

Update 32

Adoption Notification Form Policy On Line®

Update 32 contains (LOCAL) policies that require board action before we can incorporate Update 32 into your college district's *Policy On Line* manual.

Please notify Travis Damron of your policy adoption by **faxing this form to 512-467-3618**, by **e-mailing your notification to pol-support@tasb.org**, or by **completing the form electronically through *Policy On Line Administrator Tools* (<https://www.tasb.org/apps/PolicyAdmin>)** using your myTASB login and clicking the "Notify TASB of Policy Adoption" link.

091501 Grayson College

Your Name: _____

Your E-mail: _____

We will send a confirmation e-mail when your update is online.

Previous Updates

- I confirm that all updates prior to Update 32 have been adopted. (Visit <https://www.tasb.org/apps/policyUpdates/index.aspx> to see updates pending adoption. Your Local Manual Updates will remain available through myTASB until your college district notifies us of adoption.)

Update 32 Adoption Date: _____

Status (please check one):

- Adopted as presented by TASB—place online immediately
- Adopted with further changes, described below*

* If you have not already sent the changes to the policies listed above to your policy consultant, please attach the policies to this form or e-mail them to your consultant to be processed as a Local District Update. Your policy consultant, Kelly Grab, may contact you about these policies if necessary.

If you have any questions, please contact Travis Damron by phone at 800-580-7529.

TASB Policy Service

Fax: 512-467-3618



Localized Policy Manual Update 32

Grayson College

Remember: You can download a PDF of your college district's update packet, annotated copies of the (LOCAL) policies, editable (LOCAL) text, and more on my.tasb.org under *Policy Service Resource Library: Local Manual Updates*.

Need help? Please call 800-580-7529 or e-mail colleges@tasb.org.

Overview

Update 32 proposed revisions to your localized policy manual incorporate clarification of existing materials and new materials arising from administrative action that affect the governance and management of Texas community colleges.

The Update 32 packet contains:

- Instructions providing specific information on which policies have been revised, added, or deleted at this update.
- Explanatory Notes summarizing and pointing out changes occurring within each policy.
- Updated Policies reflecting new or replacement materials included in this update.

Update 32 to your localized policy manual contains (LOCAL) policy revisions/additions that address:

Weapons

This new policy, CHF(LOCAL) entitled Weapons, is recommended for inclusion in the college district's policy manual and consolidates provisions from several policy codes throughout the manual, with revisions incorporated from the campus carry bill Senate Bill (SB) 11, effective August 1, 2017. This policy addresses employees, students, and community members.

Records Management

The recommended revisions to policy CIA(LOCAL) on records management were developed with input from the Texas State Library and Archives Commission (TSLAC), with the goal of creating a single document that can be submitted to TSLAC for compliance purposes. The Local Government Records Act gives a college district three options in establishing its RECORDS CONTROL SCHEDULES.

Drones

Recommended revisions to policy CR(LOCAL) on technology resources include a general provision permitting drone activity only in accordance with law and administrative regulations. [See CR(LEGAL) for recently adopted rules on drones from the Federal Aviation Administration]. Those regulations may be developed for more specific information, which may vary for certain educational programs.

Employee Records

Policy DBA(LOCAL) prohibiting the use of an employee's social security number as an employee identifier is recommended for inclusion in the college district's policy manual.

Expense Reimbursement

Recommended revisions to DEE(LOCAL) are to clarify that all aspects of reimbursement, not just documentation requirements, must be in accordance with the college district's administrative procedures. Provisions for travel expenses have been deleted to provide the college district more flexibility to administer reimbursements in accordance with local business office procedures.

Admissions

Recommended revisions to FB(LOCAL) are to clarify that a college district's admissions procedures should include any specific course admission requirements such as medical insurance or criminal background checks.

Student Conduct

Revisions to policy FLB(LOCAL) are recommended to incorporate:

- Additional examples of prohibited weapons with a cross-reference to CHF, the new policy code regarding weapons; and
- A specific prohibition related to intellectual property separate from theft or other more general prohibited behaviors regarding property.

Student Handbook

Policy FL(LOCAL) addressing development of a student handbook, including the scope of the board's review and distribution, is recommended for inclusion in your college district's policy manual.

Recommended revisions to policy FM(LOCAL) are to ensure that information regarding student discipline policies and procedures is included in the student handbook where students are more likely to access it.

Fee for Use

Local policies DGD, FLAA, and GD include recommended revisions to clarify, in accordance with state law, that the board must establish a fee schedule for use of college district facilities.

(LEGAL) vs. (LOCAL) Policies: Remember the Difference

(LEGAL) policies:

- Reflect the ever-changing legal context for governance and management of the college district
- Should inform local decision making
- Should NOT be adopted, but only reviewed

(LOCAL) policies:

- Require close attention by both the administration and the board
- Must reflect the practices of the college district and the intentions of the board
- May only be changed by board action (adopt, revise, or repeal)

If your board adopts changes to the (LOCAL) policies contained in this packet, please notify your policy consultant.

How to Place Policy Changes on the Agenda for Board Action

Board action on Localized Update 32 must occur within a properly posted, open meeting of the board.

- Update 32 may be addressed on the agenda posting as “Review updated (LEGAL) policies and act on (LOCAL) policies (see attached list).”
- You may use the “Agenda Posting (LOCAL) Policy List” provided online in Local Manual Updates and attach that list to the posting, or you may compile a list of (LOCAL) policy codes, titles, and subtitles from the material provided below.
- **BoardBook** compilers should use “Policy Update 32, affecting (LOCAL) policies” as the agenda item and, as agenda sub-items, the policy code, title, and subtitle of each of the (LOCAL) policies affected by the update.
- Here is a suggested motion for board action on Localized Update 32:

“I move that the board add, revise, or delete (LOCAL) policies as recommended by TASB Policy Service and according to the Instruction Sheet for TASB Localized Policy Manual Update 32 [with the following changes:]”

How to Notify Policy Service of Board Action

Notify Policy Service of the board’s action on Update 32 using the Update 32 Adoption Notification Form, enclosed, so Policy Service records remain accurate. **Notify your policy consultant of any changes made by the board so that Policy Service records correctly reflect your manual.**



How to Keep Minutes

The board's action on Localized Update 32 must be reflected in board minutes. Your minutes should include:

- The list of proposed (LOCAL) policy actions, such as the Instruction Sheet—annotated to reflect any changes made by the board
- The Explanatory Notes for the update (filed as an attachment to the minutes)
- Copies of new, replaced, or rescinded (LOCAL) policies

How to Maintain Your Historical Record

To construct a separate historical record of the manual, you must track the history of individual (LOCAL) policies. You should maintain a permanent historical record of every (LOCAL) policy adopted, revised, or rescinded by the board.

At a minimum, this record should include the following key pieces of information:

- Policy code
- Date of board action
- Text of policy

How to Keep Your Administrative Regulations Current

Inspect your administrative procedures and documents—including EXHIBITS, REGULATIONS, handbooks, and guides—that may be affected by Update 32 policy changes.

If you must make changes to the REGULATIONS or EXHIBITS contained in your board policy manual, please notify your policy consultant.

Questions

Questions about the content of this update may be addressed to your assigned policy consultant: Amy Kadlecek, TASB Manager of Community College Policy Services, or Kelly Grab, TASB Community College Policy Specialist, at 800-580-7529. Legal questions may be addressed to Amy Magee, TASB Community College Counsel, at 800-580-5345.

Disclaimer and Copyright

PLEASE NOTE: This information is provided for educational purposes only to facilitate a general understanding of the law or other regulatory matter. This information is neither an exhaustive treatment on the subject nor is this intended to substitute for the advice of an attorney or other professional adviser. Consult with your attorney or professional adviser to apply these principles to specific fact situations.

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Instruction Sheet

Community College Localized Policy Manual Update 32

District Grayson College

| Code | Action To Be Taken | Note |
|--------------|---------------------------|---------------------------|
| A25 (INDEX) | Replace cross-index | Revised cross-index |
| BBD (LEGAL) | Replace policy | Revised policy |
| BI (LEGAL) | Replace policy | Revised policy |
| C (LEGAL) | Replace policy | Revised policy |
| CAAB (LEGAL) | Replace policy | Revised policy |
| CAI (LEGAL) | Replace policy | Revised policy |
| CAM (LOCAL) | Replace policy | Revised policy |
| CF (LEGAL) | Replace policy | Revised policy |
| CHA (LEGAL) | Replace policy | Revised policy |
| CHC (LEGAL) | Replace policy | Revised policy |
| CHF (LEGAL) | ADD policy | See explanatory note |
| CHF (LOCAL) | ADD policy | See explanatory note |
| CIA (LOCAL) | Replace policy | Revised policy |
| CKD (LEGAL) | Replace policy | Revised policy |
| CM (LEGAL) | Replace policy | Revised policy |
| CM (EXHIBIT) | Replace exhibit | Revised exhibit |
| CR (LEGAL) | Replace policy | Revised policy |
| CR (LOCAL) | Replace policy | Revised policy |
| CS (LEGAL) | Replace policy | Revised policy |
| CU (LEGAL) | Replace policy | Revised policy |
| D (LEGAL) | Replace table of contents | Revised table of contents |
| DAA (LEGAL) | Replace policy | Revised policy |
| DBA (LOCAL) | Replace policy | Revised policy |
| DBB (LEGAL) | Replace policy | Revised policy |
| DC (LEGAL) | Replace policy | Revised policy |
| DEC (LOCAL) | Replace policy | Revised policy |
| DED (LOCAL) | Replace policy | Revised policy |
| DEE (LOCAL) | Replace policy | Revised policy |
| DF (LEGAL) | Replace policy | Revised policy |
| DG (LEGAL) | Replace policy | Revised policy |
| DGD (LOCAL) | Replace policy | Revised policy |
| DI (LEGAL) | Replace policy | Revised policy |

Instruction Sheet

Community College Localized Policy Manual Update 32

| | | | |
|------|-----------|---------------------------|---------------------------|
| DI | (EXHIBIT) | Replace exhibit | Revised exhibit |
| DM | (LOCAL) | Replace policy | Revised policy |
| DMAA | (LOCAL) | Replace policy | Revised policy |
| E | (LEGAL) | Replace table of contents | Revised table of contents |
| EBA | (LOCAL) | Replace policy | Revised policy |
| EBB | (LEGAL) | Replace policy | Revised policy |
| ECC | (LEGAL) | Replace policy | Revised policy |
| ECC | (LOCAL) | Replace policy | Revised policy |
| EFCA | (LEGAL) | Replace policy | Revised policy |
| EFCB | (LEGAL) | Replace policy | Revised policy |
| EFGD | (LEGAL) | Replace policy | Revised policy |
| EFGD | (LOCAL) | Replace policy | Revised policy |
| EFCF | (LEGAL) | Replace policy | Revised policy |
| EI | (LEGAL) | Replace policy | Revised policy |
| F | (LEGAL) | Replace table of contents | Revised table of contents |
| FA | (LEGAL) | Replace policy | Revised policy |
| FB | (LEGAL) | Replace policy | Revised policy |
| FB | (LOCAL) | Replace policy | Revised policy |
| FEB | (LEGAL) | Replace policy | Revised policy |
| FFAA | (LEGAL) | Replace policy | Revised policy |
| FL | (LOCAL) | Replace policy | Revised policy |
| FLAA | (LOCAL) | Replace policy | Revised policy |
| FLB | (LEGAL) | Replace policy | Revised policy |
| FLB | (LOCAL) | Replace policy | Revised policy |
| FLBF | (LEGAL) | DELETE policy | See explanatory note |
| FLBF | (LOCAL) | DELETE policy | See explanatory note |
| FLD | (LEGAL) | Replace policy | Revised policy |
| FM | (LOCAL) | Replace policy | Revised policy |
| G | (LEGAL) | Replace table of contents | Revised table of contents |
| GA | (LEGAL) | ADD policy | See explanatory note |
| GA | (LOCAL) | DELETE policy | See explanatory note |
| GAA | (LEGAL) | DELETE policy | See explanatory note |
| GAB | (LEGAL) | DELETE policy | See explanatory note |
| GAB | (LOCAL) | DELETE policy | See explanatory note |

Instruction Sheet

Community College Localized Policy Manual Update 32

| | | | |
|-----|-----------|----------------|----------------------|
| GAB | (EXHIBIT) | DELETE exhibit | See explanatory note |
| GAC | (LEGAL) | DELETE policy | See explanatory note |
| GC | (LEGAL) | DELETE policy | See explanatory note |
| GCA | (LEGAL) | ADD policy | See explanatory note |
| GCB | (LEGAL) | ADD policy | See explanatory note |
| GCB | (LOCAL) | ADD policy | See explanatory note |
| GCB | (EXHIBIT) | ADD exhibit | See explanatory note |
| GCC | (LEGAL) | ADD policy | See explanatory note |
| GD | (LEGAL) | ADD policy | See explanatory note |
| GD | (LOCAL) | ADD policy | See explanatory note |
| GDA | (LEGAL) | ADD policy | See explanatory note |
| GDA | (LOCAL) | ADD policy | See explanatory note |
| GF | (LEGAL) | DELETE policy | See explanatory note |
| GF | (LOCAL) | DELETE policy | See explanatory note |
| GFA | (LEGAL) | DELETE policy | See explanatory note |
| GFA | (LOCAL) | DELETE policy | See explanatory note |
| GGC | (LEGAL) | Replace policy | Revised policy |
| GL | (LEGAL) | Replace policy | Revised policy |

Explanatory Notes

Community College Localized Policy Manual Update 32

District: Grayson College
A25 (INDEX) CROSS-INDEX

The cross index has been updated to incorporate the new policy on weapons, CHF, as well as to accommodate the policy title changes in Sections D and E and the reorganization of Section G.

BBD (LEGAL) BOARD MEMBERS
ORIENTATION AND TRAINING

This policy has been revised to reflect current Administrative Code rules regarding fees for training programs.

BI (LEGAL) REPORTS

We have deleted from this policy on reports the former requirement to submit student immunization status; see also FFAA.

C (LEGAL) BUSINESS AND SUPPORT SERVICES

The C Section Table of Contents has been updated to include a new code at CHF entitled Weapons.

CAAB (LEGAL) STATE AND FEDERAL REVENUE SOURCES
FEDERAL

Added to this policy are provisions to address rules that apply to federal awards from the U.S. Department of Agriculture, the U.S. Department of Health and Human Services, the U.S. Department of Justice, and the U.S. Department of Labor.

CAI (LEGAL) APPROPRIATIONS AND REVENUE SOURCES
AD VALOREM TAXES

Revisions have been made to this policy to clarify provisions on reinvestment zones.

CAM (LOCAL) APPROPRIATIONS AND REVENUE SOURCES
GRANTS, FUNDS, DONATIONS FROM PRIVATE SOURCES

We offer for your consideration TASB's recommended text to provide the administration the most flexibility regarding authorization of the college president/chancellor to accept unsolicited gifts on behalf of the college district, with the exception of conditional gifts or real property, which must be accepted by the board. Provisions addressing the solicitation of donations on behalf of the college district are also included. Your locally developed text would be more appropriate as an administrative regulation.

CF (LEGAL) PURCHASING AND ACQUISITION

Provisions clarifying the requirement for a college district to provide written notice to the Legislative Budget Board (LBB) when a contract for certain professional services exceeds \$14,000 have been added to this policy. In addition, we have added a cross-reference to policy GGC regarding notice to the LBB about contracts exceeding \$50,000.

Explanatory Notes

Community College Localized Policy Manual Update 32

CHA (LEGAL) SITE MANAGEMENT
 SECURITY

Rules from the Texas Commission on Law Enforcement have been added to this policy to address the school marshal program.

CHC (LEGAL) SITE MANAGEMENT
 TRAFFIC AND PARKING CONTROLS

Provisions addressing firearms and ammunition in private vehicles have been relocated to the new policy code on weapons, CHF.

CHF (LEGAL) SITE MANAGEMENT
 WEAPONS

We have consolidated provisions on weapons from several policy codes throughout the manual to this new policy, with revisions incorporated from the campus carry bill SB 11, effective August 1, 2017.

CHF (LOCAL) SITE MANAGEMENT
 WEAPONS

This new policy entitled Weapons is recommended for inclusion in the college district's policy manual and consolidates relocated provisions from policies FLBF and GFA, with minor revisions. FLBF and GFA are no longer active codes.

CIA (LOCAL) EQUIPMENT AND SUPPLIES MANAGEMENT
 RECORDS MANAGEMENT

The recommended revisions to this local policy on records management were developed with input from the Texas State Library and Archives Commission (TSLAC), with the goal of creating a single document that can be submitted to TSLAC for compliance purposes.

The Local Government Records Act gives a college district three options in establishing its RECORDS CONTROL SCHEDULES. The college district may:

- File with TSLAC a written declaration that the college district has adopted a schedule that complies with TSLAC's record retention schedules available on the TSLAC website;
- File with TSLAC the records control schedules developed by the college district that meet the minimum legal retention requirements; or
- Keep all records permanently.

In accordance with common college district practice, this local policy reflects the first option. **Please contact your policy consultant for an adjustment to this policy if your college district has chosen a different approach.**

CKD (LEGAL) INSURANCE AND ANNUITIES MANAGEMENT
 HEALTH AND LIFE INSURANCE

Statutory citations have been updated in this policy.

Explanatory Notes

Community College Localized Policy Manual Update 32

CM (LEGAL) FACILITIES CONSTRUCTION

Provisions clarifying the requirement for a college district to provide written notice to the Legislative Budget Board (LBB) when a contract for certain professional services exceeds \$14,000 have been added to this policy. In addition, we have added a cross-reference to policy GGC regarding notice to the LBB about contracts exceeding \$50,000.

CM (EXHIBIT) FACILITIES CONSTRUCTION

We have updated the link to the current required workers' compensation statement.

CR (LEGAL) TECHNOLOGY RESOURCES

This policy has been updated to incorporate:

- Current Texas Department of Information Resources rules related to electronic transactions;
- Recently adopted rules on drones from the Federal Aviation Administration; and
- New provisions to address the federal Cybersecurity Information Sharing Act.

CR (LOCAL) TECHNOLOGY RESOURCES

Recommended revisions to this policy on technology resources include a general provision permitting drone activity only in accordance with law and administrative regulations. Those regulations may be developed for more specific information, which may vary for certain educational programs.

CS (LEGAL) INFORMATION SECURITY

We have removed a statement about developing and implementing an information security program since current Administrative Code rules related to this program exempt community colleges.

CU (LEGAL) RESEARCH

Provisions addressing research that involves human subjects have been incorporated into this policy.

D (LEGAL) PERSONNEL

The D Section Table of Contents has been revised to update the title of DED to Holidays. Provisions addressing vacations will now be included with other types of leave benefits in DEC.

DAA (LEGAL) EMPLOYMENT OBJECTIVES EQUAL EMPLOYMENT OPPORTUNITY

Statutory citations have been updated in this policy.

Explanatory Notes

Community College Localized Policy Manual Update 32

DBA (LOCAL) EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
CREDENTIALS AND RECORDS

Provisions prohibiting the use of an employee's social security number as an employee identifier have been added to this policy.

DBB (LEGAL) EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
MEDICAL EXAMINATIONS AND COMMUNICABLE DISEASES

Administrative Code rules from the Health and Human Services Commission related to designated infection control officers have been added to this policy.

DC (LEGAL) EMPLOYMENT PRACTICES

Existing statutes and provisions from the Administrative Code have been added to address the E-Verify program for employment eligibility. Additionally, we have incorporated Department of Public Safety rules addressing the college district's participation in the criminal history clearinghouse and Texas Workforce Commission rules regarding the employment preference for veterans.

DEC (LOCAL) COMPENSATION AND BENEFITS
LEAVES AND ABSENCES

In order to consolidate provisions addressing all types of leave to one policy code, the college district's locally developed provisions regarding paid vacation have been moved to this policy from DED.

Additionally, we have revised the text addressing faculty development leave with more detailed provisions, as required by Chapter 51 of the Texas Education Code. Your locally developed provisions regarding the proposal would be more appropriate as an administrative regulation.

This policy has not been substantially reviewed since 2010 and is missing important provisions including those regarding the Family and Medical Leave Act (FMLA) and workers' compensation. Please contact your policy consultant for assistance with updating this policy.

For more information on the various types of employee leaves and absences, please see the FAQ at https://www.tasb.org/Services/Legal-Policy-Services-for-Community-Colleges/documents/leaves_absences_policy_considerations.aspx.

DED (LOCAL) COMPENSATION AND BENEFITS
HOLIDAYS

In order to consolidate provisions addressing all types of leave to one policy code, the college district's locally developed provisions regarding paid vacation have been moved to DEC. As part of the reorganization with this update, the subtitle of this policy has been changed to Holidays. Your locally developed text regarding holidays has been retained, unaltered. Your locally developed provisions from 2009 regarding breaks would be more appropriate as an administrative regulation or published in your employee handbook. Therefore, deletion of this provision is recommended. If you have any questions, please contact your policy consultant.

Explanatory Notes

Community College Localized Policy Manual Update 32

DEE (LOCAL) COMPENSATION AND BENEFITS
EXPENSE REIMBURSEMENT

Recommended revisions are to clarify that all aspects of reimbursement, not just documentation requirements, must be in accordance with the college district's administrative procedures. Provisions for travel expenses have been deleted to provide the college district more flexibility to administer reimbursements in accordance with local business office procedures.

DF (LEGAL) RETIREMENT PROGRAMS

Revisions have been made to reflect recently amended Administrative Code rules to the optional retirement program.

