualifying degree or diploma program for less than 12 program credits per semester. District staff indicated that it is not uncommon for district staff to advise students with a verified disability to carry a credit load of less than 12 credits in recognition of the barriers created by the student's disability and to enhance the probability of student success.

Wis. Stats. § 227.10(3)(b), allows an agency to promulgate a rule that favors a person by reason of his or her physical condition or developmental disability as defined in Wis. Stats. § 51.01(5). This exception for persons with disabilities may be made by the agency only if it is strictly necessary to a function of the agency and is supported by data demonstrating that necessity.

The principal purposes of the technical college system are to provide occupational education, training, and retraining programs to enable Wisconsin residents to obtain the knowledge and skills necessary for employment at a technical, paraprofessional, skilled or semi-skilled occupation. Such programs include general education courses

to facilitate student achievement in occupational skills training. More specifically, the technical colleges are to provide education and services that address barriers created by stereotyping and discrimination. (See, Wis. Stats. § 38.001(3)(e).)

In view of the Technical College System's statutory mandate coupled with the authority under Wis. Stats. ch. 227, a new definition was added that provides for qualified person with a disability to be considered as meeting the definition of "enrolled full-time" by enrolling and completing at least 6 program credits per semester.

B. Provision of definition of "grade point average." Technical colleges calculate semester grade point averages using methods approved in their accreditation process. The definition in the proposed rule that specified a certain methodology in calculating the grade point average was considered redundant and did not add or clarify the meaning. The definition was reworded to simplify its meaning.

C. Upon review of the proposed rule, agency staff recommended some changes to clarify the rule and make it easier to read. A change to the proposed definition of "first-year student" addresses a perceived inequity in the application of who qualifies as a first-year student under the administrative rules. The proposed definition was determined to be too narrow in scope and its applicability was to current technical college students only and appeared to exclude students who had attended an institution of higher education before enrolling at a technical college. Changing the definition to include those students who had already earned considerable postsecondary education credits before enrolling in a qualified degree or diploma program is consistent with the original intent of the law. Also, language defining the "date of record" was included in the rule to further clarify and establish a date certain when a student was eligible to receive a grant award.

III. PERSONS WHO APPEARED OR REGISTERED FOR OR AGAINST THE PROPOSED RULE AT THE PUBLIC HEARING OR WHO SUBMITTED WRITTEN TESTIMONY

Appearances in favor of the rule:

Ms. Sarah Brown
Milwaukee Area Technical College
700 W. State Street
Milwaukee, WI 53233

Registrations in favor of the rule: None

Appearances opposed to the rule: None

Registrations opposed to the rule: None

Appearances for information only:

Ms. Sharen Rockingham
Milwaukee Area Technical College
700 W. State Street
Milwaukee, WI 53233

Written testimony submitted to the agency:

The following persons submitted written statements in compliance with the provisions of the published notice of public hearing:

Ronald Coppernoll, Financial Aid Counselor
Southwest Wisconsin Technical College
1800 Bronson Boulevard
Fennimore, WI 53809

Kathy Farrell, Transition Facilitator
Northcentral Technical College
1000 W. Campus Drive
Wausau, WI 54401

Patricia A. Peters, Student Success Center
Wisconsin Indianhead Technical College
1900 College Drive
Rice Lake, WI 54868

Debby Burke, Transition Counselor
Gateway Technical College
3520 – 30th Avenue
Kenosha, WI 53144-1690

Randy Bodenhamer, Counselor for Students with Disabilities
Waukesha County Technical College
800 Main Street
Pewaukee, WI 53072

Bob Steber, Instructor/Case Manager
Nicolet Area Technical College
P.O. Box 518
Rhineland, WI 54501

Deb Julbert, Special Services Coordinator
Waukesha County Technical College
800 Main Street
Pewaukee, WI 53072

Bill Rowe, Financial Aid Officer
Madison Area Technical College
3550 Anderson Street
Madison, WI 53704-2599

Vicki Wiese
Lakeshore Technical College
1290 North Avenue
Cleveland, WI 53015-1414

IV. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS

1.a. WTCSB authority to create exceptions to the requirement that a student enroll within three years of high school graduation by providing initial eligibility deferments for personal hardship as determined by the technical college district and for time served on active duty in the U.S. armed forces.

WTCSB believes that the overarching legislative intent in establishing the TOP grant program is to encourage recent high school graduates to choose technical college programs for their postsecondary education and, thereby, increase the state's labor pool of technical- and occupational-skilled workers as quickly as possible.

WTCSB believes that the Legislature imposed a three-year limit on the time within which a student could receive their first grant to encourage the timely choice of technical education and, thus, expedite the desired increase in technical college graduates and in the number of available technical- or occupational-skilled workers.

WTCSB believes that it is within this legislative intent to encourage, within a specified limit, recent high school graduates who plan to attend technical college but who, through no fault of their own, need additional time to initiate their postsecondary education. The initial eligibility deferment provided in the proposed TOP grant rules is limited to two semesters, requires District approval to ensure a legitimate hardship exists, and requires the student to plan ahead for their postsecondary education at a technical college.

Allowing a limited deferment of the three-year initial eligibility period for personal hardship reasons is also consistent with the implementation of other postsecondary educational program requirements. For example, technical college districts currently grant extensions to students who are unable to satisfy course requirements within the specified course period (typically a semester) if the student can demonstrate a legitimate need for such an extension based on a personal hardship.

