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**DATE:** September 15, 2016  
**TO:** Tennessee Higher Education Presidents, Chancellors, and System Leaders  
**FROM:** Mike Krause  
**SUBJECT:** Commission Guidance Regarding Implementation of the FOCUS Act

The passage of the Focus on College and University Success (FOCUS) Act during the 2016 legislative session represents a pivotal moment for higher education in Tennessee. The Act provides greater autonomy for universities in pursuit of innovation and differentiation, while allowing the Board of Regents to sharpen its attention on technical and community college success. At the core of FOCUS is a belief that increasing the number of Tennesseans with a postsecondary credential demands increased agility on the part of the six TBR universities, with an understanding that this nimbler approach must be deployed within the broader context of the State's higher education policy agenda.

Throughout the summer, our senior staff met with each of your leadership teams, seeking firsthand perspectives on the FOCUS Act and transitional issues. We concluded those meetings convinced that the most urgent task for THEC is to articulate an implementation timeline and provide reasonable insight as to how the Commission will address operational issues inherent in this transition. This communication seeks to accomplish both tasks.

The FOCUS Act presents our state with a rare opportunity to re-examine the relationships and interactions between each institution, board, system, and the Commission. While the roles and responsibilities of THEC and each university are specified in law, the operational realities of these roles will evolve over time. As that process unfolds, THEC is committed to the following core principles:

- The agenda for state public higher education, and the foundation for all policy decisions, will be the priorities of the Drive to 55 and the Complete College Tennessee Act (CCTA) of 2010;
- The Tennessee Transfer Pathways remain intact, with full articulation continuing as envisioned in the CCTA and reinforced by the FOCUS Act;
- Data systems are interoperable and are used as a strategic tool for evaluating progress toward State objectives;
- Mission profiles reflect each university's niche in terms of student profile, institutional classification, and contributions to the State;
- A culture of collaboration remains, such that institutions do not lose sight of their interdependence; and
- Operational and capital resources are allocated in a manner that is strategic, fair, and mission-focused.

The addenda following this memo delve more deeply into specific policies and procedures, with the primary aim of providing operational detail for each of the functional areas embedded within the FOCUS Act, specifically:

- THEC Interaction with Universities and Systems
- University Board Operations
- University Operations
  - ◊ Academic Affairs
  - ◊ Fiscal Policy
  - ◊ Data Policy
  - ◊ Government Relations

Above all, THEC issues this guidance to facilitate a conversation that will be the foundation of a smooth transition. It is my sincere belief that the conversations held this summer, combined with this guidance document and open communication, will create a framework for collaboration that will ensure optimal progress and improve student outcomes in the FOCUS era. I hope you will not hesitate to let us know how we may be of assistance moving forward.

# THEC Interaction with Universities and Systems



## *Coordination: Across Institutions, Sectors, and Systems*

Progress toward student access and success depends on coordination and open communication across postsecondary institutions. To strike a balance between communication and efficiency, THEC proposes to convene two Councils, inclusive of university, system, and sector representation:

- **Student success and institutional collaboration.** Chief academic officers will be convened biannually prior to the winter and summer THEC meetings. Items for discussion and consultation will include matters of state interest and inter-institutional collaboration.
- **Finance and data.** Chief business and institutional research officers will be convened biannually prior to the fall and spring THEC meetings, where budget recommendations and approval processes will be discussed.

The Councils may set additional meetings, establish working groups or sub-structures, or include functional personnel to best address common issues. Furthermore, we anticipate that professionals across institutions will maintain open channels of communication and continue to share ideas, build partnerships and agreements, and address the range of issues facing higher education—it is in everyone’s best interest to do so.