DG (LEGAL) EMPLOYEE RIGHTS AND PRIVILEGES

Provisions addressing firearms and ammunition have been relocated to the new policy CHF.

DGD (LOCAL) EMPLOYEE RIGHTS AND PRIVILEGES
EMPLOYEE USE OF COLLEGE DISTRICT FACILITIES

The enclosed revision is recommended to clarify, in accordance with state law, that the board must establish a fee schedule for use of college district facilities.

DI (LEGAL) EMPLOYEE WELFARE

References to the Equal Employment Opportunity Commission (EEOC) employee wellness program rules promulgated under the Americans with Disabilities Act (ADA) and the Genetic Information Nondisclosure Act (GINA) have been added to this policy.

DI (EXHIBIT) EMPLOYEE WELFARE

We have updated the links to sources for information regarding commonly abused drugs and federal trafficking penalties in Exhibit B.

DM (LOCAL) TERMINATION OF EMPLOYMENT

Provisions addressing exit interviews and reports are recommended for deletion, as this information would be more appropriately addressed in administrative regulations.

DMAA (LOCAL) TERM CONTRACTS
TERMINATION MID-CONTRACT

A recommended change to this local policy, consisting of changing the "or" to an "and" in the first line, clarifies that SUSPENSION WITH PAY is the same as being placed on administrative leave. Likewise, we have deleted the unnecessary reference to administrative leave at the end of the sentence.

This policy is being issued at no charge to the college district.

Explanatory Notes

Community College Localized Policy Manual Update 32

E (LEGAL) INSTRUCTION

The E Section Table of Contents has been revised to reflect subtitle name changes in two policy codes: EFCB, now titled Adult Education and Literacy, and EFCD, now titled High School Equivalency Testing Centers.

EBA (LOCAL) ALTERNATE METHODS OF INSTRUCTION DISTANCE EDUCATION

Revisions to this policy are to clarify that distance education courses and programs are subject to Coordinating Board regulations and guidelines in addition to applicable law.

EBB (LEGAL) ALTERNATE METHODS OF INSTRUCTION OFF CAMPUS INSTRUCTION

Additional detail has been added to this policy regarding the regional council's involvement in approving off-campus and certain dual credit courses provided by community colleges.

ECC (LEGAL) INSTRUCTIONAL ARRANGEMENTS COURSE LOAD AND SCHEDULES

New Coordinating Board rules related to block scheduling, including the definition of the *block scheduled program* and *block scheduling*, have been incorporated into this policy. The rules address a hardship exception to the requirement to offer a minimum number of block scheduled programs.

ECC (LOCAL) INSTRUCTIONAL ARRANGEMENTS COURSE LOAD AND SCHEDULES

Recommended revisions for clarity incorporate additional details from the Administrative Code regarding limitations on the number of dropped courses.

EFCA (LEGAL) SPECIAL PROGRAMS STUDENTS WITH DISABILITIES

We have added recently adopted Administrative Code rules addressing students with intellectual and developmental disabilities and the Coordinating Board's authority to collect information on those students for purposes of tracking student outcomes and participation in certain programs.

EFCB (LEGAL) SPECIAL PROGRAMS ADULT EDUCATION AND LITERACY

This policy has been amended to reflect a new subtitle, Adult Education and Literacy.

Explanatory Notes

Community College Localized Policy Manual Update 32

EFCD (LEGAL) SPECIAL PROGRAMS
HIGH SCHOOL EQUIVALENCY TESTING CENTERS

We have updated this policy to incorporate amendments made by the State Board of Education to rules associated with the high school equivalency certificate. The subtitle of this policy has been revised to accommodate the fact that the GED test is no longer the only assessment option.

EFCD (LOCAL) SPECIAL PROGRAMS
HIGH SCHOOL EQUIVALENCY TESTING CENTERS

Minor revisions to the provisions are recommended to coordinate with the change in title in order to reflect that the GED test is no longer the only assessment option for high school equivalency testing.

EFCF (LEGAL) SPECIAL PROGRAMS
DRIVER EDUCATION

Citations have been adjusted in this policy to reflect the Texas Department of Licensing and Regulation rules on driver education programs.

EI (LEGAL) TESTING PROGRAMS

The provisions relating to Texas Success Initiative (TSI) exemptions have been revised to reflect the new college readiness benchmarks set by the College Board regarding the SAT that were established beginning with March 2016 administrations.

F (LEGAL) STUDENTS

The F Section Table of Contents has been revised to remove code FLBF, as provisions on weapons have now been consolidated to code CHF.

FA (LEGAL) EQUAL EDUCATIONAL OPPORTUNITY

We have added a table of contents to this policy addressing equal educational opportunity to assist with locating specific provisions. Additionally, some text has been reorganized for better flow, and additional information has been incorporated from existing statute for clarification and to assist with application.

FB (LEGAL) ADMISSIONS

Both existing and recently amended Administrative Code rules have been added to this policy to address the use of the common admission form and the Apply Texas system.

FB (LOCAL) ADMISSIONS

Recommended revisions are to clarify that a college district's admissions procedures should include any specific course admission requirements such as medical insurance or criminal background checks.

Explanatory Notes

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FEB (LEGAL) FINANCING EDUCATION
WORK STUDY

Provisions referencing the federal work study program have been added to this policy, and citations and references to the Texas college work study program have been modified.

FFAA (LEGAL) WELLNESS AND HEALTH SERVICES
IMMUNIZATIONS

This policy has been significantly revised to incorporate amendments to the immunization rules promulgated by the Texas Department of State Health Services.

FL (LOCAL) STUDENT RIGHTS AND RESPONSIBILITIES

We offer for your consideration TASB's recommended text addressing development of a student handbook, including the scope of the board's review and distribution, for inclusion in your college district's policy manual.

FLAA (LOCAL) STUDENT EXPRESSION
STUDENT USE OF COLLEGE DISTRICT FACILITIES

The enclosed revisions are recommended to clarify, in accordance with state law, that the board must establish a fee schedule for use of college district facilities.

FLB (LEGAL) STUDENT RIGHTS AND RESPONSIBILITIES
STUDENT CONDUCT

A cross reference to the new policy code on weapons, CHF, has been added to this policy on student conduct.

FLB (LOCAL) STUDENT RIGHTS AND RESPONSIBILITIES
STUDENT CONDUCT

Revisions to this policy are recommended to incorporate:

- Additional examples of prohibited weapons with a cross-reference to CHF, the new policy code regarding weapons; and
- A specific prohibition related to intellectual property separate from theft or other more general prohibited behaviors regarding property.

FLBF (LEGAL) STUDENT CONDUCT
WEAPONS

As mentioned above, CHF is a new code addressing weapons; therefore, this policy addressing weapons solely from the student conduct perspective has been deleted.

Explanatory Notes

Community College Localized Policy Manual Update 32

FLBF (LOCAL) STUDENT CONDUCT
WEAPONS

Provisions addressing weapons have been consolidated and relocated to the new policy code on Weapons, CHF; therefore, deletion of this policy is recommended. FLBF is no longer an active code.

FLD (LEGAL) STUDENT RIGHTS AND RESPONSIBILITIES
STUDENT COMPLAINTS

To provide additional substance regarding a student's right to appeal a written complaint to the Coordinating Board in certain situations, we have added more detail from current Administrative Code rules addressing this issue.

FM (LOCAL) DISCIPLINE AND PENALTIES

Recommended revisions to this policy are to ensure that information regarding student discipline policies and procedures is included in the student handbook where students are more likely to access it.

G (LEGAL) COMMUNITY AND GOVERNMENTAL RELATIONS

Resulting from an extensive review and reorganization of this section on community and governmental relations, the enclosed table of contents has been revised to reflect changes in policy code titles and placement.

GA (LEGAL) ACCESS TO PROGRAMS, SERVICES, AND ACTIVITIES

The title of this policy has been revised, and provisions previously housed at GL have been relocated to this code as part of the reorganization of Section G.

Additionally, federal regulations were recently revised to incorporate changes prompted by the Americans with Disabilities Act Amendments Act of 2008. The most substantive revisions to this policy are related to the definitions of *disability*, *mitigating measures*, *major life activities*, *physical or mental impairment*, and *individual with a disability*; as well as circumstances in which a public entity is not required to provide reasonable modification to an individual with a disability.

GA (LOCAL) ACCESS TO PROGRAMS, SERVICES, AND ACTIVITIES

As part of the reorganization with this update, the title of this policy has been changed to Access to Programs, Services, and Activities. Your locally developed provisions from 2005 regarding various college district publications and communication information are already addressed in various policies throughout the manual. Therefore, deletion of this policy is recommended. If you have any questions, please contact your policy consultant.

GAA (LEGAL) PUBLIC INFORMATION PROGRAM
ACCESS TO INFORMATION

Provisions addressing access to information have been moved to GCA. GAA is no longer an active code.

Explanatory Notes

Community College Localized Policy Manual Update 32

GAB (LEGAL) PUBLIC INFORMATION PROGRAM
REQUESTS FOR INFORMATION

Provisions addressing requests for information have been recoded to GCB. GAB is no longer an active code.

GAB (LOCAL) PUBLIC INFORMATION PROGRAM
REQUESTS FOR INFORMATION

To accommodate the reorganization of this section of the policy manual, text addressing requests for information has been moved to policy GCB. GAB is no longer an active code.

GAB (EXHIBIT) PUBLIC INFORMATION PROGRAM
REQUESTS FOR INFORMATION

The guidelines for copy charges resulting from requests for information have been recoded to the exhibit at GCB. GAB is no longer an active code.

GAC (LEGAL) PUBLIC INFORMATION PROGRAM
STUDENT'S RIGHT TO KNOW

Provisions addressing a student's right to know have been recoded to GCC. GAC is no longer an active code.

GC (LEGAL) PUBLIC INFORMATION PROGRAM

Provisions addressing relations with business and community organizations have been recoded to GL.

GCA (LEGAL) PUBLIC INFORMATION PROGRAM
ACCESS TO INFORMATION

Text addressing the general public's right of access to information previously housed at GAA has been relocated to this code. Additionally, provisions from the Cybersecurity Information Sharing Act addressing the situations in which threat indicators or defensive measures are considered to be voluntarily shared information and exempt from public disclosure have been added to this policy.

GCB (LEGAL) PUBLIC INFORMATION PROGRAM
REQUESTS FOR INFORMATION

Provisions addressing requests for information have been relocated from GAB to this new code.

GCB (LOCAL) PUBLIC INFORMATION PROGRAM
REQUESTS FOR INFORMATION

As noted above, provisions from GAB addressing requests for information have been moved to this new code. Minor revisions are recommended for clarification.

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GCB (EXHIBIT) PUBLIC INFORMATION PROGRAM
REQUESTS FOR INFORMATION

The guidelines for copy charges resulting from requests for information have been recoded here from the exhibit at GAB.

GCC (LEGAL) PUBLIC INFORMATION PROGRAM
STUDENT'S RIGHT TO KNOW

Provisions addressing a student's right to know have been relocated from GAC to this new code.

GD (LEGAL) COMMUNITY USE OF COLLEGE DISTRICT FACILITIES

Provisions addressing community use of college district facilities have been recoded from GF.

GD (LOCAL) COMMUNITY USE OF COLLEGE DISTRICT FACILITIES

Provisions addressing community use of college district facilities have been relocated from GF to this new code. Recommended revisions include clarifying, in accordance with state law, that the board must establish a fee schedule for use of college district facilities. Your locally developed text at USE OF COLLEGE DISTRICT FACILITIES, FACILITIES USED AS POLLING PLACES, FOR-PROFIT USE, NON-PROFIT USE, including NO APPROVAL REQUIRED, and POSTING OF SIGNS has been retained, unaltered.

GDA (LEGAL) COMMUNITY USE OF COLLEGE DISTRICT FACILITIES
CONDUCT ON COLLEGE DISTRICT PREMISES

Provisions regarding conduct on college district campuses have been relocated to this policy from GFA.

GDA (LOCAL) COMMUNITY USE OF COLLEGE DISTRICT FACILITIES
CONDUCT ON COLLEGE DISTRICT PREMISES

As a result of the reorganization of the Section G Table of Contents, provisions addressing the use of tobacco products and e-cigarettes have been recoded from GFA.

GF (LEGAL) VOLUNTEERS

Provisions addressing community use of college district facilities have been relocated to GD.

GF (LOCAL) VOLUNTEERS

As noted above, the reorganization of the Section G Table of Contents has resulted in provisions regarding community use of college district facilities being moved to policy GD. GF is no longer an active code.

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GFA (LEGAL) COMMUNITY USE OF COLLEGE DISTRICT FACILITIES
CONDUCT ON COLLEGE DISTRICT PREMISES

Provisions addressing firearms and ammunition have been relocated to the new policy CHF. All other text regarding conduct on college district premises has been recoded to GDA. GFA is no longer an active code.

GFA (LOCAL) COMMUNITY USE OF COLLEGE DISTRICT FACILITIES
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As noted above, the reorganization of the Section G Table of Contents has resulted in provisions regarding weapons and tobacco and e-cigarettes being recoded to CHF and GDA, respectively. GFA is no longer an active code.

GGC (LEGAL) RELATIONS WITH GOVERNMENTAL AGENCIES AND AU-
THORITIES
STATE GOVERNMENTAL AUTHORITIES

Provisions regarding the notice a college district must provide to the Legislative Budget Board (LBB) on contracts exceeding \$50,000 for the purchase or sale of goods or services have been incorporated into this policy addressing relations with governmental agencies and authorities.

GL (LEGAL) RELATIONS WITH BUSINESSES AND THE COMMUNITY

As part of the reorganization of Section G, the title of this policy has been updated and provisions addressing relations with businesses and the community previously housed at GC have been moved to this code. Additionally, we have included newly adopted and revised Administrative Code rules related to the required disclosure of interested parties before a college district may contract with a business entity in certain situations.

Please Note: This manual does not have policies in all codes. The coding structure is common to all TASB manuals and is designed to accommodate expansion of both (LEGAL) and (LOCAL) policy topics and administrative regulations.

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BOARD MEMBERS
ORIENTATION AND TRAINING

BBD
(LEGAL)

TRAINING

The Coordinating Board by rule shall establish a training program for members of the governing boards of institutions of higher education. Each member of a governing board of an institution of higher education, including a college district, shall attend, during the member's first year of service as a member of a governing board of an institution of higher education, at least one training program. A member of a governing board who is required to attend a training program may attend additional training programs under this section.

The training program must include a seminar held annually in Austin to be conducted by the staff of the Coordinating Board. The staff of the Coordinating Board may obtain assistance from representatives of the office of the attorney general, the office of the comptroller of public accounts, the office of the state auditor, and the Texas Ethics Commission, and from other training personnel the Coordinating Board deems necessary.

The Coordinating Board is responsible for documenting governing board members' completion of the requirements provided by Education Code 61.084.

Education Code 61.084(a)–(b), (h); 19 TAC 1.9(a), (g)

TRAINING CONTENT

The content of the instruction at the training program shall focus on the official role and duties of the board members and shall provide training in the areas of budgeting, policy development, ethics, and governance.

Topics covered by the training program must include:

1. Auditing procedures and recent audits of institutions of higher education;
2. The enabling legislation that creates institutions of higher education;
3. The role of the governing board at institutions of higher education and the relationship between the governing board and the institution's administration, faculty and staff, and students, including limitations on the authority of the governing board;
4. The mission statements of institutions of higher education;
5. Disciplinary and investigative authority of the governing board;
6. The requirements of the open meetings law, Government Code Chapter 551, and the open records law, Government Code Chapter 552;

7. The requirements of conflict of interest laws and other laws relating to public officials;
8. Any applicable ethics policies adopted by institutions of higher education or the Texas Ethics Commission;
9. The requirements of laws relating to the protection of student information under the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g) or any other federal or state law relating to the privacy of student information; and
10. Any other topic relating to higher education the board considers important.

Education Code 61.084(d)

In addition to the content of the instruction at a training program required under Education Code 61.084(d), above, topics covered by the training program for board members must include information about best practices in campus financial management, financial ratio analysis, and case studies using financial indicators.
Education Code 61.084(e)

TRAINING
ALTERNATIVES
ELECTRONIC
OPTION

The Coordinating Board shall provide an equivalent training program by electronic means in the event a member of a governing board is unable to attend the required training program. Completion of the training program by electronic means is deemed to satisfy the training requirements. *Education Code 61.084(g)*

HARDSHIP
EXCEPTION

The Coordinating Board by rule may prescribe an alternative training program for members of governing boards for whom attendance at a seminar held in Austin would be a hardship. The alternative training program need not be in the form of a seminar but must include substantially the same information included in the seminar held in Austin. *Education Code 61.084(b); 19 TAC 1.9(b)*

FEE

A registration fee shall be paid by training program participants in an amount adequate to cover the costs incurred by the Coordinating Board and any other state agencies the Coordinating Board enlists in providing the program. Such amount shall be determined prior to each seminar. A participant shall pay from private funds the required fee and the participant's costs of travel, including transportation, lodging, and meals. Neither the required fee nor a participant's travel costs shall be reimbursed from appropriated funds, other than grants and donations of private funds available for that purpose. *Education Code 61.084(c); 19 TAC 1.9(c)*

REPORTING

The minutes of the last regular meeting held by a governing board of a public junior college district during a calendar year must reflect whether each member of the governing board has completed any

BOARD MEMBERS
ORIENTATION AND TRAINING

BBD
(LEGAL)

training required to be completed by the member under Education Code 61.1084 as of the meeting date. *Education Code 61.084(f)*

OPEN MEETINGS ACT
TRAINING

Each elected or appointed public official who is a member of a governmental body subject to Government Code Chapter 551 shall complete a course of training of not less than one and not more than two hours regarding the responsibilities of the governmental body and its members under Chapter 551 not later than the 90th day after the date the member takes the oath of office.

The attorney general shall ensure that the training is made available. The office of the attorney general may provide the training and may also approve any other acceptable course of training offered by a governmental body or other entity.

The office of the attorney general or other entity providing the training shall provide a certificate of course completion to persons who complete the training. A governmental body shall maintain and make available for public inspection the record of its members' completion of the training. The failure of one or more members of a governmental body to complete the required training does not affect the validity of an action taken by the governmental body.

Gov't Code 551.005(a)–(c), (f)

PUBLIC INFORMATION
ACT TRAINING

This section applies to an elected or appointed public official who is a member of a multimember governmental body. Each public official shall complete a course of training of not less than one and not more than two hours regarding the responsibilities of the governmental body with which the official serves and its officers and employees under Government Code Chapter 552 not later than the 90th day after the date the public official takes the oath of office.

The attorney general shall ensure that the training is made available. The office of the attorney general may provide the training and may also approve other acceptable sources of training offered by a governmental body or other entity.

A public official may designate a public information coordinator to satisfy the training requirement for the public official if the public information coordinator is primarily responsible for administering the responsibilities of the public official or governmental body under Chapter 552. [See GAB regarding public information coordinator training]

The office of the attorney general or other entity providing the training shall provide a certificate of course completion to persons who complete the training. A governmental body shall maintain and make available for public inspection the record of its public officials'

or, if applicable, the public information coordinator's completion of the training.

Gov't Code 552.012(a)–(e)

Note: The following is an index of periodic reports that are addressed in the legal reference material of the policy manual. The list is not all-inclusive. This list does not address responsive reports (those that are required in response to a specific incident), reports required under special circumstances, or reports required under administrative procedures of an agency.