Similarly, allowing a limited deferment of the three-year initial eligibility period for time served on active duty in the U.S. armed forces is consistent with the implementation of other postsecondary educational program and employment requirements. For

example, at both the federal and state levels, veterans of the U.S. armed forces are given additional time to apply for civil service positions.

Finally, WTCSB believes that providing a limited deferment option to the three-year eligibility period for persons in the U.S. armed forces is in the public interest to recognize patriotic service and is supportive of the publicized state policy objective of increasing the state's skilled labor shortage. Specifically, the limited deferment option to the three-year eligibility period for persons in the U.S. armed forces makes the TOP grant a tool for encouraging U.S. military personnel to return to Wisconsin after military service and gain the skills they need for full participation in the state's labor force.

1.b. Failure to provide rules on refunding a grant for students whom become ineligible.

The proposed rules contained a specific provision that placed a student on a probation if that student failed to maintain either the requisite 2.0 GPA or did not complete enough credits to be considered full-time. In such a case, a student would be required to complete the eligibility criteria for the TOP grant program during his or her probationary semester. No grant award is made to a student while on probation semester. And, if the student fails to maintain any of the TOP grant requirements or does not return to the technical college, then he or she forfeits any remaining grant eligibility.

Included in the final draft of the proposed rules is a clarification of the refunding policy and a provision for repayment of grant monies by a student who has been found to have been awarded a grant due to fraud, deception, or error. The WTCSB believes that placing a student on probation coupled with having that student complete the requirements of eligibility is the most cost-effective method in which to indirectly recoup monies awarded to a student. This in turn minimizes the administrative costs associated with implementing this program.

1.c. WTCSB authority to specify the use of TOP grant monies.

WTCSB believes that the TOP grants were intended to fund tuition and fees only based on discussions with staff from the Governor's Office and the departments of Administration and Workforce Development during the development of the TOP grant program proposal. The dollar amount of the TOP grant (\$500/year) is based on estimates of the gap between WTCSB tuition and fee costs and the average financial assistance available to students at varying income levels. In making these estimates, WTCSB was directed to determine what grant amount, in combination with existing state and federal grant and tax credit programs, would be needed to eliminate the tuition and fee costs of attending a Wisconsin technical college for any student with an individual or family income below \$80,000. At no time during the development phase of the TOP grant program or during legislative discussion of the 1999-2001 biennial budget was the WTCSB asked to estimate the amount necessary to finance WTCSB student costs other than tuition and fees.

Limiting the use of TOP grants to tuition and fee costs also minimizes the administrative costs of this program. Grant funds can be electronically transferred directly into eligible student accounts at the technical college and applied toward outstanding tuition and fee charges. Individual checks are not issued to students and students who become ineligible after receiving a grant award are not required to refund to the district grant funds in cash.

1.d. WTCSB authority to create an exemption from the TOP grants continuing eligibility GPA requirement due to personal hardship.

WTCSB believes that the overarching legislative intent in establishing the TOP grant program is to encourage recent high school graduates to choose technical college programs for their postsecondary education and, thereby, increase the state's labor pool of technically- and occupationally-skilled workers as quickly as possible.

WTCSB believes that the Legislature imposed a minimum GPA requirement on TOP grant recipients to safeguard that grant students complete their educational programs in a timely manner and that students achieve competency levels in the technical and occupational knowledge and skills in demand in the workforce.

WTCSB believes that it is within this legislative intent to support recent high school graduates who are attending technical college full-time but whose academic performance is negatively affected, on a temporary basis, by an unanticipated event or condition. The probation exemption in the proposed TOP grant administrative rules is limited to two semesters, requires District approval to ensure a legitimate hardship exists, and requires the student to initiate the exemption process prior to knowledge of their final semester grades.

Allowing an exemption to the TOP grant probation penalty for failing to earn a semester GPA of 2.0 because of personal hardship reasons is also consistent with the implementation of other postsecondary educational program requirements. For example, under current district grading policies, a student who can demonstrate a legitimate need, based on a personal hardship, may receive additional time to complete course requirements or may drop courses late in the semester without affecting the student's semester grade point average.

1.e. (and paragraph two of comment 1.a.) WTCSB authority to require district boards to establish policies and procedures.

The WTCSB believes that it is appropriate to require each technical college district to establish certain policies relating to TOP grants in lieu of promulgating administrative rules. According to Wis. Stats. § 38.04(14)(b), the "[state] board may direct the district boards to establish written policies relating to any matter not enumerated under par. (a)." The specific policies listed under § 38.04(14)(a), relate to "1. Employee and district board member travel and expenses 2. Procurement. 3. Personnel. [and] 4. Contracts to provide services." Furthermore, according to Wis. Stats. § 38.12(7), each district board is required to establish specific written policies on all other district matters

and such additional policies are "subject to review and approval by the [state] board." The WTCSB believes that requiring each district board to adopt specific policies and procedures, which are subject to the review and approval of the State Board, as contained in the proposed administrative rule (§§ TCS 16.07(4) and 16.09(1)) is within its statutory authority.

All other recommendations of the Legislative Council Clearinghouse were accepted and incorporated into the final draft of the proposed rule.

V. FINAL REGULATORY FLEXIBILITY ANALYSIS

None required.