## *Guidance and Approval*

The FOCUS Act upholds THEC’s mission of developing, tracking, and incentivizing a statewide master plan for higher education; Drive to 55 serves as the guiding initiative by which postsecondary priorities are established and progress is measured. While FOCUS empowers universities to oversee their own curriculum, program development, budgeting, procurement, and tuition and fee levels, state priorities are reinforced by delegating specific guidance and approval responsibilities to THEC. The Commission staff has been working with TBR and campus personnel to identify new and changing responsibilities, assess institutional capacity, and clarify duties related to academic affairs, fiscal policy, data, and government relations.

# University Board Operations



## *Seating of Boards*

The FOCUS Act outlines a process and condensed timeline for naming and seating board members for each of the locally governed institutions (LGIs). Board appointments will likely be announced in late September/early October 2016. Meanwhile, university faculties have been asked to develop a process for selecting a board member from their ranks. The appointments will pass through the General Assembly for confirmation during the 2017 legislative session, with anticipated action in February or March. After all members have been confirmed, university boards assume management and governance of their respective institutions upon the board's first meeting, as called by the Governor. *See Tenn. Code Ann § 49-8-201(f)(7)(B)(i).*

**The FOCUS Act requires that board members complete orientation with THEC after confirmation by the General Assembly and before the initial convening.** *See Tenn. Code Ann § 49-8-201(f)(7)(A).*

## *Board Orientation and Training*

In order to meet statutory requirements, THEC proposes a two-pronged approach for training inaugural boards: a targeted on-campus orientation in late March 2017, followed by a more comprehensive statewide professional development conference in late summer 2017.

**Orientation.** In partnership with university transition teams, THEC will conduct a condensed orientation and training session to prepare boards for their initial duties, which include:

- Determining institutional intent and capacity to undertake functions previously provided by TBR;
- Establishing bylaws;
- Setting tuition and fees for the 2017-18 academic year; and
- Naming a student board member.

Primary board orientation topics may include legal, ethical, and fiduciary responsibilities; affordability, costs, tuition, and financial aid; and, roles and responsibilities in the FOCUS era. Institutional transition teams have expressed interest in providing a general orientation to their university, mission, culture, and personnel.

**Professional development.** After board members have convened and assumed governance responsibilities, THEC will convene a statewide conference for all higher education board members, spanning LGIs, TBR, and UT, for the purpose of providing professional development and coordination of state policy initiatives. The event will offer new board members the opportunity to meet other higher education stakeholders; hear from national experts in the fields of higher education policy, governance, coordination, and strategy; and better understand their roles, responsibilities, and duties.

# University Operations



Moving from the principles of governance to the implementation of new responsibilities, the parameters and timeline for various transitions are outlined below. The FOCUS Act recognizes the efficiencies of shared services through TBR and provides universities with a *choice* to continue utilizing TBR services or to undertake them at the campus level.

In January 2017, THEC will invite universities to express their intent to undertake FOCUS-designated responsibilities and begin a process to demonstrate institutional capacity to do so. Once seated, governing boards will be asked to evaluate capacity for independent management of these responsibilities and communicate their intentions to THEC. Requests may be presented as early as the summer 2017 THEC meeting, at which time THEC will approve or deny requests. *See Tenn. Code Ann § 49-8-101(a)(2)(C).*

The following pages provide the details and processes clarified to date, with understanding that specifics are continuing to develop, for:

- Academic Affairs
- Fiscal Policy
  - ◊ Budget Process
  - ◊ Capital Project Prioritization and Management
  - ◊ Procurement
- Data Policy
- Government Relations

# Academic Affairs



THEC is empowered to provide statewide leadership for the development, coordination and monitoring of academic planning. Central to these core functions is the State's emphasis on seamless transfer pathways and general education. As delineated in the FOCUS Act, THEC will engage directly with LGIs to oversee the following policies, guidelines, and activities.