REPORTS BY
COLLEGE DISTRICT

A college district shall publish and/or distribute the following reports:

1. As soon as practicable after the end of each academic year, the college district shall prepare an annual performance report for that academic year, under Education Code 130.0035. [See AFA]
2. Not later than June 1 of each even-numbered year, the college district shall report customer service information to the Legislative Budget Board (LBB) and the governor's Office of Budget and Planning (OBP), under Government Code 2114.002. [See AFA]
3. Not later than November 1 of each year, the chief executive officer of each college district shall provide to the governing board of the college district a report for the preceding fall, spring, and summer semesters that examines the affordability and access of the institution, under Education Code 51.4031. [See AFA]
4. In the form and manner and at the times required by the Coordinating Board, the college district shall report to the Coordinating Board on the enrollment status of students of the college district, under Education Code 130.0036. [See AFA]
5. The college district shall follow applicable institutional and financial assistance information dissemination requirements found at 20 U.S.C. 1092. [See AFA]
6. The minutes of the last regular meeting held by the board during a calendar year must reflect whether each member of the board has completed any training required to be completed by the member as of the meeting date, under Education Code 61.084. [See BBD]
7. The college district shall report monthly to the retirement system set out in Government Code 825.404, in a form it prescribes, the employee salary and other information required under Government Code 825.406. [See CAB, CAM]

8. The investment officer shall prepare a report on the Public Funds Investment Act (PFIA) and deliver it to the board no later than the 180th day after the last day of each regular session of the legislature, under Government Code 2256.007. [See CAK]
9. Not less than quarterly and within a reasonable time after the end of the period, the investment officer shall prepare and submit to the board a written report of investment transactions for all funds covered by the PFIA, under Education Code 51.0032 and Government Code 2256.023. [See CAK]
10. The college district shall submit its audited annual financial report to the Coordinating Board by January 1st of each year, under 19 Administrative Code 13.62. [See CDA]
11. Not later than November 20 of each year, a college district shall submit an annual financial report regarding the college district's use of appropriated money during the preceding fiscal year to the government officials specified in Government Code 2101.011. [See CDA]
12. The board shall be responsible for the preparation of an annual financial statement, under Local Government Code 140.005. [See CDA]
13. The college district shall annually compile and report information regarding debt obligations, under Local Government Code 140.008. [See CDA]
14. Three copies of the annual audit report for the fiscal year ending August 31 shall be filed with the Coordinating Board by January 1 following the close of the fiscal year for which the audit was made, an electronic copy shall be posted to the Coordinating Board's collection server, and required copies shall be sent to other governmental agencies, under the publication *Annual Financial Reporting Requirements for Texas Public Community and Junior Colleges*. [See CDC]
15. Annually, a college district shall report to the State Energy Conservation Office (SECO) regarding the college district's goal to reduce electric consumption, the college district's efforts to meet the goal, and progress the college district has made, under Health and Safety Code 388.005. [See CH]
16. Not later than March 1 of each year, each college district police department shall submit a report containing information about traffic stops during the previous calendar year to the Texas Commission on Law Enforcement Officers and Standards and the governing body of each county or municipality

served by the department, under Code of Criminal Procedure 2.134. [See CHA]

17. At least once every three years, a college district shall conduct a security audit of the college district's facilities and report the results of the security audit to the Texas School Safety Center, under Education Code 37.108. [See CG]
18. No later than January 1 of each odd-numbered year, the college district shall submit a written report regarding the institution's compliance with the online course information posting to certain state officials, under Education Code 51.974 and 19 Administrative Code 4.225 to 4.228. [See EFA]
19. Each college district must review and evaluate its procedures for complying with field of study curricula at intervals specified by the Coordinating Board and shall report the results of that review to the Coordinating Board following the same timetable as the regular reports of core curriculum evaluations, under 19 Administrative Code 4.32(f). [See EFAA]
20. Contact hours for career technical/workforce continuing education courses from public two-year colleges must be determined and reported in compliance with Coordinating Board policy as outlined in the Guidelines for Instructional Programs in Workforce Education as approved by the Coordinating Board, the Workforce Education Course Manual, and state law, under 19 Administrative Code 9.113, 9.114, and 9.116. [See EFCB]
21. At the end of each semester, the college district shall report to the Coordinating Board certain information for undergraduate students, under 19 Administrative Code 4.60. [See EI]
22. At times prescribed by the Coordinating Board, the college district shall report to the Coordinating Board all programs and services provided for persons with intellectual and developmental disabilities by the college district, under Education Code 61.0663. [See FA]
23. The college district shall report to the Coordinating Board the types and amounts of tuition and fees charged to students by semester during the previous academic year, under 19 Administrative Code 13.143. [See FD]
24. Each year the college district shall prepare, publish, and distribute, through appropriate publications or mailings, to all current students and employees, and to any applicant for enrollment or employment upon request, an annual security report as required under 20 U.S.C. 1092(f). [See GAC]

25. The college district must report statistics for the three most recent calendar years concerning the occurrence on campus, in or on noncampus buildings or property, and on public property of certain crimes that are reported to local police agencies or to a campus security authority, under 34 C.F.R. 668.46. [See GAC]
26. The college district shall, in a manner that is timely and will aid in the prevention of similar crimes, report to the campus community on crimes that are considered by the college district to represent a threat to students and employees. [See GAC]
27. Under guidelines established by the Coordinating Board and the State Board of Education pursuant to Education Code 51.403, the college district shall report student performance during the first year enrolled after graduation from high school to the high school or college district last attended. [See GH]

SOME POLICY TITLES ARE INCLUDED FOR FUTURE EXPANSION

SECTION C: BUSINESS AND SUPPORT SERVICES

| | |
|------|---|
| CA | APPROPRIATIONS AND REVENUE SOURCES |
| CAA | State and Federal Revenue Sources |
| CAAA | State |
| CAAB | Federal |
| CAC | Local |
| CAD | Bond Issues |
| CAE | Time Warrants |
| CAF | Certificates of Indebtedness |
| CAG | Revenue Bonds and Obligations |
| CAH | Loans and Notes |
| CAI | Ad Valorem Taxes |
| CAIA | Selection and Duties of Chief Tax Officials |
| CAIB | Appraisal District |
| CAK | Investments |
| CAL | Sale, Trade, or Lease of College-Owned Property |
| CAM | Grants, Funds, Donations From Private Sources |
| CAN | Rentals and Service Charges |
| CAO | Public Facilities Corporations |
| CB | DEPOSITORY OF FUNDS |
| CC | ANNUAL OPERATING BUDGET |
| CD | ACCOUNTING |
| CDA | Financial Reports and Statements |
| CDB | Inventories |
| CDC | Audits |
| CDD | Payroll Procedures |
| CDDA | Salary Deductions |
| CDE | Financial Ethics |
| CE | BONDED EMPLOYEES AND OFFICERS |
| CF | PURCHASING AND ACQUISITION |
| CFB | Petty Cash Account |
| CFD | Purchasing Procedures |
| CFE | Vendor Relations |
| CFF | Payment Procedures |
| CFG | Real Property and Improvements |
| CFH | Financing Personal Property Purchases |
| CG | SAFETY PROGRAM |
| CGA | Inspections |
| CGB | Accident Prevention |

SOME POLICY TITLES ARE INCLUDED FOR FUTURE EXPANSION

SECTION C: BUSINESS AND SUPPORT SERVICES

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| CGC | Emergency Plans and Alerts |
| CGD | Fire Prevention |
| CH | SITE MANAGEMENT |
| CHA | Security |
| CHB | Maintenance |
| CHC | Traffic and Parking Controls |
| CHD | Records and Reports |
| CHE | Mail and Delivery |
| CHF | Weapons |
| CI | EQUIPMENT AND SUPPLIES MANAGEMENT |
| CIA | Records Management |
| CIB | Disposal of Property |
| CJ | TRANSPORTATION MANAGEMENT |
| CJA | Maintenance of Vehicles |
| CK | INSURANCE AND ANNUITIES MANAGEMENT |
| CKA | Property Insurance |
| CKB | Liability Insurance |
| CKC | Deferred Compensation and Annuities |
| CKD | Health and Life Insurance |
| CKE | Workers' Compensation |
| CKF | Unemployment Insurance |
| CL | FACILITIES PLANNING |
| CLA | Facilities Standards |
| CM | FACILITIES CONSTRUCTION |
| CMA | Competitive Bidding |
| CMB | Competitive Sealed Proposals |
| CMC | Construction Manager-Agent |
| CMD | Construction Manager-At-Risk |
| CME | Design-Build |
| CMF | Job Order Contracts |
| CN | RENTING OR LEASING FACILITIES FROM OTHERS |
| CP | RETIREMENT OF FACILITIES |
| CQ | COLLEGE DISTRICT AUXILIARY ENTERPRISES |
| CR | TECHNOLOGY RESOURCES |
| CRA | Website Postings |

SOME POLICY TITLES ARE INCLUDED FOR FUTURE EXPANSION

SECTION C: BUSINESS AND SUPPORT SERVICES

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|----|-----------------------|
| CS | INFORMATION SECURITY |
| CT | INTELLECTUAL PROPERTY |
| CU | RESEARCH |

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PERKINS GRANTS

Except as provided in 20 U.S.C. 2352(b) and (c) and 20 U.S.C. 2353, each eligible agency, including the Coordinating Board, shall distribute the portion of the funds made available under 20 U.S.C. 2322(a)(1) to carry out 20 U.S.C. 2352 for any fiscal year to eligible institutions or consortia of eligible institutions within the state.

Each eligible institution or consortium of eligible institutions shall be allocated an amount that bears the same relationship to the portion of funds made available under 20 U.S.C. 2322(a)(1) to carry out 20 U.S.C. 2352 for any fiscal year as the sum of the number of individuals who are Federal Pell Grant recipients and recipients of assistance from the Bureau of Indian Affairs enrolled in programs meeting the requirements of 20 U.S.C. 2355 offered by such institution or consortium in the preceding fiscal year bears to the sum of the number of such recipients enrolled in such programs within the state for such year.

20 U.S.C. 2352(a)(1)–(2)

RETIREMENT
CONTRIBUTIONS

If an employer, including a college district, applies for money provided by the United States or an agency of the United States and if any of the money will pay part or all of any employee's salary, the employer shall apply for any legally available money to pay state contributions required by Government Code 825.404 or 830.201 in accordance with Government Code 825.406.

An employer who fails to comply with Government Code 825.406 may not, after the failure, apply for or spend any money from a federal or private grant. The attorney general shall bring a writ of mandamus against the employer to compel compliance.

A person commits an offense if the person is an administrator of an employer and knowingly fails to comply with Government Code 825.406.

Gov't Code 825.406 [See CAM]

ADMINISTRATION OF
FEDERAL AWARDS

The U.S. Office of Management and Budget (OMB) establishes uniform administrative requirements, cost principles, and audit requirements for federal awards to non-federal entities, as described in 2 C.F.R. 200.101 (Applicability). Federal awarding agencies must not impose additional or inconsistent requirements, except as provided in 2 C.F.R. 200.102 (Exceptions) and 200.210 (Information contained in a federal award), or unless specifically required by federal statute, regulation, or Executive Order. 2 C.F.R. 200.100(a)(1)

The non-federal entity is responsible for complying with all requirements of the federal award. For all federal awards, this includes the provisions of the Federal Funding Accountability and

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Transparency Act (FFATA), which includes requirements on executive compensation, and also requirements implementing the Act for the non-federal entity at 2 C.F.R. Part 25 Financial Assistance Use of Universal Identifier and Central Contractor Registration and 2 C.F.R. Part 170 Reporting Subaward and Executive Compensation Information. [See also statutory requirements for whistleblower protections at 10 U.S.C. 2409, 41 U.S.C. 4712, and 10 U.S.C. 2324, 41 U.S.C. 4304 and 4310] 2 C.F.R. 200.300(b)

“Non-federal entity” means a state, local government, Indian tribe, institution of higher education (IHE), or nonprofit organization that carries out a federal award as a recipient or subrecipient. 2 C.F.R. 200.69

FINANCIAL
MANAGEMENT

Each state must expend and account for the federal award in accordance with state laws and procedures for expending and accounting for the state's own funds. In addition, the state's and the other non-federal entity's financial management systems, including records documenting compliance with federal statutes, regulations, and the terms and conditions of the federal award, must be sufficient to permit the preparation of reports required by general and program-specific terms and conditions; and the tracing of funds to a level of expenditures adequate to establish that such funds have been used according to the federal statutes, regulations, and the terms and conditions of the federal award. [See also 2 C.F.R. 200.450 Lobbying]

The financial management system of each non-federal entity must provide for the following [see also 2 C.F.R. 200.333 (Retention requirements for records), 200.334 (Requests for transfer of records), 200.335 (Methods for collection, transmission and storage of information), 200.336 (Access to records, and 200.337 (Restrictions on public access to records)]:

1. Identification, in its accounts, of all federal awards received and expended and the federal programs under which they were received. Federal program and federal award identification must include, as applicable, the Catalog of Federal Domestic Assistance (CFDA) title and number, federal award identification number and year, name of the federal agency, and name of the pass-through entity, if any.
2. Accurate, current, and complete disclosure of the financial results of each federal award or program in accordance with the reporting requirements set forth in 2 C.F.R. 200.327 (Financial reporting) and 200.328 (Monitoring and reporting program performance).

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3. Records that identify adequately the source and application of funds for federally funded activities. These records must contain information pertaining to federal awards, authorizations, obligations, unobligated balances, assets, expenditures, income, and interest and be supported by source documentation.
4. Effective control over, and accountability for, all funds, property, and other assets. The non-federal entity must adequately safeguard all assets and assure that they are used solely for authorized purposes. [See 2 C.F.R. 200.303 (Internal controls)]
5. Comparison of expenditures with budget amounts for each federal award.
6. Written procedures to implement the requirements of 2 C.F.R. 200.305 (Payment).
7. Written procedures for determining the allowability of costs in accordance with 2 C.F.R. Part 200, Subpart E—(Cost principles of this part and the terms and conditions of the federal award).

2 C.F.R. 200.302

INTERNAL
CONTROLS

The non-federal entity must:

1. Establish and maintain effective internal control over the federal award that provides reasonable assurance that the non-federal entity is managing the federal award in compliance with federal statutes, regulations, and the terms and conditions of the federal award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework,” issued by the Committee of Sponsoring Organizations (COSO) of the Treadway Commission.
2. Comply with federal statutes, regulations, and the terms and conditions of the federal awards.
3. Evaluate and monitor the non-federal entity's compliance with statutes, regulations, and the terms and conditions of federal awards.
4. Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.
5. Take reasonable measures to safeguard protected personally identifiable information and other information the federal

awarding agency or pass-through entity designates as sensitive or the non-federal entity considers sensitive consistent with applicable federal, state, local, and tribal laws regarding privacy and obligations of confidentiality.

2 C.F.R. 202.303

ADVANCED
PAYMENT

The non-federal entity must be paid in advance, provided it maintains or demonstrates the willingness to maintain both written procedures that minimize the time elapsing between the transfer of funds and disbursement by the non-federal entity, and financial management systems that meet the standards for fund control and accountability as established in this part. Advance payments to a non-federal entity must be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the non-federal entity in carrying out the purpose of the approved program or project. The timing and amount of advance payments must be as close as is administratively feasible to the actual disbursements by the non-federal entity for direct program or project costs and the proportionate share of any allowable indirect costs. The non-federal entity must make timely payment to contractors in accordance with the contract provisions.

Standards governing the use of banks and other institutions as depositories of advance payments under federal awards are as follows:

1. The federal awarding agency and pass-through entity must not require separate depository accounts for funds provided to a non-federal entity or establish any eligibility requirements for depositories for funds provided to the non-federal entity. However, the non-federal entity must be able to account for the receipt, obligation, and expenditure of funds.
2. Advance payments of federal funds must be deposited and maintained in insured accounts whenever possible.

The non-federal entity must maintain advance payments of federal awards in interest-bearing accounts, unless the following apply:

1. The non-federal entity receives less than \$120,000 in federal awards per year.
2. The best reasonably available interest-bearing account would not be expected to earn interest in excess of \$500 per year on federal cash balances.
3. The depository would require an average or minimum balance so high that it would not be feasible within the expected federal and non-federal cash resources.

4. A foreign government or banking system prohibits or precludes interest-bearing accounts.

Interest earned amounts up to \$500 per year may be retained by the non-federal entity for administrative expense. Any additional interest earned on federal advance payments deposited in interest-bearing accounts must be remitted as described by 2 C.F.R. 200.305(b)(9).

2 C.F.R. 200.305(b)(1), (7)–(9)

BUDGETS AND
PROGRAM PLANS

Recipients are required to report deviations from budget or project scope or objective, and request prior approvals from federal awarding agencies for budget and program plan revisions, in accordance with 2 C.F.R. 200.308. *2 C.F.R. 200.308(b)*

COST PRINCIPLES

The cost principles described by 2 C.F.R. Part 200, Subpart E must be used in determining the allowable costs of work performed by the non-federal entity under federal awards. These principles also must be used by the non-federal entity as a guide in the pricing of fixed-price contracts and subcontracts where costs are used in determining the appropriate price. The principles do not apply to:

1. Arrangements under which federal financing is in the form of loans, scholarships, fellowships, traineeships, or other fixed amounts based on such items as education allowance or published tuition rates and fees.
2. For institutions of higher education, capitation awards, which are awards based on case counts or number of beneficiaries according to the terms and conditions of the federal award.
3. Fixed amount awards. [See also Subpart A—(Acronyms and definitions), 200.45 (Fixed amount awards) and 200.201 (Use of grant agreements) (including fixed amount awards), cooperative agreements, and contracts]
4. Federal awards to hospitals [see Appendix IX to Part 200—Hospital Cost Principles].
5. Other awards under which the non-federal entity is not required to account to the federal government for actual costs incurred.

The application of these cost principles is based on the fundamental premises that:

1. The non-federal entity is responsible for the efficient and effective administration of the federal award through the application of sound management practices.

2. The non-federal entity assumes responsibility for administering federal funds in a manner consistent with underlying agreements, program objectives, and the terms and conditions of the federal award.
3. The non-federal entity, in recognition of its own unique combination of staff, facilities, and experience, has the primary responsibility for employing whatever form of sound organization and management techniques may be necessary in order to assure proper and efficient administration of the federal award.
4. The application of these cost principles should require no significant changes in the internal accounting policies and practices of the non-federal entity. However, the accounting practices of the non-federal entity must be consistent with these cost principles and support the accumulation of costs as required by the principles and must provide for adequate documentation to support costs charged to the federal award.
5. In reviewing, negotiating, and approving cost allocation plans or indirect cost proposals, the cognizant agency for indirect costs should generally assure that the non-federal entity is applying these cost accounting principles on a consistent basis during their review and negotiation of indirect cost proposals. Where wide variations exist in the treatment of a given cost item by the non-federal entity, the reasonableness and equity of such treatments should be fully considered. [See 2 C.F.R. 200.56 Indirect (facilities & administrative (F&A)) costs]
6. For non-federal entities that educate and engage students in research, the dual role of students as both trainees and employees, including pre- and post-doctoral staff, contributing to the completion of federal awards for research must be recognized in the application of these principles.
7. The non-federal entity may not earn or keep any profit resulting from federal financial assistance, unless explicitly authorized by the terms and conditions of the federal award. [See also 2 C.F.R. 200.307 (Program income)]

2 C.F.R. 200.400-.401

COST SHARING

Cost sharing related to federal awards is subject to 2 C.F.R. 200.306. *2 C.F.R. 200.306*

PROGRAM INCOME

Non-federal entities are encouraged to earn income to defray program costs where appropriate. Such income is subject to 2 C.F.R. 200.307. *2 C.F.R. 200.307*

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| PERIOD OF PERFORMANCE | A non-federal entity may charge to the federal award only allowable costs incurred during the period of performance (except as described in 2 C.F.R. 200.461 (Publication and Printing Costs)) and any costs incurred before the federal awarding agency or pass-through entity made the federal award that were authorized by the federal awarding agency or pass-through entity. <i>2 C.F.R. 200.309</i> |
| CONFLICT OF INTEREST | The non-federal entity must disclose in writing any potential conflict of interest to the federal awarding agency or pass-through entity in accordance with applicable federal awarding agency policy. <i>2 C.F.R. 200.112</i> |
| PROCUREMENT | The non-federal entity must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award, and administration of contracts. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the non-federal entity may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-federal entities may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-federal entity. <i>2 C.F.R. 200.318(c)(1)</i> |
| PROPERTY STANDARDS | Real property, equipment, intangible property, and other property acquired or improved under a federal award are subject to the standards described by 2 C.F.R. 200.310–316. |
| INSURANCE COVERAGE | The non-federal entity must, at a minimum, provide the equivalent insurance coverage for real property and equipment acquired or improved with federal funds as provided to property owned by the non-federal entity. Federally owned property need not be insured unless required by the terms and conditions of the federal award. <i>2 C.F.R. 200.310</i> |
| PROCUREMENT GENERALLY | The non-federal entity must use its own documented procurement procedures, which reflect applicable state, local, and tribal laws and regulations, provided that the procurements conform to applicable federal law and the standards identified in this 2 C.F.R. Part 200. <i>2 C.F.R. 200.318(a)</i> |

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| ELIGIBLE CONTRACTORS | The non-federal entity must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. [See also 2 C.F.R. 200.213 (Suspension and Debarment)] <i>2 C.F.R. 200.318(h)</i> |
| CONTRACTING WITH CERTAIN BUSINESSES | The non-federal entity must take all necessary affirmative steps, including those described by 2 C.F.R. 200.321, to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. <i>2 C.F.R. 200.321(a)</i> |
| COMPETITION | All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of 2 C.F.R. 200.319. <i>2 C.F.R. 200.319(a)</i> |
| METHODS OF PROCUREMENT | The non-federal entity must use one of the methods of procurement described by 2 C.F.R. 200.320, including procurement by micro-purchases, procurement by small purchase procedures, procurement by sealed bids, procurement by competitive proposals, and procurement by noncompetitive proposals. <i>2 C.F.R. 200.320</i> |
| CONTRACT PROVISIONS | The non-federal entity's contracts must contain the applicable provisions described in Appendix II to 200 C.F.R. Part 200—Contract Provisions for non-federal Entity Contracts Under Federal Awards. <i>2 C.F.R. 200.326</i> |
| TIME AND MATERIALS CONTRACTS | <p>The non-federal entity may use a time and materials type contract only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Time and materials type contract means a contract whose cost to a non-federal entity is the sum of:</p> <ol style="list-style-type: none">1. The actual cost of materials; and2. Direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit. <p>Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the non-federal entity awarding such a contract must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.</p> <p><i>2 C.F.R. 200.318(j)</i></p> |

CONTRACT COST
AND PRICE

The non-federal entity must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the non-federal entity must make independent estimates before receiving bids or proposals.

The non-federal entity must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

Costs or prices based on estimated costs for contracts under the federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the non-federal entity under Subpart E—Cost Principles of this part. The non-federal entity may reference its own cost principles that comply with the federal cost principles.

The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

2 C.F.R. 200.323

COST
EFFECTIVE-
NESS

The non-federal entity's procedures must avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the federal government, the non-federal entity is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services.

The non-federal entity is encouraged to use federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

The non-federal entity is encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineer-

ing is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

2 C.F.R. 200.318(d)–(g)

PROCUREMENT
OF RECOVERED
MATERIALS

A non-federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines. *2 C.F.R. 200.322*

BONDING
REQUIREMENTS

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, the federal awarding agency or pass-through entity may accept the bonding policy and requirements of the non-federal entity in accordance with *2 C.F.R. 200.325. 2 C.F.R. 200.325*

OVERSIGHT
BY NON-
FEDERAL
ENTITIES

Non-federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. *2 C.F.R. 200.318(b)*

BY OTHER
GOVERN-
MENTAL
ENTITIES

The non-federal entity must make available, upon request of the federal awarding agency or pass-through entity, technical specifications on proposed procurements where the federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the non-federal entity desires to have the review accomplished after a solicitation has been developed, the federal awarding agency or pass-through entity may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.

The non-federal entity must make available upon request, for the federal awarding agency or pass-through entity pre-procurement

review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:

1. The non-federal entity's procurement procedures or operation fails to comply with the procurement standards in 2 C.F.R. Part 200;
2. The procurement is expected to exceed the Simplified Acquisition Threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation;
3. The procurement, which is expected to exceed the Simplified Acquisition Threshold, specifies a "brand name" product;
4. The proposed contract is more than the Simplified Acquisition Threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or
5. A proposed contract modification changes the scope of a contract or increases the contract amount by more than the Simplified Acquisition Threshold.

The non-federal entity is exempt from the pre-procurement review if the federal awarding agency or pass-through entity determines that its procurement systems comply with the standards of 2 C.F.R. Part 200.

The non-federal entity may request that its procurement system be reviewed by the Federal awarding agency or pass-through entity to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third-party contracts are awarded on a regular basis.

The non-federal entity may self-certify its procurement system. Such self-certification must not limit the federal awarding agency's right to survey the system. Under a self-certification procedure, the federal awarding agency may rely on written assurances from the non-federal entity that it is complying with these standards. The non-federal entity must cite specific policies, procedures, regulations, or standards as being in compliance with these requirements and have its system available for review.

2 C.F.R. 200.324

SETTLEMENT OF
CONTRACTUAL
AND
ADMINISTRATIVE
ISSUES

The non-federal entity alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These

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standards do not relieve the non-federal entity of any contractual responsibilities under its contracts. The federal awarding agency will not substitute its judgment for that of the non-federal entity unless the matter is primarily a federal concern. Violations of law will be referred to the local, state, or federal authority having proper jurisdiction. *2 C.F.R. 200.318(k)*

RECORDS

RECORDS
RETENTION

GENERALLY

Financial records, supporting documents, statistical records, and all other non-federal entity records pertinent to a federal award must be retained for a period of three years from the date of submission of the final expenditure report or, for federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, respectively, as reported to the federal awarding agency or pass-through entity in the case of a subrecipient. Federal awarding agencies and pass-through entities must not impose any other record retention requirements upon non-federal entities with the exception of those situations described by *2 C.F.R. 200.333*. *2 C.F.R. 200.333*

PROCUREMENT

The non-federal entity must maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to, the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price. *2 C.F.R. 200.318(i)*

METHODS FOR
COLLECTION,
TRANSMISSION,
AND STORAGE
OF INFORMATION

In accordance with the May 2013 Executive Order on Making Open and Machine Readable the New Default for Government Information, the federal awarding agency and the non-federal entity should, whenever practicable, collect, transmit, and store federal award-related information in open and machine readable formats rather than in closed formats or on paper. The federal awarding agency or pass-through entity must always provide or accept paper versions of federal award-related information to and from the non-federal entity upon request. If paper copies are submitted, the federal awarding agency or pass-through entity must not require more than an original and two copies. When original records are electronic and cannot be altered, there is no need to create and retain paper copies. When original records are paper, electronic versions may be substituted through the use of duplication or other forms of electronic media provided that they are subject to periodic quality control reviews, provide reasonable safeguards against alteration, and remain readable. *2 C.F.R. 200.335*

ACCESS TO
RECORDS

BY GOVERN-
MENTAL
ENTITIES

The federal awarding agency, Inspector General, the Comptroller General of the United States, and the pass-through entity, or any of their authorized representatives, must have the right of access to any documents, papers, or other records of the non-federal entity which are pertinent to the federal award, in order to make audits,

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examinations, excerpts, and transcripts. The right also includes timely and reasonable access to the non-federal entity's personnel for the purpose of interview and discussion related to such documents. The rights of access are not limited to the required retention period but last as long as the records are retained. *2 C.F.R. 200.336(a), (c)*

BY THE PUBLIC

No federal awarding agency may place restrictions on the non-federal entity that limit public access to the records of the non-federal entity pertinent to a federal award, except for protected personally identifiable information (PII) or when the federal awarding agency can demonstrate that such records will be kept confidential and would have been exempted from disclosure pursuant to the Freedom of Information Act, 5 U.S.C. 552, or controlled unclassified information pursuant to Executive Order 13556 if the records had belonged to the federal awarding agency. The Freedom of Information Act (FOIA), 5 U.S.C. 552, does not apply to those records that remain under a non-federal entity's control except as required under 2 C.F.R. 200.315 (Intangible property). Unless required by federal, state, and local statute, non-federal entities are not required to permit public access to their records. The non-federal entity's records provided to a federal agency generally will be subject to FOIA and applicable exemptions. *2 C.F.R. 200.337*

PERFORMANCE
REPORTS

MONITORING
REQUIRED

The non-federal entity is responsible for oversight of the operations of the federal award supported activities. The non-federal entity must monitor its activities under federal awards to assure compliance with applicable federal requirements and performance expectations are being achieved. Monitoring by the non-federal entity must cover each program, function, or activity. [See also 2 C.F.R. 200.331 Requirements for Pass-through entities] *2 C.F.R. 200.328(a)*

NONCON-
STRUCTION
PERFORMANCE
REPORTS

The federal awarding agency must use standard, OMB-approved data elements for collection of performance information, including performance progress reports, Research Performance Progress Report, or such future collections as may be approved by OMB and listed on the OMB website.

The non-federal entity must submit performance reports at the interval required by the federal awarding agency or pass-through entity to best inform improvements in program outcomes and productivity. Intervals must be no less frequent than annually nor more frequent than quarterly except in unusual circumstances, for example where more frequent reporting is necessary for the effective monitoring of the federal award or could significantly affect program outcomes. Annual reports must be due 90 calendar days after the reporting period; quarterly or semiannual reports must be due 30

calendar days after the reporting period. Alternatively, the federal awarding agency or pass-through entity may require annual reports before the anniversary dates of multiple year federal awards. The final performance report will be due 90 calendar days after the period of performance end date. If a justified request is submitted by a non-federal entity, the federal agency may extend the due date for any performance report.

The non-federal entity must submit performance reports using OMB-approved governmentwide standard information collections when providing performance information. As appropriate in accordance with above-mentioned information collections, these reports will contain, for each federal award, brief information on the following unless other collections are approved by OMB:

1. A comparison of actual accomplishments to the objectives of the federal award established for the period. Where the accomplishments of the federal award can be quantified, a computation of the cost (for example, related to units of accomplishment) may be required if that information will be useful. Where performance trend data and analysis would be informative to the federal awarding agency program, the federal awarding agency should include this as a performance reporting requirement.
2. The reasons why established goals were not met, if appropriate.
3. Additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

2 C.F.R. 200.328(b)

REPORTING

For the most part, onsite technical inspections and certified percentage of completion data are relied on heavily by federal awarding agencies and pass-through entities to monitor progress under federal awards and subawards for construction. The federal awarding agency may require additional performance reports only when considered necessary. *2 C.F.R. 200.328(c)*

SIGNIFICANT
DEVELOPMENTS

Events may occur between the scheduled performance reporting dates that have significant impact upon the supported activity. In such cases, the non-federal entity must inform the federal awarding agency or pass-through entity as soon as the following types of conditions become known:

1. Problems, delays, or adverse conditions which will materially impair the ability to meet the objective of the federal award. This disclosure must include a statement of the action taken,

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or contemplated, and any assistance needed to resolve the situation.

2. Favorable developments which enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more or different beneficial results than originally planned.

2 C.F.R. 200.328(d)

SITE VISITS The federal awarding agency may make site visits as warranted by program needs. *2 C.F.R. 200.328(e)*

WAIVER The federal awarding agency may waive any performance report required by 2 C.F.R. Part 200 if not needed. *2 C.F.R. 200.328(f)*

AUDITS A non-federal entity that expends \$750,000 or more during the non-federal entity's fiscal year in federal awards must have a single or program-specific audit conducted for that year in accordance with the provisions of 2 C.F.R. Part 200, Subpart F. A non-federal entity that expends less than \$750,000 during the non-federal entity's fiscal year in federal awards is exempt from federal audit requirements for that year, except as noted in 200.503 Relation to Other Audit Requirements, but records must be available for review or audit by appropriate officials of the federal agency, pass-through entity, and Government Accountability Office (GAO). *2 C.F.R. 200.501(a), (d)*

COLLECTION OF AMOUNTS DUE Any funds paid to the non-federal entity in excess of the amount to which the non-federal entity is finally determined to be entitled under the terms of the federal award constitute a debt to the federal government. If not paid within 90 calendar days after demand, the federal awarding agency may reduce the debt by:

1. Making an administrative offset against other requests for reimbursements;
2. Withholding advance payments otherwise due to the non-federal entity; or
3. Other action permitted by federal statute.

Except where otherwise provided by statutes or regulations, the federal awarding agency will charge interest on an overdue debt in accordance with the Federal Claims Collection Standards, 31 C.F.R. Parts 900 through 999. The date from which interest is computed is not extended by litigation or the filing of any form of appeal.

2 C.F.R. 200.345

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MANDATORY
DISCLOSURE

The non-federal entity or applicant for a federal award must disclose, in a timely manner, in writing to the federal awarding agency or pass-through entity all violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award. Failure to make required disclosures can result in any of the remedies described in 2 C.F.R. 200.338 (Remedies for non-compliance), including suspension or debarment. [See also 2 C.F.R. Part 180 and 31 U.S.C. 3321] 2 C.F.R. 200.113

NONCOMPLIANCE

If a non-federal entity fails to comply with federal statutes, regulations, or the terms and conditions of a federal award, the federal awarding agency or pass-through entity may impose additional conditions, as described in 2 C.F.R. 200.207 (Specific conditions). If the federal awarding agency or pass-through entity determines that noncompliance cannot be remedied by imposing additional conditions, the federal awarding agency or pass-through entity may take one or more of the following actions, as appropriate in the circumstances:

1. Temporarily withhold cash payments pending correction of the deficiency by the non-federal entity or more severe enforcement action by the federal awarding agency or pass-through entity.
2. Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.
3. Wholly or partly suspend or terminate the federal award.
4. Initiate suspension or debarment proceedings as authorized under 2 C.F.R. Part 180 and federal awarding agency regulations, or in the case of a pass-through entity, recommend such a proceeding be initiated by a federal awarding agency.
5. Withhold further federal awards for the project or program.
6. Take other remedies that may be legally available.

2 C.F.R. 200.338

OPPORTUNITIES
TO OBJECT

Upon taking any remedy for non-compliance, the federal awarding agency must provide the non-federal entity an opportunity to object and provide information and documentation challenging the suspension or termination action, in accordance with written processes and procedures published by the federal awarding agency. The federal awarding agency or pass-through entity must comply with any requirements for hearings, appeals, or other administrative proceedings to which the non-federal entity is entitled under any

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statute or regulation applicable to the action involved. *2 C.F.R. 200.341*

SUSPENSION AND
DEBARMENT

Non-federal entities are subject to the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, 2 C.F.R. Part 180. These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs or activities. *2 C.F.R. 200.213*

TERMINATION OF
FEDERAL AWARD

The federal award may be terminated in whole or in part as follows:

1. By the federal awarding agency or pass-through entity, if a non-federal entity fails to comply with the terms and conditions of a federal award;
2. By the federal awarding agency or pass-through entity for cause;
3. By the federal awarding agency or pass-through entity with the consent of the non-federal entity, in which case the two parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated; or
4. By the non-federal entity upon sending to the federal awarding agency or pass-through entity written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if the federal awarding agency or pass-through entity determines in the case of partial termination that the reduced or modified portion of the federal award or subaward will not accomplish the purposes for which the federal award was made, the federal awarding agency or pass-through entity may terminate the federal award in its entirety.

2 C.F.R. 200.339(a)

U.S. EDUCATION
DEPARTMENT
GENERAL
ADMINISTRATIVE
REGULATIONS

The U.S. Department of Education adopts the OMB Guidance in 2 C.F.R. Part 200, except for 2 C.F.R. 200.102(a) and 2 C.F.R. 200.207(a). Thus, 2 C.F.R. Part 3474 gives regulatory effect to the OMB guidance and supplements the guidance as needed for the Department. *2 C.F.R. 3474.1(a)*

DIRECT GRANT
PROGRAMS

The regulations in 34 C.F.R. Part 75 apply to each direct grant program of the U.S. Department of Education. *34 C.F.R. 75.1(a)*

STATE-
ADMINISTERED
PROGRAMS

The regulations in 34 C.F.R. Part 76 apply to each state-administered program of the U.S. Department of Education. *34 C.F.R. 76.1(a)*

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| GENERAL EDUCATION PROVISION ACT | The regulations in 34 C.F.R. Part 81 govern the enforcement of legal requirements under applicable programs administered by the U.S. Department of Education and implement Part E of the General Education Provisions Act (GEPA). <i>34 C.F.R. 81.1</i> |
| U.S. DEPARTMENT OF AGRICULTURE | Title 2 C.F.R. Part 400 adopts the OMB guidance in 2 C.F.R. Part 200, Subparts A–F, as supplemented by 2 C.F.R. Part 400, as U.S. Department of Agriculture (USDA) policies and procedures for uniform administrative requirements, cost principles, and audit requirements for federal awards. It thereby gives regulatory effect for the USDA to the OMB guidance, as supplemented by 2 C.F.R. Part 400. <i>2 C.F.R. 400.1</i> |
| U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES | The U.S. Department of Health and Human Services (HHS) adopts the OMB Guidance in 2 C.F.R. Part 200, and has codified the text, with HHS-specific amendments in 45 C.F.R. Part 75. Thus, 2 C.F.R. Part 300 gives regulatory effect to the OMB guidance and supplements the guidance as needed for HHS. <i>2 C.F.R. 300.1</i> |
| U.S. DEPARTMENT OF JUSTICE | The U.S. Department of Justice adopts the OMB Guidance in 2 C.F.R. Part 200, except as otherwise may be provided by 2 C.F.R. Part 2800. Unless expressly provided otherwise, any reference in 2 C.F.R. Part 2800 to any provision of law not in 2 C.F.R. Part 2800 shall be understood to constitute a general reference and thus to include any subsequent changes to the provision. <i>2 C.F.R. 2800.101</i> |
| U.S. DEPARTMENT OF LABOR | The U.S. Department of Labor (DOL) adopts the OMB Guidance in the uniform administrative requirements, cost principles, and audit requirements for federal awards to non-federal entities, 2 C.F.R. Part 200, Subparts A–F, as supplemented by 2 C.F.R. Part 2900, as the DOL policies and procedures for financial assistance administration. Part 2900 satisfies the requirements of 2 C.F.R. 200.110(a) and gives regulatory effect to the OMB guidance as supplemented by Part 2900. The DOL also has programmatic and administrative regulations located in 20 and 29 C.F.R. <i>2 C.F.R. 2900.4</i> |

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TAX BONDS AND
MAINTENANCE TAX

The governing board of each junior college district shall be authorized to issue negotiable coupon bonds for the construction and equipment of school buildings and the purchase of the necessary sites therefor, and levy and pledge annual ad valorem taxes sufficient to pay the principal of and interest on said bonds as they come due, and levy annual ad valorem taxes for the further maintenance of its public junior college or junior colleges; provided that the annual bond tax shall never exceed \$.50 on the \$100 valuation of taxable property in the district, and the annual bond tax, if any, together with the annual maintenance tax shall never exceed the aggregate of \$1 on the \$100 valuation of taxable property in the district. [See CAD] *Education Code 130.122(a)*

NOTICE TO BOARD

By August 7 or as soon thereafter as practicable, the designated officer or employee shall submit the effective tax rate and the rollback tax rate to the governing body. The individual shall deliver by mail to each property owner in the unit or publish in a newspaper in the form prescribed by the comptroller:

1. The effective tax rate, the rollback tax rate, and an explanation of how they were calculated;
2. The estimated amount of interest and sinking fund balances and the estimated amount of maintenance and operation or general fund balances remaining at the end of the current fiscal year that are not encumbered with or by corresponding existing debt obligations;
3. A schedule of the taxing unit's debt obligations as prescribed by Tax Code 26.04(e)(3);
4. The amount of additional sales and use tax revenue anticipated in calculations under Tax Code 26.041;
5. A statement that the adoption of a tax rate equal to the effective tax rate would result in an increase or decrease, as applicable, in the amount of taxes imposed by the unit as compared to last year's levy, and the amount of the increase or decrease;
6. In the year that a taxing unit calculates an adjustment under Tax Code 26.04(i) or (j), a schedule as prescribed by Tax Code 26.04(e)(6); and
7. In the year following the year in which a taxing unit raised its rollback rate as required by Tax Code 26.04(j), a schedule as prescribed by Tax Code 26.04(e)(7).

Tax Code 26.04(e)

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TAX RATE

The governing body of each taxing unit, before the later of September 30 or the 60th day after the date the certified appraisal roll is received by the taxing unit, shall adopt a tax rate for the current tax year and shall notify the assessor for the unit of the rate adopted. The tax rate consists of two components, each of which must be approved separately. The components are:

1. The rate that, if applied to the total taxable value, will impose the total amount published under Tax Code 26.04(e)(3)(c), less any amount of additional sales and use tax revenue that will be used to pay debt service; and
2. The rate that, if applied to the total taxable value, will impose the amount of taxes needed to fund maintenance and operation expenditures of the unit for the next year.

A taxing unit may not impose property taxes in any year until the governing body has adopted a tax rate for that year, and the annual tax rate shall be set by ordinance, resolution, or order, depending on the method prescribed by law for adoption of a law by the governing body. The vote on the ordinance, resolution, or order setting the tax rate must be separate from the vote adopting the budget.

Tax Code 26.05(a)–(b)

EFFECTIVE TAX RATE

The vote on the ordinance, resolution, or order setting a tax rate that exceeds the effective tax rate must be a record vote, and at least 60 percent of the members of the governing body must vote in favor of the ordinance, resolution, or order. A motion to adopt an ordinance, resolution, or order setting a tax rate that exceeds the effective tax rate must be made in the following form: “I move that the property tax rate be increased by the adoption of a tax rate of (specify tax rate), which is effectively a (insert percentage by which the proposed tax rate exceeds the effective tax rate) percent increase in the tax rate.” *Tax Code 26.05(b)*

MAINTENANCE AND
OPERATIONS TAX
RATE

If the ordinance, resolution, or order sets a tax rate that, if applied to the total taxable value, will impose an amount of taxes to fund maintenance and operation expenditures of the taxing unit that exceeds the amount of taxes imposed for that purpose in the preceding year, the taxing unit must include in the ordinance, resolution, or order in type larger than the type used in any other portion of the document the following statement: “THIS TAX RATE WILL RAISE MORE TAXES FOR MAINTENANCE AND OPERATIONS THAN LAST YEAR’S TAX RATE.”; and if the tax rate exceeds the effective maintenance and operations rate, the following statement: “THE TAX RATE WILL EFFECTIVELY BE RAISED BY (INSERT PERCENTAGE BY WHICH THE TAX RATE EXCEEDS THE EF-

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FFECTIVE MAINTENANCE AND OPERATIONS RATE) PERCENT AND WILL RAISE TAXES FOR MAINTENANCE AND OPERATIONS ON A \$100,000 HOME BY APPROXIMATELY \$(Insert amount).” *Tax Code 26.05(b)*

INTERNET POSTING

The taxing unit must include on the home page of any Internet website operated by the unit the following statement: “(Insert name of unit) ADOPTED A TAX RATE THAT WILL RAISE MORE TAXES FOR MAINTENANCE AND OPERATIONS THAN LAST YEAR’S TAX RATE”; and if the tax rate exceeds the effective maintenance and operations rate, the following statement: “THE TAX RATE WILL EFFECTIVELY BE RAISED BY (INSERT PERCENTAGE BY WHICH THE TAX RATE EXCEEDS THE EFFECTIVE MAINTENANCE AND OPERATIONS RATE) PERCENT AND WILL RAISE TAXES FOR MAINTENANCE AND OPERATIONS ON A \$100,000 HOME BY APPROXIMATELY \$(Insert amount).” *Tax Code 26.05(b)*

HIGHER RATE

The governing body of a taxing unit may not adopt a tax rate that exceeds the lower of the rollback tax rate or the effective tax rate calculated as provided by Tax Code Chapter 26 until the governing body has held two public hearings on the proposed tax rate and has otherwise complied with Tax Code 26.06 and 26.065. The governing body of a taxing unit shall reduce a tax rate set by law or by vote of the electorate to the lower of the rollback tax rate or the effective tax rate and may not adopt a higher rate unless it first complies with Tax Code 26.06. *Tax Code 26.05(d)*

PUBLIC HEARING

The public hearing required above may not be held before the seventh day after the notice of the public hearing is given. The second hearing may not be held earlier than the third day after the date of the first hearing. Each hearing must be on a weekday that is not a public holiday. Each hearing must be held inside the boundaries of the unit in a publicly owned building or, if a suitable publicly owned building is not available, in a suitable building to which the public normally has access. At the hearings, the governing body must afford adequate opportunity for proponents and opponents of the tax increase to present their views.

The notice of a public hearing shall be in the size and form prescribed by Tax Code 26.06(b). The notice of a public hearing may be delivered by mail to each property owner in the unit, or may be published in a newspaper. If the notice is published in a newspaper, it may not be in the part of the paper in which legal notices and classified advertisements appear. If the taxing unit operates an Internet website, the notice must be posted on the website from the date the notice is first published until the second public hearing is concluded.