## Institution's Role

- **[NEW]** Submit annual institutional mission profiles for review and approval. Mission profiles should characterize distinctiveness in degree offerings by level, focus, and student characteristics. The mission profile should also address institutional accountability for the quality of instruction, student learning, research, and public service. *See Tenn. Code Ann § 49-8-101(d).*
- Ensure compliance with transfer and articulation provisions. *See Tenn. Code Ann § § 49-7-202 and 49-8-203(e).*
- **[NEW]** Submit an annual report on academic program terminations. *See Tenn. Code Ann § 49-8-203(l).*
- Promulgate tenure policy for faculty, which shall ensure academic freedom and provide sufficient professional security to attract the best qualified faculty. *See Tenn. Code Ann § 49-8-301(a).*
- **[MODIFIED]** Develop procedures for the termination of faculty for adequate cause by the institution, following a hearing that ensures due process. *See Tenn. Code Ann § 49-8-303.*

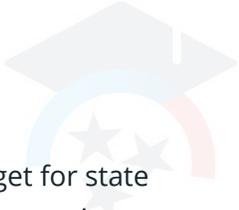
## THEC's Role

- **[NEW]** Coordinate and administer an orientation training, as well as an ongoing continuing education program for governing board members. The Division of Academic Affairs will assist in providing training in the following areas: roles and responsibilities of governing boards; the board's role in upholding academic standards; intellectual diversity; academic freedom; and the role of higher education in K-12 collaboration. *See Tenn. Code Ann § 49-8-201(f)(7)(A).*
- **[NEW]** Convene representatives of the institutions and governing boards to ensure a cohesive and coordinated system of higher education public policy. *See Tenn. Code Ann § 49-7-202(p).*
- Study on a continuing basis the use of public funds for higher education and analyze programs and needs in the field of higher education. *See Tenn. Code Ann § 49-7-202(a).*
- Ensure postsecondary institutions cooperatively provide for an integrated system of postsecondary education. THEC shall guard against inappropriate and unnecessary conflict and duplication by promoting transferability of credits and easy access of information among institutions. *See Tenn. Code Ann § 49-7-202(b).*
- **[MODIFIED]** Review and approve or deny all proposals for new degree programs and new academic departments or divisions. *See Tenn. Code Ann § 49-7-202(q)(2)(A).*
- Review and approve or deny an institution's request to establish a physical presence at any location other than its main campus or to extend an existing location. *See Tenn. Code Ann § 49-7-202(q)(3).*



- **[MODIFIED]** Involve higher education institutions in the collaboration and development of transfer pathways for at least the fifty (50) undergraduate majors for which the demand from students is the highest and in those fields for which the development of a transfer pathway is feasible based on the nature of the field of study. *See Tenn. Code Ann § 49-7-202(r)(1).*
- **[NEW]** Review and approve proposed and existing forty-one (41) hour general education core common to state institutions to ensure full transferability as a block. *See Tenn. Code Ann § 49-7-202(r)(2)(C).*
- **[NEW]** Consult with the governing boards of all postsecondary institutions to implement a common course numbering system and identify courses offerings that are not university parallel. *See Tenn. Code Ann § 49-7-202(r)(3)(A).*
- Develop policies under which a person who satisfies the admissions requirements of a two-year institution and a four-year institution may be admitted to both institutions. THEC will identify those institutions for which dual admission is appropriate, based on geographic or programmatic considerations. *See Tenn. Code Ann § 49-7-202(s).*
- **[MODIFIED]** Develop processes to review academic program nominations for inclusion in the Academic Common Market.
- **[MODIFIED]** Develop process to maintain an accurate Academic Program Inventory that includes the notification of academic program name changes, concentrations, and other academic program actions.
- Continue to develop, evaluate, and incentivize of the Quality Assurance Funding program to promote academic excellence and institutional improvement.

# Fiscal Policy



THEC has long been responsible for higher education finance policy by proposing the annual budget for state financial aid, recommending tuition ranges, executing the outcomes-based funding formula, and preparing a prioritized list of capital outlay projects. The FOCUS Act augments and enhances the role of THEC in these areas.