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At the public hearings the governing body shall announce the date, time, and place of the meeting at which it will vote on the proposed tax rate. After each hearing, the governing body shall give notice of the meeting at which it will vote on the proposed tax rate and the notice shall be in the size and form as prescribed by Tax Code 26.06(b)–(d).

Tax Code 26.06(a)–(d)

ADOPTION OF TAX
RATE AFTER
HEARING

The meeting to vote on the tax increase may not be earlier than the third day or later than the 14th day after the date of the second public hearing. The meeting must be held inside the boundaries of the taxing unit in a publicly owned building or, if a suitable publicly owned building is not available, in a suitable building to which the public normally has access. If the governing body does not adopt a tax rate that exceeds the lower of the rollback tax rate or the effective tax rate by the 14th day, it must give a new notice under Tax Code 26.06(d) before it may adopt a rate that exceeds the lower of the rollback tax rate or the effective tax rate. *Tax Code 26.06(e)*

SUPPLEMENTAL
NOTICE

In addition to the notice required under Tax Code 26.06, the governing body of a taxing unit required to hold a public hearing by Tax Code 26.05(d) shall give notice of the hearing in the manner provided by this section.

If the taxing unit owns, operates, or controls an Internet website, the unit shall post notice of the public hearing on the website continuously for at least seven days immediately before the public hearing on the proposed tax rate increase and at least seven days immediately before the date of the vote proposing the increase in the tax rate.

If the taxing unit has free access to a television channel, the taxing unit shall request that the station carry a 60-second notice of the public hearing at least five times a day between the hours of 7:00 a.m. and 9:00 p.m. for at least seven days immediately before the public hearing on the proposed tax rate increase and at least seven days immediately before the date of the vote proposing the increase in the tax rate.

The notice of the public hearing required by Tax Code 26.065(b) must contain a statement that is substantially the same as the statement required by Tax Code 26.06(b).

This section does not apply to a taxing unit if the taxing unit:

1. Is unable to comply with the requirements of this section because of the failure of an electronic or mechanical device, including a computer or server; or

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2. Is unable to comply with the requirements of this section due to other circumstances beyond its control.

A person who owns taxable property is not entitled to an injunction restraining the collection of taxes by the taxing unit in which the property is taxable if the taxing unit has, in good faith, attempted to comply with the requirements of this section.

Tax Code 26.065

ELECTION TO REPEAL
INCREASE

If the governing body of a taxing unit adopts a tax rate that exceeds the rollback tax rate, the qualified voters of the taxing unit by petition may require that an election be held to determine whether or not to reduce the tax rate adopted for the current year to the rollback tax rate.

Not later than the 20th day after the day a petition is submitted, the governing body shall determine whether or not the petition is valid, as defined by Tax Code 26.07(b), and pass a resolution stating its finding. If the governing body fails to act within the time allowed, the petition is treated as if it had been found valid.

If the governing body finds that the petition is valid, or fails to act within the time allowed, it shall order that an election be held in the taxing unit on a date not less than 30 or more than 90 days after the last day on which it could have acted to approve or disapprove the petition. A state law requiring local elections to be held on a specified date does not apply to the election unless a specified date falls within the time permitted by this section. At the election, the ballots shall be prepared to permit voting for or against the proposition: "Reducing the tax rate in (name of taxing unit) for the current year from (the rate adopted) to (the rollback tax rate calculated as provided by this chapter)."

If a majority of the qualified voters in the election favor the proposition, the tax rate for the current year is the rollback tax rate calculated as provided by Tax Code Chapter 26; otherwise, the tax rate for the current year is the one adopted by the governing body.

Tax Code 26.07(a)–(e)

CALL FOR
ELECTION

An election ordered by an authority of a political subdivision shall be ordered not later than the 62nd day before election day. *Election Code 3.005(a)*

EXCEPTION

For an election to be held on a uniform election date, the election shall be ordered not later than the 78th day before election day. [See BBB]

Election Code 3.003, .005(c), 41.002

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| NOTICE TO COUNTY CLERK AND VOTER REGISTRAR | The governing body of a political subdivision, including a college district, shall deliver notice of the election to the county clerk and voter registrar of each county in which the political subdivision is located not later than the 60th day before election day. <i>Election Code 4.008(a)</i> |
| PROPOSITION | In addition to any other requirement imposed by law for a proposition, including a provision prescribing the proposition language, a proposition submitted to the voters for approval of the reduction of a tax shall specifically state the amount of tax rate reduction or the tax rate for which approval is sought. <i>Election Code 52.072(e)</i> |
| TAX INFORMATION TO COUNTY | <p>The county assessor-collector for each county that maintains an Internet website shall post on the website of the county the following information for the most recent five tax years beginning with the 2012 tax year for each taxing unit all or part of the territory of which is located in the county: the adopted tax rate, the maintenance and operations rate, the debt rate, the effective tax rate, the effective maintenance and operations rate, and the rollback tax rate.</p> <p>A taxing unit all or part of the territory of which is located in a county shall provide the information described above pertaining to the taxing unit to the county assessor-collector annually following the adoption of a tax rate by the taxing unit for the current tax year.</p> <p><i>Tax Code 26.16(a)-(b)</i></p> |
| DISCOUNTS | The governing body of a taxing unit may adopt one of the discounts described below, or both, in the manner required by law for official action by the body. <i>Tax Code 31.05(a)</i> |
| OPTION 1 | <p>A taxing unit may adopt the following discounts to apply regardless of the date of which it mails its tax bills:</p> <ol style="list-style-type: none">1. Three percent if the tax is paid in October or earlier;2. Two percent if the tax is paid in November; and3. One percent if the tax is paid in December. <p>This discount does not apply to taxes that are calculated too late for it to be available.</p> <p><i>Tax Code 31.04(c), .05(b)</i></p> |
| OPTION 2 | <p>A taxing unit may adopt the following discounts to apply when it mails its tax bills after September 30:</p> <ol style="list-style-type: none">1. Three percent if the tax is paid before or during the next full calendar month following the date on which the tax bills were mailed; |

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2. Two percent if the tax is paid during the second full calendar month following the date on which the tax bills were mailed; and
3. One percent if the tax is paid during the third full calendar month following the date on which the tax bills were mailed.

Tax Code 31.05(c)

BOTH OPTIONS

If a taxing unit adopts both discounts, the discounts described at Option 1 apply unless the tax bills for the unit are mailed after September 30, in which case only the discounts described at Option 2 apply. *Tax Code 31.05(a)*

RESCISSION

The governing body of a taxing unit may rescind a discount adopted by the governing body in the manner required by law for official action by the body. The rescission of a discount takes effect in the tax year following the year in which the discount is rescinded. *Tax Code 31.05(d)*

SPLIT PAYMENT

The governing body of a taxing unit that collects its own taxes may provide, in a manner required by law for official action by the body, that a person who pays one-half of the unit's taxes before December 1 may pay the remaining one-half of the taxes without penalty or interest before July 1 of the following year. The split-payment option, if adopted, applies to taxes for all units for which the adopting taxing unit collects taxes.

If one or more taxing units contract with the appraisal district for collection of taxes, the split-payment option does not apply to taxes collected by the district unless approved by resolution adopted by a majority of the governing bodies of the taxing units whose taxes the district collects and filed with the secretary of the appraisal district board of directors. After an appraisal district provides for the split-payment option, the option applies to all taxes collected by the district until revoked. It may be revoked in the same manner as provided for adoption.

This payment option does not apply to taxes that are calculated too late for it to be available.

Tax Code 31.03, .04(c)

IN CERTAIN
COUNTIES

The governing body of a taxing unit located in a county having a population of not less than 285,000 and not more than 300,000 that borders a county having a population of 3.3 million or more and the Gulf of Mexico that has its taxes collected by another taxing unit that has adopted the split-payment option may provide that the split-payment option does not apply to the taxing unit's taxes collected by the other taxing unit. *Tax Code 31.03(d)*

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INSTALLMENT
PAYMENTS
CERTAIN
HOMESTEADS

This section applies only to an individual who is qualified for an exemption under Tax Code 11.13(c), 11.132, or 11.22. Subject to Tax Code 31.031, an individual to whom this section applies may pay a taxing unit's taxes imposed on property that the person owns and occupies as a residence homestead in four equal installments without penalty or interest if the first installment is before the delinquency date and is accompanied by notice that the individual will pay the remaining taxes in three equal installments. If the delinquency date is February 1, the second installment must be paid before April 1, the third installment must be paid before June 1, and the fourth installment must be paid before August 1. If the delinquency date is a date other than February 1, the second installment must be paid before the first day of the second month after the delinquency date, the third installment must be paid before the first day of the fourth month after the delinquency date, and the fourth installment must be paid before the first day of the sixth month after the delinquency date.

Notwithstanding the deadline prescribed above for payment of the first installment, an individual to whom this section applies may pay the taxes in four equal installments as provided above if the first installment is paid and the required notice is provided before the first day of the first month after the delinquency date.

Tax Code 31.031(a)-(a-2)

PARTIAL PAYMENTS

A tax collector may adopt a policy of accepting partial payments of property taxes. Acceptance of a partial payment does not affect the date that the tax becomes delinquent, but the penalties and interest provided by Tax Code 33.01 are incurred only by the portion of tax that remains unpaid on the date the tax becomes delinquent. A payment option provided by Tax Code 31.03 or a discount adopted under Tax Code 31.05 does not apply to any portion of a partial payment. *Tax Code 31.07(c)*

DISASTER AREA

This section applies to:

1. Real property that:
 - a. Is the residence homestead of the owner or consists of property that is used for residential purposes and that has fewer than five living units or is owned or leased by a business entity that had not more than the amount calculated as provided by Tax Code 31.032(h) in gross receipts in the entity's most recent federal tax year or state franchise tax annual period, according to the applicable federal income tax return or state franchise tax report of the entity;

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- b. Is located in a disaster area; and
- c. Has been damaged as a direct result of the disaster;
2. Tangible personal property that is owned or leased by a business entity described above at item 1(a); and
3. Taxes that are imposed on the property by a taxing unit before the first anniversary of the disaster.

If, before the delinquency date, a person pays at least one-fourth of the taxing unit's taxes imposed on property that the person owns, accompanied by notice to the taxing unit that the person will pay the remaining taxes in installments, the person may pay the remaining taxes without penalty or interest in three equal installments in accordance with Tax Code 31.032.

Tax Code 31.032(a)–(b)

PERFORMING
SERVICES IN LIEU OF
PAYING TAXES

In accordance with Tax Code 31.035, the governing body of a taxing unit may permit an individual who is at least 65 years of age to perform service to the taxing unit in lieu of paying property taxes imposed by the taxing unit on property owned by the individual and occupied as the individual's residence homestead. While performing service for the taxing unit, the property owner is not an employee of the taxing unit and is not entitled to any benefit, including workers' compensation coverage, that the taxing unit provides to an employee of the taxing unit. *Tax Code 31.035(a), (f)*

DELINQUENCY DATE

Taxes are due on receipt of the tax bill and are delinquent if not paid before February 1 of the year following the year in which imposed, except as provided below:

1. The taxing unit has provided for split payments, as described above. *Tax Code 31.03*
2. The taxing unit's tax bills are mailed after January 10. *Tax Code 31.04(a)*
3. The taxing unit's tax bills are mailed after September 30 and the taxing unit has adopted discounts provided by Tax Code 31.05(c). *Tax Code 31.04(d)*
4. A person who owns any interest in the property is an eligible person serving on active duty in any branch of the U.S. armed forces during a war or national emergency declared in accordance with federal law as provided by Tax Code 31.02(b).

Tax Code 31.02

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DELINQUENT TAX
COLLECTION

The governing body of a taxing unit may contract with any competent attorney to represent the unit to enforce the collection of delinquent taxes. The attorney's compensation is set in the contract, but the total amount of compensation provided may not exceed 20 percent of the amount of delinquent tax, penalty, and interest collected. *Tax Code 6.30(c)*

ADDITIONAL
PENALTIES

A taxing unit or appraisal district may provide, in the manner required by law for official action by the body, that taxes that become delinquent on or after February 1 but not later than May 1 of that year and remain delinquent on July 1 of the year in which they become delinquent incur an additional penalty to defray costs of collection, if the unit or district or another unit that collects taxes for the unit has contracted with a private attorney for the collection of delinquent taxes pursuant to Tax Code 6.30. The amount of the penalty may not exceed the amount of the compensation specified in the contract with the attorney to be paid in connection with the collection of the delinquent taxes. A tax lien attaches to the property on which the tax is imposed to secure payment of the penalty. If a taxing unit or appraisal district provides for a penalty under this section, the collector shall deliver notice of the delinquency and of the penalty to the property owner at least 30 and not more than 60 days before July 1.

If the governing body of the taxing unit or appraisal district has imposed the penalty for collection costs described above and the taxing unit or appraisal district, or another taxing unit that collects taxes for the unit, has entered into a contract with an attorney under Tax Code 6.30 for collection of delinquent taxes, the governing body of the taxing unit or appraisal district, in a manner required by law for official action, may provide that taxes that become delinquent on or after June 1 under Tax Code 26.07(f), 26.15(e), 31.03, 31.031, 31.032, 31.04, or 42.42 incur an additional penalty to defray costs of collection. The amount of the penalty may not exceed the amount of compensation specified in the contract with the attorney to be paid in connection with the collection of the delinquent taxes. A tax lien attaches to the property on which the tax is imposed to secure payment of the additional penalty. After the taxes become delinquent, the collector for a taxing unit or appraisal district that has provided for the additional penalty shall send a notice of the delinquency and the penalty to the property owner. The penalty is incurred on the first day of the first month that begins at least 21 days after the date the notice is sent.

Tax Code 33.07-.08

HOMESTEAD
EXEMPTIONS

An individual who is disabled or is 65 or older is entitled to an exemption from taxation by a taxing unit of a portion, the amount of

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which is fixed as provided by Tax Code 11.13(e), of the appraised value of the individual's residence homestead if the exemption is adopted either:

1. By the governing body of the taxing unit; or
2. By a favorable vote of a majority of the qualified voters of the taxing unit at an election called by the governing body of a taxing unit, and the governing body shall call the election on the petition of at least 20 percent of the number of qualified voters who voted in the preceding election of the taxing unit.

The amount of an exemption adopted is \$3,000 of the appraised value of the residence homestead unless a larger amount is specified by the governing body authorizing the exemption as described at item 1 or the petition for the election if the exemption is authorized as described at item 2.

Once authorized, an exemption adopted as provided in this section may be repealed or decreased or increased in amount by the governing body of the taxing unit or by the procedure authorized by item 2 above. In the case of a decrease, the amount of the exemption may not be reduced to less than \$3,000 of the market value.

Tax Code 11.13(d)–(f)

APPLICATION FOR
EXEMPTION

To receive the residence homestead exemption, a person claiming the exemption must apply for the exemption. *Tax Code 11.43(a)*

HOMESTEADS
RENDERED
UNINHABITABLE OR
UNUSABLE

If a qualified residential structure for which the owner receives a homestead exemption under Tax Code 11.13 is rendered uninhabitable or unusable by a casualty or by wind or water damage, the owner may continue to receive the exemption for the structure and the land and improvements used in the residential occupancy of the structure while the owner constructs a replacement qualified residential structure on the land in accordance with Tax Code 11.135 and 11.26(n)–(o) and 34 Administrative Code 9.416. *Tax Code 11.135, .26(n)–(o); 34 TAC 9.416*

DISABLED
VETERANS AND
THEIR FAMILIES

Pursuant to Tax Code 11.22, a disabled veteran and, if that person dies, the person's unmarried surviving spouse or unmarried children, is entitled to an exemption from taxation of a portion of the assessed value of a property the veteran owns and designates in accordance with Tax Code 11.22(f). *Tax Code 11.22*

PORTION OF
ASSESSED
VALUE

OWNED
RESIDENCE

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DONATED
RESIDENCE

A disabled veteran who has a disability rating of less than 100 percent is entitled to an exemption from taxation of a percentage of the appraised value of the disabled veteran's residence homestead equal to the disabled veteran's disability rating if the residence homestead was donated to the disabled veteran by a charitable organization at no cost to the disabled veteran. The surviving spouse of a disabled veteran who qualified for the exemption of a percentage of the appraised value of the disabled veteran's residence homestead when the disabled veteran died is entitled to an exemption in accordance with Tax Code 11.132. *Tax Code 11.132(b)–(c)*

TOTAL
APPRAISED
VALUE

A disabled veteran who receives from the U.S. Department of Veterans' Affairs or its successor 100 percent disability compensation due to a service-connected disability and a rating of 100 percent disabled or of individual unemployability is entitled to an exemption from taxation of the total appraised value of the veteran's residence homestead.

The surviving spouse of a disabled veteran who qualified for an exemption under Tax Code 11.131(b) when the disabled veteran died, or of a disabled veteran who would have qualified for an exemption under Section 11.131(b) if Section 11.131(b) had been in effect on the date the disabled veteran died, is entitled to an exemption from taxation of the total appraised value of the same property to which the disabled veteran's exemption applied, or to which the disabled veteran's exemption would have applied if the exemption had been authorized on the date the disabled veteran died, if the surviving spouse has not remarried since the death of the disabled veteran; and the property:

1. Was the residence homestead of the surviving spouse when the disabled veteran died; and
2. Remains the residence homestead of the surviving spouse.

If a surviving spouse who qualifies for an exemption under Tax Code 11.131(c) subsequently qualifies a different property as the surviving spouse's residence homestead, the surviving spouse is entitled to an exemption from taxation of the subsequently qualified homestead in accordance with Tax Code 11.131(d).

Tax Code 11.131(b)–(d)

SURVIVING SPOUSE
OF ARMED
SERVICES MEMBER
KILLED IN ACTION

The surviving spouse of a member of the armed services of the United States who is killed in action is entitled to an exemption from taxation of the total appraised value of the surviving spouse's residence homestead in accordance with Tax Code 11.133. *Tax Code 11.133*

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| ADDITIONAL EXEMPTIONS | A taxing unit may grant additional tax exemptions for historic sites, certain tax-exempt corporations, and charitable organizations, as provided by law. <i>Tax Code 11.184, .24; Tex. Const. Art. VIII, Sec. 1-b</i> |
| NOTICE OF OPTIONAL EXEMPTION | If a taxing unit adopts, amends, or repeals an exemption that the unit by law has the option to adopt or not, the taxing unit shall notify the appraisal office of its action and of the terms of the exemption within 30 days after the date of its action. <i>Tax Code 6.08</i> |
| DISASTER AREA | The governing body of a taxing unit that is located partly or entirely inside an area declared to be a disaster area by the governor may authorize reappraisal of all property damaged in the disaster at its market value immediately after the disaster. <i>Tax Code 23.02(a)</i> |
| BRANCH CAMPUS MAINTENANCE TAX | <p>In accordance with Education Code 130.253, the governing body of a school district or a county may levy a junior college district branch campus maintenance tax at a rate not to exceed five cents on each \$100 valuation of all taxable property in its jurisdiction.</p> <p>The proceeds of the junior college district branch campus maintenance tax may be used only as follows:</p> <ol style="list-style-type: none">1. To operate and maintain a branch campus and support its programs and services in the area of the political subdivision that levied the tax; and2. Under an agreement by the applicable junior college district and the political subdivision levying the tax, to make lease payments to the political subdivision for facilities used exclusively by the branch campus that are owned by the political subdivision. <p><i>Education Code 130.253(a), (k)</i></p> |
| LOCAL STEERING COMMITTEE | A local group of citizens interested in establishing a branch campus maintenance tax jurisdiction shall appoint a steering committee of at least seven citizens to provide leadership on behalf of the tax effort. The steering committee shall be composed of a cross-section of the population of the area, with representation from major civic groups and business and industry. A chair, co-chair, and secretary shall be appointed, along with any other officers who may be of assistance to the committee. Where the proposed branch campus maintenance tax jurisdiction is to be located in an independent school district, the district board of trustees may serve as the steering committee. |

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The steering committee shall:

1. Serve as liaison between the local community, the college district which would operate the branch campus, and the Coordinating Board;
2. Be responsible for conducting a feasibility study and a survey of the needs and potential of the area for a branch campus;
3. Provide information to the community, which at a minimum, describes the nature and purpose of a branch campus;
4. Summarize and evaluate the results of the feasibility study and survey and formulate conclusions for submission to the commissioner;
5. Prepare and circulate a petition to obtain not fewer than five percent of the qualified voters of the proposed branch maintenance tax jurisdiction; and
6. Present the appropriately signed petition as set out in 19 Administrative Code 8.30(a) to appropriate authorities for certification in compliance with Education Code 130.087.

19 TAC 8.93

APPLICATION
PROCEDURES

The steering committee and the community college district that is planning the branch campus shall jointly file a letter of intent with the commissioner as soon as practical. The staff of the Coordinating Board shall offer advice and technical assistance to the steering committee under the direction of the commissioner on procedures and requirements. *19 TAC 8.94*

LOCAL FEASIBILITY
STUDY AND
SURVEY

A local feasibility study consisting of a survey of need, potential student clientele, financial ability of the jurisdiction, and other pertinent data must be carried out under the auspices of the steering committee and the college which shall operate the branch campus. This feasibility study may be conducted either by the steering committee or by professionals.

The Coordinating Board staff shall offer advice and technical assistance to the steering committee under the direction of the commissioner. When the feasibility study is conducted by a professional individual or research organization, the steering committee shall fully advise the commissioner prior to initiating the study.

The feasibility study shall be made in consultation with the Coordinating Board staff and, upon completion, be submitted to the commissioner. The commissioner, in consultation with Coordinating Board staff, shall determine if further documentation or clarification

is needed to supplement the information presented in the feasibility study.

The feasibility study shall be reviewed by the Coordinating Board, along with other information it deems appropriate, in determining whether the criteria as set out in 19 Administrative Code 8.89 (relating to Standards and Board Procedure for Approval) have been met.

19 TAC 8.95

PETITION

In counties with a population of more than 150,000, the steering committee shall be responsible for the circulation of a petition for authorization of an election to levy a public community college branch campus maintenance tax. At a minimum, the petition shall include the maintenance tax limits that shall appear on the ballot in the event an election is authorized. For counties with a population of 150,000 or less or an independent school district within a county with a population of 150,000 or less, no petition to propose an election for a branch campus maintenance tax is required to be submitted to the Coordinating Board.

The petition must incorporate all requirements as set forth in Election Code Chapter 277. After the petition has been circulated among the electorate and has been signed by not less than five percent of the qualified electors of the proposed branch maintenance tax jurisdiction, the petition shall be presented to the appropriate authorities who have the duty of verifying the legality of the petition.

Upon submission of a petition for an election to authorize a branch campus maintenance tax to a governing body of an independent school district or county, the governing body may propose an election and submit to the commissioner a feasibility study and survey. Upon approval by the commissioner, the governing body may enter an order for an election.

The governing body of a county with a population of 150,000 or less or an independent school district within a county with a population of 150,000 or less, on completion and approval of the feasibility study and survey by the commissioner, on its own motion and without presentation and approval of a certified petition to the Coordinating Board may order an election to authorize a branch campus maintenance tax. The governing body of an independent school district or county, notwithstanding 19 Administrative Code 8.98(b), shall present a certified petition to the commissioner who shall then present it to the Coordinating Board for approval or disapproval.

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After the petition and any additional documentation or information are presented to the commissioner, a minimum of 45 days must elapse between the date on which the petition and supporting documents are received by the commissioner and the quarterly meeting of the Coordinating Board when the Coordinating Board will consider the petition.

19 TAC 8.96-.98

COORDINATING
BOARD APPROVAL

Education Code 130.253 requires the Coordinating Board to determine that:

1. The branch campus maintenance tax rate does not exceed five cents on each \$100 valuation of all taxable property;
2. A certified petition has been submitted by the appropriate authorities to the Coordinating Board; and
3. The proposed tax is feasible and desirable.

Education Code 130.253(c); 19 TAC 8.99(a)

CRITERIA

The Coordinating Board shall apply the following criteria when considering the appropriateness for the levying of a branch campus maintenance tax:

1. Demographic and economic characteristics of the jurisdiction seeking to establish the maintenance tax, such as:
 - a. Population trends by age group;
 - b. Economic development trends and projection; and
 - c. Employment trends and projection (i.e., supply-demand data).
2. Potential student clientele, including:
 - a. Educational levels by age group; and
 - b. College-bound data (i.e., trends by age group).
3. The financial status of the proposed jurisdiction to be taxed and the state as a whole, including:
 - a. Any projected growth or decline in the tax base; and
 - b. Trends in state appropriations for community/junior colleges and other institutions of higher education.
4. Projected programs and services for the proposed jurisdiction based on economic and population trends.

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5. Proximity and impediments to programs and services to existing institutions of higher education such as:
 - a. Identification of institutions that could be affected by a new branch campus;
 - b. Documentation of existing programs and services:
 - (1) On the campuses of nearby institutions of higher education;
 - (2) Available to citizens within a 50-mile radius of the proposed jurisdiction; and
 - (3) Offered in the proposed jurisdiction by existing institutions of higher education.
 - c. Financial limitations on existing institutions of higher education inhibiting the offering of programs and services in the proposed jurisdiction;
 - d. Availability of facilities, libraries, and equipment for institutions to offer classes in the proposed jurisdiction;
 - e. Distance and traffic patterns to existing institutions of higher education;
 - f. Effect on enrollments of existing institutions of higher education; and
 - g. Effect on financing of existing institutions of higher education.

Education Code 130.253(c); 19 TAC 8.99(b)

PUBLIC HEARINGS

A Coordinating Board committee may conduct one or more public hearings in the proposed jurisdiction to:

1. Assess public sentiment regarding the levying of a branch campus maintenance tax;
2. Determine whether programs in the proposed jurisdiction would create unnecessary duplication or seriously harm programs in existing community/junior college districts or other institutions of higher education in the area; and
3. Assess the potential impact of the proposed jurisdiction on existing community/junior colleges or other institutions of higher education in the area and on the state of Texas.

Education Code 130.253(c); 19 TAC 8.99(c)

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RECOMMENDATION After the self-study has been reviewed and, if applicable, a site visit conducted by a Coordinating Board committee and Coordinating Board staff, a report from the Coordinating Board staff shall be submitted to the commissioner indicating whether the criteria as set out above have been met. The report shall include a recommendation for approval or denial of the request for approval to hold an election to levy a branch campus maintenance tax, but shall not be binding on the commissioner or the Coordinating Board.

Coordinating Board action on the request for approval to hold an election to levy a branch campus maintenance tax shall be taken at the next quarterly Coordinating Board meeting. In making its decision, the Coordinating Board shall consider the needs of the community/junior college, the needs of the community or communities served by the branch campus maintenance tax jurisdiction, and the welfare of the state as a whole. A resolution shall be entered in the minutes of the board and conveyed in writing by the commissioner to the governing board of the community/junior college district.

Education Code 130.253(c); 19 TAC 8.99(d), .100

ELECTION If the Coordinating Board approves the establishment of the branch campus maintenance tax, the governing body of the school district or county shall enter an order for an election to be held in the territory under its jurisdiction not less than 20 days nor more than 60 days after the date on which the order is entered to determine whether the branch campus maintenance tax may be levied. In the case of the joint school district or joint county elections, by mutual agreement of the governing bodies, the elections shall be held on the same date throughout the jurisdictions.

The president of the governing board of the school district or the county judge, as applicable, shall give notice of the election in the manner provided by law for notice by the county judge of general elections.

A majority of the electors in the proposed branch campus maintenance tax jurisdiction voting in the election shall determine the question of the creation of the branch campus maintenance tax jurisdiction submitted in the order.

19 TAC 8.101-.102

RESUBMISSION OF APPLICATIONS Should an election to create a branch campus maintenance tax jurisdiction fail, a period of 12 months must elapse before resubmission of the proposition to the Coordinating Board. The Coordinating Board shall require a strong showing of need and unusual circumstances before approving resubmission before the 12 months have elapsed. *19 TAC 8.103*

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REINVESTMENT
ZONES / TAX
INCREMENT
FINANCING

The governing body of a county by order may designate a contiguous geographic area in the county and the governing body of a municipality by ordinance may designate a contiguous or noncontiguous geographic area that is in the corporate limits of the municipality, in the extraterritorial jurisdiction of the municipality, or in both to be a reinvestment zone to promote development or redevelopment of the area if the governing body determines that development or redevelopment would not occur solely through private investment in the reasonably foreseeable future, in accordance with the Tax Increment Financing Act, Tax Code Chapter 311. The designation of an area that is wholly or partly located in the extraterritorial jurisdiction of a municipality is not affected by a subsequent annexation of real property in the reinvestment zone by the municipality. *Tax Code 311.003(a)*

BOARD OF
DIRECTORS

Each taxing unit other than the municipality or county that designated the zone that levies taxes on real property in the zone may appoint one member of the reinvestment zone's board of directors if the taxing unit has approved the payment of all or part of the tax increment produced by the unit into the tax increment fund for the zone. A unit may waive its right to appoint a director. *Tax Code 311.009(a)*

In a reinvestment zone designated by a municipality which is wholly or partially located in a county with a population of less than 1.8 million in which the principal municipality has a population of 1.1 million or more, except as provided by Tax Code 311.0091(c), each taxing unit that approves the payment of all or part of its tax increment into the tax increment fund is entitled to appoint a number of members of the reinvestment zone's board of directors in proportion to the taxing unit's pro rata share of the total anticipated tax increment to be deposited into the tax increment fund during the term of the zone. *Tax Code 311.0091(a)-(b)*

If the zone was designated upon petition of property owners under Tax Code 311.005(a)(4), each taxing unit, other than the municipality or county that designated the zone, that levies taxes on real property in the zone may appoint one member or members, as provided by Tax Code 311.009(b), of the reinvestment zone's board of directors only if it has approved the payment of all or part of the tax increment produced by the taxing unit into the tax increment fund for the zone. *Tax Code 311.009(b), .0091(c)*

COLLECTION AND
DEPOSIT OF TAX
INCREMENTS

Each taxing unit that taxes real property located in a reinvestment zone shall provide for the collection of its taxes in the zone as for any other property taxed by the unit. Each taxing unit shall pay into the tax increment fund for the zone an amount specified by Tax Code 311.013(b). Notwithstanding any termination of the rein-

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vestment zone under Tax Code 311.017(a) and unless otherwise specified by an agreement between the taxing unit and the municipality or county that created the zone, a taxing unit shall make the payment not later than the 90th day after the later of the delinquency date for the unit's property taxes or the date the municipality or county that created the zone submits to the taxing unit an invoice specifying the tax increment produced by the taxing unit and the amount the taxing unit is required to pay into the tax increment fund for the zone. A taxing unit is not required to pay into a tax increment fund the applicable portion of a tax increment attributable to delinquent taxes until those taxes are collected. *Tax Code 311.013*

A taxing unit is not required to pay into the tax increment fund any of its tax increment produced the property located in a reinvestment zone created designated by a petition of property owners under Tax Code 311.005(a) or in an area added to a reinvestment zone under Tax Code 311.007 unless the taxing unit enters into an agreement to do so with the governing body of the municipality or county that designated the zone. *Tax Code 311.013(f)*

Notwithstanding the designation of a later termination date under Tax Code 311.017(a), a taxing unit that taxes real property located in the reinvestment zone is not required to pay any of its tax increment into the tax increment fund for the zone after the termination date designated in the ordinance or order creating the zone unless the governing body of the taxing unit enters into an agreement to do so with the governing body of the municipality or county that created the zone. *Tax Code 311.017(a-1)*

The governing body of the municipality or county that designated a reinvestment zone by ordinance or resolution or by order or resolution, respectively, may extend the term of all or a portion of the zone after notice and hearing in the manner provided for the designation of the zone. A taxing unit is not required to participate in the zone or portion of the zone for the extended term unless the taxing unit enters into a written agreement to do so. *Tax Code 311.007(c)*

TRANSFER OF
FUNDS BETWEEN
REINVESTMENT
ZONES

Money in the tax increment fund for a reinvestment zone may be transferred to the tax increment fund for an adjacent zone if:

1. The taxing units that participate in the zone from which the money is to be transferred participate in the adjacent zone and vice versa;
2. Each participating taxing unit has agreed to deposit the same portion of its tax increment in the fund for each zone;

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3. Each participating taxing unit has agreed to the transfer; and
4. The holders of any tax increment bonds or notes issued for the zone from which the money is to be transferred have agreed to the transfer.

Tax Code 311.014(f)

GOODS-IN-TRANSIT

A person is entitled to an exemption from taxation of the appraised value of that portion of the person's property that consists of goods-in-transit. *Tax Code 11.253(b)*

In accordance with Tax Code 11.253, the governing body of a taxing unit, in a manner required for official action by the governing body, may provide for the taxation of goods-in-transit exempt as set out above and not exempt under other law. The official action to tax the goods-in-transit must be taken before January 1 of the first tax year in which the governing body proposes to tax goods-in-transit. Before acting to tax the exempt property, the governing body must conduct a public hearing as required by Texas Constitution Article VIII, Section 1-n(d). The goods-in-transit remain subject to taxation by the taxing unit until the governing body of the taxing unit, in the manner required for official action, rescinds or repeals its previous action to tax goods-in-transit, or otherwise determines that the exemption prescribed above will apply to that taxing unit. *Tax Code 11.253(j)*

Notwithstanding the Section 11.253(j) or official action that was taken before October 1, 2011, to tax goods-in-transit under the above exemption, a taxing unit may not tax such goods-in-transit in a tax year that begins on or after January 1, 2012, unless the governing body of the taxing unit takes official action on or after October 1, 2011, in the manner required for official action by the board, to provide for the taxation of the goods-in-transit. *Tax Code 11.253(j-1)*

EXCEPTION

If the governing body of the taxing unit, before October 1, 2011, took action to provide for the taxation of goods-in-transit and pledged the taxes imposed on the goods-in-transit for the payment of a debt of the taxing unit, the tax officials of a taxing unit may continue to impose the taxes against the goods-in-transit until the debt is discharged, if cessation of the imposition would impair the obligation of the contract by which the debt was created. *Tax Code 11.253(j-2)*

APPROPRIATIONS AND REVENUE SOURCES
AD VALOREM TAXES

CAI
(LEGAL)

REINVESTMENT
ZONES—TAX
ABATEMENT

ELIGIBILITY TO
PARTICIPATE

A taxing unit may not enter into a tax abatement agreement under Tax Code Chapter 312 unless the governing body has established guidelines and criteria governing tax abatement agreements by the taxing unit and a resolution stating that the taxing unit elects to be eligible to participate in tax abatement. The governing body of a taxing unit may not enter into a tax abatement agreement unless it finds that the terms of the agreement meets and the property subject to the agreement meet the applicable guidelines and criteria adopted by the governing body.

The guidelines and criteria are effective for two years from the date adopted. During that period, the guidelines and criteria may be amended or repealed only by a vote of three-fourths of the members of the governing body.

The adoption of guidelines and criteria by the governing body of a taxing unit does not:

1. Limit the discretion of the governing body to decide whether to enter into a specific tax abatement agreement.
2. Limit the discretion of the governing body to delegate to its employees the authority to determine whether or not the governing body should consider a particular application or request for tax abatement.
3. Create any property, contract, or other legal right in any person to have the governing body consider or grant a specific application or request for tax abatement.

Tax Code 312.002

NOTICE OF PUBLIC
HEARING ON
DESIGNATION

The governing body of a municipality may not adopt an ordinance designating an area as a reinvestment zone until the governing body has held a public hearing on the designation and has found that the improvements sought are feasible and practical and would be a benefit to the land to be included in the zone and to the municipality after the expiration of an agreement entered into under Tax Code 312.204 and 312.211, as applicable. At the hearing, interested persons are entitled to speak and present evidence for or against the designation. Not later than the seventh day before the date of the hearing, notice of the hearing must be published in a newspaper having general circulation in the municipality and delivered in writing to the presiding officer of the governing body of each taxing unit that includes in its boundaries real property that is to be included in the proposed reinvestment zone. *Tax Code 312.201(d)*

APPROPRIATIONS AND REVENUE SOURCES
AD VALOREM TAXES

CAI
(LEGAL)

NOTICE OF TAX
ABATEMENT
AGREEMENTS

Not later than the seventh day before the date on which a municipality enters into a tax abatement agreement under Tax Code 312.204 or 312.211, the governing body of the municipality or a designated officer or employee of the municipality shall deliver to the presiding officer of the governing body of each other taxing unit in which the property to be subject to the agreement is located a written notice that the municipality intends to enter into the agreement. The notice must include a copy of the proposed agreement. Failure to deliver the notice does not affect the validity of the agreement. *Tax Code 312.2041(a), (c)*

ENTERING TAX
ABATEMENT
AGREEMENTS

If property taxes on property located in the taxing jurisdiction of a municipality are abated under an agreement made under Tax Code 312.204 or 312.211, the governing body of each other taxing unit eligible to enter tax abatement agreements under Tax Code 312.002 in which the property is located may execute a written agreement with the owner of the property. The agreement is not required to contain terms identical to those contained in the agreement with the municipality. The execution, duration, and other terms of an agreement made under this section are governed by the provisions of Tax Code 312.204, 312.205, and 312.211. *Tax Code 312.206(a)*

APPROPRIATIONS AND REVENUE SOURCES
GRANTS, FUNDS, DONATIONS FROM PRIVATE SOURCES

CAM
(LOCAL)

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| UNSOLICITED GIFTS | The Board delegates authority to the College President to accept unsolicited gifts on behalf of the College District. |
| CONDITIONAL GIFT EXCEPTION | Any gift that the potential donor has expressly made conditional upon the College District's use for a specified purpose, or any gift of real property, shall require Board approval. The College President shall make recommendations to the Board regarding the acceptance of the gift. |
| CRITERIA FOR ACCEPTANCE | <p>The College District shall not accept any gift that would violate or conflict with policies of or actions by the Board or with federal or state law. The College District shall not accept gifts that discriminate against any person on the grounds of sex, gender, race, color, religion, national origin, age, or disability.</p> <p>Before the College President accepts a gift or recommends acceptance of a gift to the Board, as applicable, the College President shall consider whether the gift:</p> <ol style="list-style-type: none">1. Has a purpose consistent with the College District's educational philosophy, goals, and objectives;2. Places any restrictions on a campus or College District program;3. Would support a program that the Board may be unable or unwilling to continue when the donation of funds is exhausted;4. Would result in ancillary or ongoing costs for the College District;5. Requires employment of additional personnel;6. Requires or implies the endorsement of a specific business or product [see GE for advertising opportunities];7. Would result in inequitable funding, equipment, or resources among College District schools or programs;8. Obligates the College District or a campus to engage in specific actions; or9. Affects the physical structure of a building or would require extensive maintenance on the part of the College District. |
| UPON ACCEPTANCE | Once accepted, a gift becomes the sole property of the College District. |
| SOLICITATIONS | An employee who solicits gifts on behalf of the College District or to use in the fulfillment of his or her professional responsibilities shall comply with relevant state and federal law and College District policy and regulations, including those addressing the use of names |

APPROPRIATIONS AND REVENUE SOURCES
GRANTS, FUNDS, DONATIONS FROM PRIVATE SOURCES

CAM
(LOCAL)

or images of the College District, campuses, employees, or students.

All donations solicited on behalf of the College District, including solicitations in the name of the College District or a campus, or donations solicited using College District or campus resources, become the sole property of the College District for use consistent with the terms of the solicitation.

CERTIFICATE OF
RECOGNITION

Any bequests, gifts, or donations made by a donor totaling at least \$10,000 within the calendar year shall be acknowledged with a certificate of recognition.

PURCHASING AND ACQUISITION

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(LEGAL)

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| APPLICABLE LAW | <p>The provisions of Education Code Chapter 44, Subchapter B, relating to the purchase of goods and services under contract by a school district apply to the purchase of goods and services under contract by a junior college district.</p> <p>To the extent of any conflict, the provisions of Chapter 44, Subchapter B prevail over any other law relating to the purchase of goods and services by a junior college district.</p> <p><i>Education Code 44.0311(a), 130.010</i></p> |
| EXCEPTION | <p>Education Code Chapter 44, Subchapter B does not apply to a purchase, acquisition, or license of library goods and services for a library operated as a part of a junior college district. "Library goods and services" has the meaning assigned by Education Code 130.0101(a). [See EDAA] <i>Education Code 44.0311(c)</i></p> |
| BOARD AUTHORITY | <p>The board of trustees of the district may adopt rules and procedures for the acquisition of goods and services. <i>Education Code 44.031(d)</i></p> |
| DELEGATION OF AUTHORITY | <p>The board of trustees of the district may, as appropriate, delegate its authority under Education Code Chapter 44, Subchapter B regarding an action authorized or required by Chapter 44, Subchapter B to be taken by a college district to a designated person, representative, or committee.</p> <p>The board may not delegate the authority to act regarding an action authorized or required by Education Code Chapter 44, Subchapter B to be taken by the board.</p> <p><i>Education Code 44.0312(a)–(b)</i></p> |
| DISASTER EXCEPTION | <p>Notwithstanding any other provision of the Education Code, in the event of a catastrophe, emergency, or natural disaster affecting a college district, the board of trustees of the district may delegate to the college chief executive officer or designated person the authority to contract for the replacement, construction, or repair of college district equipment or facilities under Education Code Chapter 44, Subchapter B if emergency replacement, construction, or repair is necessary for the health and safety of district students and staff.</p> <p><i>Education Code 44.0312(c)</i></p> |
| CONTRACT WITH ANOTHER AGENCY | <p>Except as provided by Government Code 771.003, an agency, including a junior college district, may agree or contract with another agency for the provision of necessary and authorized services and resources. <i>Gov't Code 771.003(a)</i></p> |
| PURCHASES VALUED AT OR ABOVE \$50,000 | <p>Except as provided by Education Code Chapter 44, Subchapter B, all college district contracts for the purchase of goods and services,</p> |

PURCHASING AND ACQUISITION

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except contracts for the purchase of produce or vehicle fuel, valued at \$50,000 or more in the aggregate for each 12-month period, shall be made by the method that provides the best value for the district:

1. Competitive bidding for services other than construction services.
2. Competitive sealed proposals for services other than construction services.
3. A request for proposals, for services other than construction services.
4. An interlocal contract.
5. The reverse auction procedure as defined by Government Code 2155.062(d).
6. The formation of a political subdivision corporation under Local Government Code 304.001.

Education Code 44.031(a)

Note: Regarding construction of school facilities, see CM generally; CMA for competitive bidding; CMB for competitive sealed proposals; CMC and CMD for contracts using a construction manager; CME for design/build contracts; and CMF for job-order contracts for minor repairs/alterations.

Regarding notice to the Legislative Budget Board (LBB) about contracts exceeding \$50,000, see GGC.