## *Budget Process*

THEC will continue to formulate an annual budget, which includes the execution of the outcomes-based funding formula and a recommendation for state appropriations for tuition, state financial aid, and capital projects. The FOCUS Act does not alter the outcomes-based funding formula, other than including representation of the LGIs in the Formula Review Committee, which meets annually to review the model. The new members participated in the 2016 formula review process, and no changes were recommended to the model for 2017-18.

Of the finance components, the most significant change for 2017-18 will be that THEC will begin to issue *binding* tuition ranges. See *Tenn. Code Ann § 49-7-202(n)*. Binding ranges will apply to resident, undergraduate students on the tuition (maintenance fee) rate, as well as the sum total maintenance and mandatory fee change. For example, THEC could issue a binding range of 2 to 4 percent for the resident, undergraduate tuition rate and a 3 to 6 percent range for total tuition and mandatory fees. THEC will not issue binding recommendations on graduate, out-of-state tuition, or other fee rates. During the budget request process each fall, THEC will provide initial tuition guidance, though final tuition ranges will not be set until later in the fiscal year as the budget moves through the Office of the Governor and the General Assembly.

## *Capital Project Prioritization and Management*

THEC will revise capital outlay and maintenance policies in order to synthesize requests from eight boards (UT, TBR, and six LGIs) in the 2018-19 budget cycle. THEC will continue to seek input from institutions, state government representatives, and other experts to determine the criteria by which capital projects will be prioritized, which are anticipated to be implemented in early 2017.

TBR has historically managed capital projects and interfaced with the State Building Commission (SBC), the Tennessee State School Bond Authority (TSSBA), vendors, and other actors on all aspects of project design and management. Institutions may choose to continue utilizing TBR services or transition to campus level management as outlined below.

## **Institution's Role**

Universities may express their intent to assume capital project management responsibilities as early as January 2017. Once expressed, institutional personnel are asked to demonstrate capacity by participating alongside TBR staff in all aspects of project management and state oversight for several months. The process is intended to allow SBC, the Office of the State Architect, THEC, and institutional administrators the ability to assess their readiness to assume management responsibilities. Universities, based on action from their new governing boards, may formally request institutional management as early as the summer 2017 THEC meeting, with those approved assuming responsibility on December 1, 2017. For universities requesting and

receiving approval for severance at a later point in time, effective dates will be deferred so as to allow TBR time to transition specific roles and responsibilities. We anticipate the process, from petition through capacity demonstration to evaluation, will take 8-10 months.



## **THEC's Role**

The FOCUS Act directs THEC to approve or deny each institution's request for capital project management. The decision, however, will reflect the input of state and institutional personnel as outlined above.

### *Procurement*

TBR's involvement with procurement activity includes managing extensive reporting requirements and vendor relationships, reviewing projects of more than \$250,000 for compliance, and administering large, system-wide contracts. There are currently about 100 master contracts managed centrally, some of which include UT institutions and span state government agencies. Institutions, however, coordinate the vast majority of procurement locally, encompassing numerous projects and activities. Thus, transitions regarding procurement will first be predicated on the ability of an institution to meet reporting responsibilities and will secondarily develop on a contract-by-contract basis with TBR. In keeping with other fiscal policy options, institutions may indicate their intent to sever from TBR for the purposes of procurement in January 2017 and request THEC approval as early as summer 2017.

## **Institution's Role**

Independence for procurement means that institutions may enter bilateral contracts with vendors, but does not prohibit master or group contracts through TBR, consortia, or partnerships. Beyond management of vendor relationships, institutions will need to undertake full responsibility for all contract and data reporting requirements, including annual reporting to the Senate Finance, Ways and Means Committee and quarterly reporting to Fiscal Review and the Governor's Office of Diversity Business Enterprise.

If not already in practice, institutions are encouraged to review and evaluate existing contracts for cost, performance, and benefits that accrue from participation in master or group contracts. Institutions may then sever from TBR on a case-by-case basis, as current contracts expire after November 30, 2017. Institutions, however, are asked to honor all existing contracts, including those that expire after independent procurement is permitted, so as not to impair other institution or system agreements.

## **THEC's Role**

THEC will review the following factors when evaluating institutional capacity to manage procurement activities:

- Demonstrated ability to meet all state reporting requirements;
- Commitment to fulfill and maintain existing contracts; and
- Management of vendor relationships.

# Data Policy



Accurate, comprehensive, and integrated student unit record data systems are critical to Tennessee’s ability to identify needed performance improvements, develop policy, implement interventions, and evaluate results. Further, these data systems drive two critical resource allocation mechanisms: the outcomes-based funding formula and the Quality Assurance funding program. The FOCUS Act grants universities the option to alter the flow of student data by submitting it directly to THEC, with the expectation that data exchange will be uninterrupted, standardized, accurate, and timely. The six universities will continue to route their end-of-term and annual data submissions through TBR until June 30, 2018, in order to support current operations and preserve data quality without making a change in the middle of a reporting cycle.

Explicit in the FOCUS Act is the requirement that all system and institutional operating systems be **interoperable**. See *Tenn. Code Ann § 49-8-203(k)*. In data standards literature, interoperability within an information ecosystem requires that data from one entity be transmitted without requiring further transformation or interpretation by the receiver. To this end, THEC intends to create or adapt a common data repository for all public institutions statewide, operated in a manner that respects the self-governance of LGIs and other public postsecondary systems.

## Institution’s Role

LGIs wishing to separate from TBR for data submission on July 1, 2018, are required to participate in parallel data submission processes, submitting the same data to both TBR and THEC, for the fall 2017 and spring 2018 end-of-term reporting periods and the 2017-18 Annual Report of Graduates. The dual processes will allow THEC to assess data quality and system integrity in accordance with the Act’s interoperability requirement.

## THEC’s Role

THEC will approve requests for severance from TBR for data submission upon institutional demonstration of standard, accurate, and timely transmission during the parallel submission periods. Moving forward, THEC will continue to explore more effective and efficient means of data collection by convening a Data Transitions Working Group of campus, system, and Commission personnel. The purposes of the group will be to:

- Work through a single data submission process for all public higher education institutions, systems, and sectors;
- Establish definitions and timelines for new data elements;
- Identify and eradicate primary data errors and discrepancies; and
- Create a long-range data plan inclusive of independent institutions.

# Government Relations



In recognition of their new autonomy, universities will be called upon to assume responsibility for representing their respective boards and campuses during the legislative session. This shift in governance creates a more direct relationship between campus leadership and members and staff of the Tennessee General Assembly. This heightened engagement includes exposure to, and responsibility for, numerous technical processes previously managed by TBR, such as contract reviews, sunset proceedings, and administrative rule promulgation, among others. Highlighted below are some of the new responsibilities for LGIs and THEC.

## Institution's Role

- Follow and review filed legislation as it proceeds through the General Assembly.
- Promulgate administrative rules, as applicable, for review by the Government Operations Committee.
- Develop engagement and communication strategies encompassing both the university's legislative delegation as well as the broader membership.
- Maintain a presence in Nashville during the legislative session and establish a government relations representative as a contact and resource for resolving constituent issues year-round.
- Submit timely fiscal support notes for proposed legislation when requested by the legislature's Fiscal Review staff.
- Represent the university on contract matters before the Fiscal Review Committee.
- Participate and testify in sunset hearings before the Government Operations Committees.
- Appear before the State Building Commission for projects requiring approval.
- Upon request, appear before the respective legislative committees for official comments on policies impacting the campus.

## THEC's Role

- Support universities in legislative engagement activities and facilitate communication across all institutions and systems, when appropriate.
- Convene meetings/conference calls before and during the legislative session with government relations representatives for coordination and aligned responses to proposed bills and filed amendments.
- Collaborate and assist in the coordination of higher education legislative proposals.