FACTORS

Except as provided by Education Code Chapter 44, Subchapter B, in determining to whom to award a contract, the district shall consider:

1. The purchase price.
2. The reputation of the vendor and of the vendor's goods and services.
3. The quality of the vendor's goods or services.
4. The extent to which the goods or services meet the district's needs.
5. The vendor's past relationship with the district.
6. The impact on the ability of the district to comply with laws and rules relating to historically underutilized businesses.

PURCHASING AND ACQUISITION

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7. The total long-term cost to the district to acquire the goods or services.
8. For a contract for goods and services, other than goods and services related to telecommunications and information services, building construction and maintenance, or instructional materials, whether the vendor or the vendor's ultimate parent company or majority owner has its principal place of business in this state or employs at least 500 persons in this state.
9. Any other relevant factor specifically listed in the request for bids or proposals.

Education Code 44.031(b)

In awarding a contract by competitive sealed bid under Education Code 44.031, a college district that has its central administrative office located in a municipality with a population of less than 250,000 may consider a bidder's principal place of business in the manner provided by Local Government Code 271.9051. This provision does not apply to the purchase of telecommunications services or information services, as those terms are defined by 47 U.S.C. 153. *Education Code 44.031(b-1)*

The factors listed above are the only criteria that may be considered by the college district in its decision to award a contract. The college district may apply one, some, or all of the criteria, but it may not completely ignore them. *R.G.V. Vending v. Weslaco Indep. Sch. Dist.*, 995 S.W.2d 897 (Tex. App.—Corpus Christi 1999, no pet.).

OUT-OF-STATE
BIDDER

A governmental entity, including a college district, may not award a governmental contract to a nonresident bidder unless the nonresident underbids the lowest bid submitted by a responsible resident bidder by an amount that is not less than the greater of the amount by which a resident bidder would be required to underbid a nonresident bidder to obtain a comparable contract in the state in which the nonresident's principal place of business is located, or the amount by which a resident bidder would be required to underbid the nonresident bidder to obtain a comparable contract in the state in which a majority of the manufacturing relating to the contract will be performed.

This requirement does not apply to a contract involving federal funds. A governmental entity shall use the information published by the comptroller in the Texas Register in evaluating the bids of a nonresident bidder.

Gov't Code 2252.001-.004

PURCHASING AND ACQUISITION

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CONTRACT WITH
PERSON INDEBTED
TO COLLEGE
DISTRICT

The board of trustees of a college district by resolution may establish regulations permitting the college district to refuse to enter into a contract or other transaction with a person indebted to the college district. It is not a violation of Education Code Chapter 44, Subchapter B for a college district, under the adopted regulations, to refuse to award a contract to or enter into a transaction with an apparent low bidder or successful proposer that is indebted to the college district.

The term "person" includes an individual, sole proprietorship, corporation, nonprofit corporation, partnership, joint venture, limited liability company, and any other entity that seeks to enter into a contract or other transaction with the college district requiring approval by the board.

Education Code 44.044

REQUIRED
DISCLOSURES

DISCLOSURE OF
INTERESTED
PARTIES

A governmental entity or state agency, including a college district, may not enter into a contract with a business entity that requires an action or vote by the governing body of the entity or agency before the contract may be signed or has a value of at least \$1 million, with certain exceptions, unless the business entity, in accordance with Government Code 2252.908 and rules adopted by the Texas Ethics Commission, submits a disclosure of interested parties to the governmental entity or state agency at the time the business entity submits the signed contract to the governmental entity or state agency. [See GC] *Government Code 2252.908*

DISCLOSURES BY
PURCHASING
PERSONNEL

Before a state agency, including a college district, may award a major contract, a contract that has a value of at least \$1 million, for the purchase of goods or services to a business entity, each of the state agency's purchasing personnel working on the contract must disclose in writing to the administrative head of the state agency any relationship the purchasing personnel is aware about that the employee has with an employee, a partner, a major stockholder, a paid consultant with a contract with the business entity the value of which exceeds \$25,000, or other owner of the business entity who is within a degree described by Government Code 573.002, the third degree by consanguinity or within the second degree by affinity of the purchasing employee. The state auditor shall develop a form for use in reporting a specified relationship.

"Purchasing personnel" means an employee of a state agency who makes decisions on behalf of the state agency or recommendations regarding contract terms or conditions on a major contract, who is to be awarded a major contract, preparation of a solicitation for a major contract, or evaluation of a bid or proposal.

Gov't Code 2262.001(4), .004

PURCHASING AND ACQUISITION

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NOTICE
PUBLICATION

Notice of the time by when and place where the bids or proposals, or the responses to a request for qualifications, will be received and opened shall be published in the county in which the district's central administrative office is located, once a week for at least two weeks before the deadline for receiving bids, proposals, or responses to a request for qualifications. If there is not a newspaper in that county, the advertising shall be published in a newspaper in the county nearest the county seat of the county in which the district's central administrative office is located. In a two-step procurement process, the time and place where the second-step bids, proposals, or responses will be received are not required to be published separately. *Education Code 44.031(g)*

ELECTRONIC BIDS OR
PROPOSALS

A college district may receive bids or proposals under Education Code Chapter 44 through electronic transmission if the board of trustees of the college district adopts rules to ensure the identification, security, and confidentiality of electronic bids or proposals and to ensure that the electronic bids or proposals remain effectively unopened until the proper time.

An electronic bid or proposal is not required to be sealed. A provision of Education Code Chapter 44 that applies to a sealed bid or proposal applies to a bid or proposal received through electronic transmission in accordance with the rules adopted by the board.

Education Code 44.0313

PROFESSIONAL
SERVICES

The purchasing requirements of Education Code 44.031 do not apply to a contract for professional services rendered, including services of an architect, attorney, certified public accountant, engineer, or fiscal agent.

The college district may, at its option, contract for professional services rendered by a financial consultant or a technology consultant in the manner provided by Government Code 2254.003, in lieu of the methods provided by Education Code 44.031.

Education Code 44.031(f)

A governmental entity, including a college district, may not select a provider of professional services or a group or association of providers or award a contract for the services on the basis of competitive bids submitted for the contract or for the services, but shall make the selection and award on the basis of demonstrated competence and qualifications to perform the services and for a fair and reasonable price.

"Professional services" means services:

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1. Within the scope of the practice, as defined by state law, of accounting, architecture, landscape architecture, land surveying, medicine, optometry, professional engineering, real estate appraising, or professional nursing; or
2. Provided in connection with the professional employment or practice of a person who is licensed or registered as a certified public accountant, an architect, a landscape architect, a land surveyor, a physician, including a surgeon, an optometrist, a professional engineer, a state certified or state licensed real estate appraiser, or a registered nurse.

Gov't Code 2254.002, .003(a) [See also CM]

An interlocal contract between a governmental entity and a purchasing cooperative may not be used to purchase engineering or architectural services. *Gov't Code 791.011(h)*

PROFESSIONAL
SERVICE
CONTRACT
EXCEEDING \$14,000

A state agency, including a college district and other institutions of higher education, shall provide written notice to the LBB of a contract for professional services, other than a contract for physician or optometric services, if the amount of the contract, including an amendment, modification, renewal, or extension of the contract, exceeds \$14,000. The notice must be on a form prescribed by the LBB and filed not later than the tenth day after the date the agency enters into the contract. *Gov't Code 2254.006*

EMERGENCY DAMAGE
OR DESTRUCTION

If school equipment, a school facility, or a portion of a school facility or personal property is destroyed or severely damaged or, as a result of an unforeseen catastrophe or emergency, undergoes major operational or structural failure, and the board of trustees determines that the delay posed by the methods provided for in Education Code 44.031 would prevent or substantially impair the conduct of classes or other essential school activities, then contracts for the replacement or repair of the equipment, school facility, or the part of the school facility may be made by methods other than those required by Education Code 44.031. *Education Code 44.031(h)*

COMPUTERS AND
COMPUTER-RELATED
EQUIPMENT

A college district may acquire computers and computer-related equipment, including computer software, through the Department of Information Resources (DIR) under contracts entered into in accordance with Government Code Chapter 2054 or 2157. *Education Code 44.031(i)*

PURCHASING
THROUGH DIR

PURCHASE USING
COMPETITIVE
BIDDING

Each institution of higher education, including each college district, that solicits bids or proposals from the public for the purchase and/or lease of computer equipment must do so in accordance with applicable rules adopted by the comptroller pertaining to competitive bidding or competitive sealed proposals. *1 TAC 217.30(c)*

PURCHASING AND ACQUISITION

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(LEGAL)

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| REQUIRED CERTIFICATION | A public solicitation for the purchase or lease of computer equipment issued by an institution of higher education is required to contain the certification to be completed by bidders, in accordance with 1 Administrative Code 217.30. Failure of a bidder to provide this certification shall render the bidder ineligible to participate in the bidding. The institution of higher education shall reject the related bid and not evaluate it. <i>1 TAC 217.30(a)–(b)</i> |
| SPECIAL PREFERENCE | All institutions of higher education shall include in all bids for the purchase or lease of computer equipment a special preference for all manufacturers that have a program to recycle the computer equipment of other manufacturers, which program includes collection events and manufacturer initiatives to accept computer equipment labeled with another manufacturer's brand. The preference may take the form of extra evaluation points or be the tie-breaking factor among equal bids. <i>1 TAC 217.31</i> |
| COMPUTER EQUIPMENT | “Computer equipment” is defined as a desktop or notebook computer and includes a computer monitor or other display device that does not contain a tuner. <i>1 TAC 217.1(1)</i> |
| AUTOMATED INFORMATION SYSTEM | A local government, including a college district, shall purchase an automated information system using the purchasing method described by Government Code 2157.068 for commodity items or a purchasing method designated by the comptroller to obtain the best value for the state, including a request for offers method. A local government that purchases an item using a method listed above satisfies any state law requiring the local government to seek competitive bids for the purchase of the item. <i>Gov't Code 2157.006; 34 TAC 20.391</i> |
| SOLE SOURCE | Without complying with Education Code 44.031(a), a college district may purchase an item that is available from only one source, including: <ol style="list-style-type: none">1. An item for which competition is precluded because of a patent, copyright, secret process, or monopoly.2. A film, manuscript, or book.3. A utility service, including electricity, gas, or water.4. A captive replacement part or component for equipment. The sole source exception does not apply to mainframe data-processing equipment and peripheral attachments with a single-item purchase price in excess of \$15,000. <i>Education Code 44.031(j)–(k)</i> |

PURCHASING AND ACQUISITION

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| INSURANCE | <p>A contract for the purchase of insurance is a contract for the purchase of personal property and shall be made in accordance with Education Code 44.031. <i>Education Code 44.031; Atty. Gen. Op. DM-347 (1995)</i></p> |
| MULTIYEAR CONTRACTS | <p>The college district may execute an insurance contract for a period longer than 12 months, if the contract contains either or both of the provisions described at COMMITMENT OF CURRENT REVENUE, below. If the college district executes a multiyear insurance contract, it need not advertise for insurance vendors until the 12-month period during which the college district will be executing a new insurance contract. <i>Atty. Gen. Op. DM-418 (1996)</i></p> |
| COMPETITIVE BIDDING | <p>Except to the extent prohibited by other law and to the extent consistent with Education Code Chapter 44, Subchapter B, a college district may use competitive bidding to select a vendor as authorized by Education Code 44.031(a)(1).</p> <p>A college district shall award a competitively bid contract at the bid amount to the bidder offering the best value for the district. In determining the best value for the district, the district is not restricted to considering price alone but may consider any other factors stated in the selection criteria. The selection criteria may include the factors listed in Education Code 44.031(b) [see FACTORS, above].</p> <p>Except as provided below, Local Government Code Chapter 271, Subchapter B does not apply to a competitive bidding process under this policy.</p> <p><i>Education Code 44.0351</i></p> |
| OPENING BIDS | <p>Bids may be opened only by the governing body of the governmental entity at a public meeting or by an officer or employee of the governmental entity at or in an office of the governmental entity. A bid that has been opened may not be changed for the purpose of correcting an error in the bid price.</p> <p>The governmental entity is entitled to reject any and all bids.</p> <p><i>Local Gov't Code 271.026-.027(a)</i></p> |
| SAFETY RECORD | <p>In determining who is a responsible bidder, the governmental entity may take into account the safety record of the bidder; of the firm, corporation, partnership, or institution represented by the bidder; or of anyone acting for such firm, corporation, partnership, or institution if:</p> <ol style="list-style-type: none">1. The governing body of the governmental entity has adopted a written definition and criteria for accurately determining the safety record of a bidder. |

2. The governing body has given notice to prospective bidders in the bid specifications that the safety record of a bidder may be considered in determining the responsibility of the bidder.
3. The determinations are not arbitrary and capricious.

Local Gov't Code 271.0275

IDENTICAL BIDS

If a district is required to accept bids on a contract and receives two or more bids from responsible bidders that are identical, in nature and amount, as the lowest and best bids, the governing body of the district shall enter into a contract with only one of those bidders and must reject all other bids.

If only one of the bidders submitting identical bids is a resident of the district, the district must select that bidder. If two or more of the bidders submitting identical bids are residents of the district, the district must select one of those bidders by the casting of lots. In all other cases, the district must select from the identical bids by the casting of lots.

The casting of lots must be in a manner prescribed by the governing body of the district and must be conducted in the presence of the governing body of the district. All qualified bidders or their legal representatives may be present at the casting of lots.

This section does not prohibit a district from rejecting all bids.

Local Gov't Code 271.901

COMPETITIVE SEALED PROPOSALS

In selecting a vendor through competitive sealed proposals as authorized by Education Code 44.031(a)(2), a college district shall follow the procedures prescribed below. *Education Code 44.0352(a)*

REQUEST FOR PROPOSALS

The district shall prepare a request for competitive sealed proposals that includes information that vendors may require to respond to the request. The district shall state in the request for proposals the selection criteria that will be used in selecting the successful offeror. *Education Code 44.0352(b)*

OPENING PROPOSALS

The district shall receive, publicly open, and read aloud the names of the offerors and, if any are required to be stated, all prices stated in each proposal. Not later than the 45th day after the date on which the proposals are opened, the district shall evaluate and rank each proposal submitted in relation to the published selection criteria. *Education Code 44.0352(c)*

SELECTION

The district shall select the offeror that offers the best value for the district based on the published selection criteria and on its ranking evaluation. The district shall first attempt to negotiate a contract

with the selected offeror. The district may discuss with the selected offeror options for a scope or time modification and any price change associated with the modification. If the district is unable to negotiate a satisfactory contract with the selected offeror, the district shall, formally and in writing, end negotiations with that offeror and proceed to the next offeror in the order of the selection ranking until a contract is reached or all proposals are rejected. *Education Code 44.0352(d)*

BEST VALUE
DETERMINATION

In determining the best value for the district, the district is not restricted to considering price alone but may consider any other factors stated in the selection criteria. *Education Code 44.0352(e)*

INTERLOCAL
AGREEMENTS

A local government, including a college district, may contract or agree with another local government or with the state or a state agency, including the comptroller, or a federally recognized Indian Tribe, as listed by the United States secretary of the interior under 25 U.S.C. 479a-1, whose reservation is located within the boundaries of this state to perform governmental functions and services, such as to purchase goods and services, in accordance with Government Code Chapter 791. *Gov't Code 791.001, .011, .025*

An interlocal contract must be authorized by the governing body of each party to the contract; must state the purpose, terms, rights, and duties of the contracting parties; and must specify that each party paying for the performance of governmental functions or services shall make those payments from current revenues available to the paying party.

An interlocal contractual payment must be in an amount that fairly compensates the performing party for the services or functions performed under the contract. An interlocal contract may have a specified term of years. An interlocal contract may be renewed.

Gov't Code 791.011(d)–(f), (i)

A local government, including a council of governments, may agree with another local government, including a nonprofit corporation that is created and operated to provide one or more governmental functions and services, or with the state or a state agency, including the comptroller, to purchase goods and services reasonably required for the installation, operation, or maintenance of the goods. This provision does not apply to services provided by firefighters, police officers, or emergency medical personnel.

A local government that purchases goods and services under Government Code 791.025 satisfies the requirement to seek competitive bids for the purchase of goods and services.

Gov't Code 791.025(b)–(c); Atty. Gen. Op. JC-37(1999)

PURCHASING AND ACQUISITION

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A local government may not enter into a contract to purchase construction-related goods or services through a purchasing cooperative in an amount greater than \$50,000 unless a person designated by the local government certifies in writing that:

1. The project for which the construction-related goods or services are being procured does not require the preparation of plans and specifications under Occupations Code Chapter 1001 or 1051; or
2. The plans and specifications required under Chapters 1001 and 1051 have been prepared.

“Purchasing cooperative” means a group purchasing organization that governmental entities join as members and the managing entity of which receives fees from members or vendors.

Gov't Code 791.011(j)

STATE PURCHASING
PROGRAM

The comptroller shall establish a program by which the comptroller performs purchasing services for local governments. The services must include:

1. The extension of state contract prices to participating local governments when the comptroller considers it feasible;
2. Solicitation of bids on items desired by local governments if the solicitation is considered feasible by the comptroller and is desired by the local government; and
3. Provision of information and technical assistance to local governments about the purchasing program.

The comptroller may charge a participating local government an amount not to exceed the actual costs incurred by the comptroller in providing purchasing services to the local government under the program.

Local Gov't Code 271.082

COLLEGE DISTRICT
REQUIREMENTS

A local government may participate in the purchasing program, including participation in purchases that use the reverse auction procedure, by filing with the comptroller a resolution adopted by the governing body of the local government requesting that the local government be allowed to participate on a voluntary basis, to the extent the comptroller deems feasible, and stating that the local government shall:

1. Designate an official to act for the local government in all matters relating to the program, including the purchase of items

PURCHASING AND ACQUISITION

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from the vendor under any contract, and that the governing body will direct the decisions of the representative;

2. Be responsible for:
 - a. Submitting requisitions to the comptroller under any contract; or
 - b. Electronically sending purchase orders directly to vendors, or complying with procedures governing a reverse auction purchase and electronically sending to the comptroller reports on actual purchases made under this paragraph that provide the information and are sent at the times required by the comptroller;
3. Be responsible for making payment directly to the vendor; and
4. Be responsible for the vendor's compliance with all conditions of delivery and quality of the purchased item.

A local government that purchases an item under a state contract or under a reverse auction procedure sponsored by the comptroller satisfies any state law requiring the local government to seek competitive bids for the purchase of the item.

Local Gov't Code 271.083

MULTIPLE AWARD
CONTRACT
SCHEDULE

The comptroller shall develop a schedule of multiple award contracts that have been previously awarded using a competitive process by the federal government, including the federal General Services Administration, or any other governmental entity in any state.

A local government may purchase goods or services directly from a vendor under a contract listed on a schedule. An authorized purchase satisfies any requirement of state law relating to competitive bids or proposals and satisfies any applicable requirements of Government Code Chapter 2157.

The price listed for a good or service under a multiple award contract is a maximum price. A local government may negotiate a lower price for goods or services under a contract listed on a schedule.

Gov't Code 2155.502, .504

COOPERATIVE
PURCHASING
PROGRAM

A local government may participate in a cooperative purchasing program with another local government of this state or another state or with a local cooperative organization of this state or another state. A local government that is participating in a cooperative purchasing program may sign an agreement with another participating local government or a local cooperative stating that the signing local government will:

1. Designate a person to act under the direction of, and on behalf of, that local government in all matters relating to the program;
2. Make payments to another participating local government or local cooperative organization or directly to a vendor under a contract made under Local Government Code Chapter 271, Subchapter F, as provided in the agreement between the participating local governments or between a local government and a local cooperative organization; and
3. Be responsible for the vendor's compliance with provisions relating to the quality of items and terms of delivery, to the extent provided in the agreement between the participating local governments or between a local government and a local cooperative organization.

A local government that purchases goods or services under Local Government Code Chapter 271, Subchapter F satisfies any state law requiring the local government to seek competitive bids for the purchase of the goods or services.

Local Gov't Code 271.102; Atty. Gen. Op. JC-37 (1999)

CONTRACT-RELATED
FEE REPORT

A college district that enters into a purchasing contract valued at \$25,000 or more under Education Code 44.031(a)(5) (interlocal contract), under Local Government Code Chapter 271, Subchapter F (cooperative purchasing program), or under any other cooperative purchasing program authorized for college districts by law shall document any contract-related fee, including any management fee, and the purpose of each fee under the contract.

The amount, purpose, and disposition of any fee described above must be presented in a written report and submitted annually in an open meeting of the board of trustees of the college district. The written report must appear as an agenda item.

Education Code 44.0331

STATE COUNCIL ON
COMPETITIVE
GOVERNMENT

To the extent the State Council on Competitive Government determines is feasible, a local government may voluntarily participate in a contract awarded by the council or a state agency under Government Code Chapter 2162. A local government that purchases a good or a service under such a contract is considered to have satisfied any state law requiring the local government to follow a competitive purchasing procedure for the purchase. *Gov't Code 2162.102(d)*

REVERSE AUCTION

A local government that uses the reverse auction procedure must include in the procedure a notice provision and other provisions

necessary to produce a method of purchasing that is advantageous to the local government and fair to vendors. *Local Gov't Code 271.906(b)*

“Reverse auction procedure” means:

1. A real-time bidding process usually lasting less than one hour and taking place at a previously scheduled time and Internet location, in which multiple suppliers, anonymous to each other, submit bids to provide the designated goods or services; or
2. A bidding process usually lasting less than two weeks and taking place during a previously scheduled period and at a previously scheduled Internet location, in which multiple suppliers, anonymous to each other, submit bids to provide the designated goods or services.