# FOCUS Act Timeline



Mission & Institution Policies



Fiscal



Data



Boards



Academic Affairs

Governor's Office	Legislature	THEC	Universities	Systems
<b>2016</b>				
September 2016				
			Institutions transmit Substantive Change Review proposals to SACS 	
				TBR and UT appropriation request forms are due to THEC 
		Capital Outlay First Look meetings 		TBR and UT present their capital outlay projects at THEC to members of the Capital Task Force 
				TBR and UT submit additional data required to complete the appropriation (e.g. equipment inventory, research and service data, and additional nonformula units information) to THEC  



Mission & Institution Policies



Fiscal



Data



Boards



Academic Affairs

	Governor's Office	Legislature	THEC	Universities	Systems
Fall 2016					
	Board appointments announced 			Faculty senates develop process for faculty member selection 	
			Begin mission profile process with universities		
October 2016					
					Systems submit all outcome data to THEC  Systems submit capital outlay, maintenance and disclosed projects to THEC  
15				Institutions transmit addenda to Substantive Change Review proposals to SACS (including board dossiers, bylaws, policies) 	
17			THEC sends final outcome data to systems (carbon copying presidents/CFOs of the LGIs) for review 		
End of month				All comments from institutions and systems regarding final outcome data are due to THEC 	



Mission & Institution Policies



Fiscal



Data



Boards



Academic Affairs

	Governor's Office	Legislature	THEC	Universities	Systems
<b>2017</b>					
November 2016					
16			Fall THEC Commission Meeting: <ul style="list-style-type: none"> <li>THEC staff present appropriation, capital, and non-binding tuition recommendations to Commission for approval</li> </ul> 		
December 2016					
	Higher Education Budget Hearing 		THEC staff present all recommendations to the Governor at the Higher Education Budget Hearing 		FY 16-17 revised operating budgets due to THEC 
January 2017					
			THEC solicits intent from universities to assume responsibility for data, capital, and procurement processes  Winter THEC Commission Meeting: <ul style="list-style-type: none"> <li>Revised operating budgets, revised academic policies, and revised capital policies presented for action</li> </ul>   		
February 2017					
				Submit fall End of Term data 	



Mission & Institution Policies



Fiscal



Data



Boards



Academic Affairs

	Governor's Office	Legislature	THEC	Universities	Systems
Spring 2017					
		Board member confirmation by General Assembly 	THEC presents and reviews appropriation, capital, and tuition recommendations to legislative committees 	Eight governing boards work with THEC to understand campus revenue needs and prepare binding tuition recommendations  	
March 2017					
			Initial orientation of FOCUS board members delivered on campuses 		
April 2017					
				First called meetings of FOCUS boards 	
May 2017					
			Spring THEC Commission Meeting: <ul style="list-style-type: none"> <li>• THEC staff present binding maintenance fee ranges and binding maintenance and mandatory fee ranges to the Commission for approval</li> <li>• THEC staff present revised academic policies for approval</li> <li>• University mission profiles presented for affirmation</li> </ul>   		



Mission & Institution Policies



Fiscal



Data



Boards



Academic Affairs

	Governor's Office	Legislature	THEC	Universities	Systems
July 2017					
			Summer THEC Commission Meeting: <ul style="list-style-type: none"> <li>• FY18 Proposed Operating Budgets presented to Commission for action</li> <li>• Finalized tuition and fee rates as set by the TBR and UT systems and the new LGI boards reported to the Commission</li> <li>• Commission considers LGI severance requests</li> </ul> 		
August 2017					
			Statewide professional development event for board members		
December 2017					
1			Universities may assume control over FOCUS-designated responsibilities		 
July 2018					
1			Universities may assume control over final data responsibilities		



Mission & Institution Policies



Fiscal



Data



Boards



Academic Affairs