Gov't Code 2155.062(d)

COMMITMENT OF
CURRENT REVENUE

If a contract for the acquisition, including lease, of real or personal property retains to the governing body of a local government the continuing right to terminate the contract at the expiration of each budget period of the local government during the term of the contract, is conditioned on a best efforts attempt by the governing body to obtain and appropriate funds for payment of the contract, or contains both the continuing right to terminate and the best efforts conditions, the contract is a commitment of the local government's current revenues only. *Local Gov't Code 271.903*

CHANGE ORDERS

If a change in plans or specifications is necessary after the performance of a contract is begun or if it is necessary to decrease or increase the quantity of work to be performed or of materials, equipment, or supplies to be furnished, the district may approve change orders making the changes. The district may grant general authority to an administrative official to approve the change orders.

The total contract price may not be increased because of the changes unless additional money for increased costs is approved for that purpose from available money or is provided for by the authorization of the issuance of time warrants.

A contract with an original contract price of \$1 million or more may not be increased by more than 25 percent. If a change order for a contract with an original contract price of less than \$1 million increases the contract amount to \$1 million or more, the total of the subsequent change orders may not increase the revised contract amount by more than 25 percent of the original contract price.

Education Code 44.0411

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ENERGY OR WATER
CONSERVATION
MEASURES

The governing board of an institution of higher education may enter into an energy savings performance contract in accordance with Education Code 51.927. An energy savings performance contract shall be let according to the procedures established for procuring certain professional services by Government Code 2254.004. *Education Code 51.927(b), (i)*

[See policy CH for legal requirements pertaining to such contracts]

RECYCLED
PRODUCTS

A junior or community college district shall give preference in purchasing to products made of recycled materials if the products meet applicable specifications as to quantity and quality. The college district regularly shall review and revise its procurement procedures and specifications for purchase of goods, supplies, equipment, and materials in order to:

1. Eliminate procedures and specifications that explicitly discriminate against products made of recycled materials.
2. Encourage the use of products made of recycled materials.
3. Ensure to the maximum extent economically feasible that the college district purchase products that may be recycled when they have served their intended use.

In developing new procedures and specifications, the college district shall encourage the use of recycled products and products that may be recycled or reused.

Health and Safety Code 361.426

AGRICULTURAL
PRODUCTS

A college district that purchases agricultural products shall give preference to those produced, processed, or grown in this state if the cost to the college district is equal and the quality is equal. "Processed" means canning, freezing, drying, juicing, preserving, or any other act that changes the form of a good from its natural state to another form. If agricultural products produced, processed, or grown in this state are not equal in cost and quality to other products, the college district shall give preference to agricultural products produced, processed, or grown in other states of the United States over foreign products if the cost to the college district is equal and the quality is equal.

A college district may not adopt product purchasing specifications that unnecessarily exclude agricultural products produced, processed, or grown in this state.

Education Code 44.042(a)–(b), (f), (g)(1)

VEGETATION FOR
LANDSCAPING

A college district that purchases vegetation for landscaping purposes, including plants, shall give preference to Texas vegetation if

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the cost to the college district is equal and the quality is not inferior.
Education Code 44.042(c)

DAIRY PRODUCTS

A political subdivision, including a college district, may not purchase milk, cream, butter, cheese, or a product consisting largely of one or more of those items, that has been imported from outside the United States. The restriction does not apply to the purchase of milk powder if domestic milk powder is not readily available in the normal course of business. *Health and Safety Code 435.021*

IMPORTED BEEF

A political subdivision, including a college district, may not purchase beef or a product consisting substantially of beef that has been imported from outside the United States. *Agriculture Code 150.012(a)*

CRIMINAL HISTORY

A person or business entity, with the exception of a publically held corporation, that enters into a contract with a college district must give advance notice to the district if the person or an owner or operator of the business entity has been convicted of a felony. A college district may terminate a contract with a person or business entity if the district determines that the person or business entity failed to give notice or misrepresented the conduct resulting in the conviction. The district must compensate the person or business entity for services performed before the termination of the contract. *Education Code 44.034*

RIGHT TO WORK

While engaged in procuring goods or services, awarding a contract, or overseeing procurement or construction for a public work or public improvement, a college district:

1. May not consider whether a vendor is a member of or has another relationship with any organization; and
2. Shall ensure that its bid specifications and any subsequent contract or other agreement do not deny or diminish the right of a person to work because of the person's membership or other relationship status with respect to any organization.

Education Code 44.043

IMPERMISSIBLE PRACTICES

An officer, employee, or agent of a college district commits an offense if the person with criminal negligence makes or authorizes separate, sequential, or component purchases to avoid the requirements of Education Code 44.031(a) or (b) or otherwise violates Section 44.031(a) or (b). An officer or employee of a college district commits an offense if the officer or employee knowingly violates Education Code 44.031 in any other manner.

“Component purchases” means purchases of the component parts of an item that in normal purchasing practices would be made in

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one purchase. "Separate purchases" means purchases, made separately, of items that in normal purchasing practices would be purchased in one purchase. "Sequential purchases" means purchases, made over a period, of items that in normal purchasing practices would be purchased in one purchase.

Education Code 44.032(a)–(d) [See BBC]

INJUNCTION

A court may enjoin performance of a contract made in violation of Education Code Chapter 44, Subchapter B. A county attorney, a district attorney, a criminal district attorney, a citizen of the county in which the college district is located, or any interested party may bring an action for an injunction. A party who prevails in an action brought under this provision is entitled to reasonable attorney's fees as approved by the court. *Education Code 44.032(f)*

This introductory page outlines the contents of this legally referenced policy on security. See the following sections for statutory provisions on:

| | | |
|------------|--|------------|
| SECTION I | College District Peace Officers | pages 2–9 |
| | <ol style="list-style-type: none">1. Campus Peace Officers2. Motor Vehicle Stops3. Civil Penalty4. Racial Profiling5. Body-Worn Cameras6. Officer-Involved Injury or Death7. Complaint Against Peace Officer8. Notice of Exposure to Communicable Disease | |
| SECTION II | School Marshals | pages 9–11 |
| | <ol style="list-style-type: none">1. Regulations2. Authorization3. Eligibility4. Authority5. Possession and Use of Handgun6. Status Inactivated7. Reports to TCOLE8. Requests for Information Regarding Marshals9. No State Benefits10. Records Retention | |

SECTION I: COLLEGE DISTRICT PEACE OFFICERS

The governing board of each state institution of higher education, including each community college, may employ and commission peace officers to maintain law and order. The primary jurisdiction of a peace officer so commissioned includes all counties in which property is owned, leased, rented, or otherwise under the control of the college district that employs the peace officer.

Within a peace officer's primary jurisdiction, a peace officer:

1. Is vested with all the powers, privileges, and immunities of peace officers.
2. May, in accordance with Code of Criminal Procedure Chapter 14 arrest without a warrant any person who violates a law of the state.
3. May enforce all traffic laws on streets and highways.

Outside a peace officer's primary jurisdiction a peace officer commissioned under this section is vested with all the powers, privileges, and immunities of peace officers and may arrest any person who violates any law of the state if the peace officer:

1. Is summoned by another law enforcement agency to provide assistance;
2. Is assisting another law enforcement agency; or
3. Is otherwise performing duties as a peace officer for the institution of higher education that employs the peace officer.

Any officer assigned to duty and commissioned shall take and file the oath required of peace officers.

Any person commissioned under this section must be a certified police officer under the requirements of the Texas Commission on Law Enforcement (TCOLE).

Education Code 51.203; Code of Criminal Procedure Art. 2.12

MOTOR VEHICLE STOPS

REPORTS REQUIRED

A peace officer who stops a motor vehicle for an alleged violation of a law or ordinance shall report to the law enforcement agency that employs the officer information relating to the stop, including:

1. A physical description of any person operating the motor vehicle who is detained as a result of the stop, including:
 - a. The person's gender;
 - b. The person's race or ethnicity, as stated by the person or, if the person does not state the person's race or eth-

- nicity, as determined by the officer to the best of the officer's ability;
2. The initial reason for the stop;
 3. Whether the officer conducted a search as a result of the stop and, if so, whether the person detained consented to the search;
 4. Whether any contraband or other evidence was discovered in the course of the search and a description of the contraband or evidence;
 5. The reason for the search, including whether:
 - a. Any contraband or other evidence was in plain view;
 - b. Any probable cause or reasonable suspicion existed to perform the search; or
 - c. The search was performed as a result of the towing of the motor vehicle or the arrest of any person in the motor vehicle;
 6. Whether the officer made an arrest as a result of the stop or the search, including a statement of whether the arrest was based on a violation of the Penal Code, a violation of a traffic law or ordinance, or an outstanding warrant and a statement of the offense charged;
 7. The street address or approximate location of the stop; and
 8. Whether the officer issued a written warning or a citation as a result of the stop.

Code of Criminal Procedure 2.133

A law enforcement agency, including a college district police department, shall compile and analyze the information contained in each report received by the agency under Code of Criminal Procedure 2.133. Not later than March 1 of each year, each law enforcement agency shall submit a report containing the incident-based data compiled during the previous calendar year, in accordance with Code of Criminal Procedure 2.134, to the TCOLE and to the governing body of each county or municipality served by the agency. *Code of Criminal Procedure 2.134(b)*

CIVIL PENALTY

If the chief administrator of a local law enforcement agency intentionally fails to submit the incident-based data as required by Code of Criminal Procedure 2.134, the agency is liable to the state for a civil penalty in the amount of \$1,000 for each violation. *Code of Criminal Procedure 2.1385(a)*

EXEMPTION

A peace officer is exempt from the reporting requirement under Code of Criminal Procedure 2.133 and the chief administrator of a law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, is exempt from the compilation, analysis, and reporting requirements under Code of Criminal Procedure 2.134 if:

1. During the calendar year preceding the date that a report under Code of Criminal Procedure 2.134 is required to be submitted:
 - a. Each law enforcement motor vehicle regularly used by an officer employed by the agency to make motor vehicle stops is equipped with video camera and transmitter-activated equipment and each law enforcement motorcycle regularly used to make motor vehicle stops is equipped with transmitter-activated equipment; and
 - b. Each motor vehicle stop made by an officer employed by the agency that is capable of being recorded by video and audio or audio equipment, as appropriate, is recorded by using the equipment; or
2. The governing body of the county or municipality served by the law enforcement agency, in conjunction with the law enforcement agency, certifies to the Texas Department of Public Safety (TDPS), not later than the date specified by rule by TDPS, that the law enforcement agency needs funds or video and audio equipment for the purpose of installing video and audio equipment and the agency does not receive from the state funds or video and audio equipment sufficient, as determined by TDPS, for the agency to accomplish that purpose.

A law enforcement agency that is exempt from the requirements under Code of Criminal Procedure 2.134 shall retain the video and audio or audio documentation of each motor vehicle stop for at least 90 days after the date of the stop. If a complaint is filed with the law enforcement agency alleging that a peace officer employed by the agency has engaged in racial profiling with respect to a motor vehicle stop, the agency shall retain the video and audio or audio record of the stop until final disposition of the complaint.

Code of Criminal Procedure 2.135

RACIAL PROFILING
PROHIBITION

A peace officer may not engage in racial profiling. *Code of Criminal Procedure 2.131*

DEPARTMENTAL
POLICY REQUIRED

Each law enforcement agency in this state, including each college district police department, that employs peace officers who make traffic stops in the routine performance of the officers' official duties shall adopt a detailed written policy on racial profiling. The policy must:

1. Clearly define acts constituting racial profiling;
2. Strictly prohibit peace officers employed by the agency from engaging in racial profiling;
3. Implement a process by which an individual may file a complaint with the agency if the individual believes that a peace officer employed by the agency has engaged in racial profiling with respect to the individual;
4. Provide public education relating to the agency's complaint process;
5. Require appropriate corrective action to be taken against a peace officer employed by the agency who, after an investigation, is shown to have engaged in racial profiling in violation of the agency's policy adopted under this section;
6. Require collection of information relating to motor vehicle stops in which a citation is issued and to arrests made as a result of those stops, including information relating to:
 - a. The race or ethnicity of the individual detained;
 - b. Whether a search was conducted and, if so, whether the individual detained consented to the search; and
 - c. Whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual; and
7. Require the chief administrator of the agency, regardless of whether the administrator is elected, employed, or appointed, to submit an annual report of the information collected under item 6 to:
 - a. TCOLE; and
 - b. The governing body of each county or municipality served by the agency.

On adoption of a racial profiling policy, a law enforcement agency shall examine the feasibility of installing video camera and transmitter-activated equipment in each agency law enforcement motor vehicle regularly used to make motor vehicle stops and transmitter-activated equipment in each agency law enforcement motorcycle

regularly used to make motor vehicle stops. If a law enforcement agency installs video or audio equipment, the policy adopted by the agency must include standards for reviewing video and audio documentation.

A report required under item 7, above, may not include identifying information about a peace officer who makes a motor vehicle stop or about an individual who is stopped or arrested by a peace officer.

Code of Criminal Procedure 2.132(a)–(b), (d)–(e)

BODY-WORN
CAMERAS
POLICY

A law enforcement agency that receives a grant to provide body worn cameras to its peace officers or that otherwise operates a body-worn camera program shall adopt a policy for the use of body-worn cameras.

A policy described above must ensure that a body worn camera is activated only for a law enforcement purpose and must include:

1. Guidelines for when a peace officer should activate a camera or discontinue a recording currently in progress, considering the need for privacy in certain situations and at certain locations;
2. Provisions relating to data retention, including a provision requiring the retention of video for a minimum period of 90 days;
3. Provisions relating to storage of video and audio, creation of backup copies of the video and audio, and maintenance of data security;
4. Guidelines for public access, through open records requests, to recordings that are public information;
5. Provisions entitling an officer to access any recording of an incident involving the officer before the officer is required to make a statement about the incident;
6. Procedures for supervisory or internal review; and
7. The handling and documenting of equipment and malfunctions of equipment.

The policy may not require a peace officer to keep a body-worn camera activated for the entire period of the officer's shift.

The policy must be consistent with the Federal Rules of Evidence and Texas Rules of Evidence.

Occupations Code 1701.655

TRAINING

Before a law enforcement agency may operate a body-worn camera program, the agency must provide training to:

1. Peace officers who will wear the body-worn cameras; and
2. Any other personnel who will come into contact with video and audio data obtained from the use of body-worn cameras.

Occupations Code 1701.656(a)

USE OF BODY-
WORN CAMERAS

A peace officer equipped with a body-worn camera shall act in a manner that is consistent with the policy of the law enforcement agency that employs the officer with respect to when and under what circumstances a body-worn camera must be activated.

A peace officer equipped with a body worn camera may choose not to activate a camera or may choose to discontinue a recording currently in progress for any nonconfrontational encounter with a person, including an interview of a witness or victim.

A peace officer who does not activate a body-worn camera in response to a call for assistance must include in the officer's incident report or otherwise note in the case file or record the reason for not activating the camera.

Any justification for failing to activate the body-worn camera because it is unsafe, unrealistic, or impracticable is based on whether a reasonable officer under the same or similar circumstances would have made the same decision.

Occupations Code 1701.657

PERSONAL
CAMERAS

A peace officer who is employed by a law enforcement agency that has not received a grant or who has not otherwise been provided with a body worn camera by the agency that employs the officer may operate a body-worn camera that is privately owned only if permitted by the employing agency.

An agency that authorizes the use of privately owned body-worn cameras must make provisions for the security and compatibility of the recordings made by those cameras.

Occupations Code 1701.658(c)-(d)

OFFICER-INVOLVED
INJURY OR DEATH

"Officer-involved injury or death" means an incident during which a peace officer discharges a firearm causing injury or death to another.

Not later than the 30th day after the date of an officer-involved injury or death, the law enforcement agency employing an officer involved in the incident must complete and submit a written or electronic report using the form created under Code of Criminal

Procedure 2.139(b) to the office of the attorney general and, if the agency maintains an Internet website, post a copy of the report on the agency's website. The report must include all information described in Code of Criminal Procedure 2.139(b).

Not later than the 30th day after the date of the occurrence of an incident in which, while a peace officer is performing an official duty, a person who is not a peace officer discharges a firearm and causes injury or death to the officer, the law enforcement agency employing the injured or deceased officer at the time of the incident must complete and submit a written or electronic report, using the form created under Code of Criminal Procedure 2.139(a), to the office of the attorney general and, if the agency maintains an Internet website, post a copy of the report on the agency's website. The report must include all information described in Code of Criminal Procedure 2.1395(a).

Code Crim. Proc. 2.139(a)(2), (c), .1395; 1 TAC 54.70

COMPLAINT AGAINST
PEACE OFFICER

To be considered by the head of a fire department or local law enforcement agency, a complaint against a peace officer must be in writing and signed by the person making the complaint. A copy of a signed complaint against a peace officer appointed or employed by a political subdivision of this state shall be given to the officer within a reasonable time after the complaint is filed. Disciplinary action may not be taken against the officer unless a copy of the signed complaint is given to the officer. The officer may not be indefinitely suspended or terminated from employment based on the subject matter of the complaint unless the complaint is investigated and there is evidence to prove the allegation of misconduct. *Gov't Code 614.022-.023*

On the commencement of an investigation by a law enforcement agency of a complaint that alleges that a peace officer employed by the department has engaged in racial profiling with respect to an individual and in which a video or audio recording of the occurrence on which the complaint is based was made, the agency shall promptly provide a copy of the recording to the peace officer who is the subject of the complaint on written request by the officer. *Code of Criminal Procedure 2.132(f)*

[See DGBA, FLD, and GB for appeals]

NOTICE OF
EXPOSURE TO
COMMUNICABLE
DISEASE

Each employer covered by workers' compensation insurance, including state and political subdivision employers, which employ emergency medical service employees, paramedics, firefighters, law enforcement officers or correctional officers must post the notice contained in 28 Administrative Code 110.108(d), in its workplace to inform employees about Health and Safety Code require-

ments which may affect qualifying for workers' compensation benefits following a work-related exposure to a reportable communicable disease. The notice shall be posted in the personnel office, if the employer has a personnel office, and in the workplace where employees are likely to read the notice on a regular basis. *28 TAC 110.108*

SECTION II: SCHOOL MARSHALS

The governing board of a public junior college may appoint one or more school marshals. "School marshal" means a person employed and appointed by the governing board of a public junior college and in accordance with and having the rights provided by Education Code 51.220. *Education Code 51.220(b); Occupations Code 1701.001(8)*

REGULATIONS

Any written regulations adopted for purposes of Education Code 51.220(d) must provide that a school marshal may carry a concealed handgun as described by Section 51.220(d), except that if the primary duty of the school marshal involves regular, direct contact with students, the marshal may not carry a concealed handgun but may possess a handgun on the physical premises of a public junior college campus in a locked and secured safe within the marshal's immediate reach when conducting the marshal's primary duty. The written regulations must also require that a handgun carried by or within access of a school marshal may be loaded only with frangible ammunition designed to disintegrate on impact for maximum safety and minimal danger to others. *Education Code 51.220(e)*

AUTHORIZATION

A public junior college shall submit and receive approval for an application to appoint a person as a school marshal and upon authorization, notify the TCOLE using approved format prior to appointment. *37 TAC 227.1(a)*

ELIGIBILITY

The governing board of a public junior college may select for appointment as a school marshal an applicant who is an employee of the public junior college and certified as eligible for appointment under Occupations Code 1701.260 and 37 Administrative Code 227.3. A public junior college shall not appoint or employ an ineligible person as a school marshal. The governing board may, but shall not be required to, reimburse the amount paid by the applicant to participate in the training program under Section 1701.260. *Education Code 51.220(c); Code Crim. Proc. 2.127(d); 37 TAC 227.1(b), .3*

AUTHORITY

A school marshal may make arrests and exercise all authority given peace officers under the Code of Criminal Procedure, subject to written regulations adopted by the governing board of a public jun-

ior college under Education Code 51.220 and only act as necessary to prevent or abate the commission of an offense that threatens serious bodily injury or death of students, faculty, or visitors on school premises. *Code Crim. Proc. 2.127(a)*

EXCEPTION

A school marshal may not issue a traffic citation for a violation of Transportation Code Chapter 521 or Transportation Code Title 7, Subtitle C. *Code Crim. Proc. 2.127(b)*

POSSESSION AND
USE OF HANDGUN

A school marshal appointed by the governing board of a public junior college may carry or possess a handgun on the physical premises of a public junior college campus, but only:

1. In the manner provided by written regulations adopted by the governing board; and
2. At a specific public junior college campus as specified by the governing board.

Education Code 51.220(d)

A school marshal may access a handgun under Education Code 51.220 only under circumstances that would justify the use of deadly force under Penal Code 9.32 or 9.33. *Education Code 51.220(f)*

STATUS INACTIVATED

A public junior college employee's status as a school marshal becomes inactive on:

1. Expiration of the employee's school marshal license under Occupations Code 1701.260;
2. Suspension or revocation of the employee's license to carry a concealed handgun issued under Government Code Chapter 411, Subchapter H;
3. Termination of the employee's employment with the public junior college; or
4. Notice from the governing board of the public junior college that the employee's services as school marshal are no longer required.

Education Code 51.220(g)

REPORTS TO TCOLE

A public junior college shall:

1. Report to TCOLE, within seven days, when a person previously authorized to act as a school marshal is no longer employed with the public junior college;

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SECURITY

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(LEGAL)

2. Report to TCOLE, within seven days, when a person previously authorized to act as a school marshal is no longer authorized to do so by the public junior college, TCOLE standards, another state agency, or under other law; and
3. Immediately report to TCOLE a school marshal's violation of any TCOLE standard, including the discharge of a firearm carried under the authorization of 37 Administrative Code Chapter 227 outside of a training environment.

37 TAC 227.1(a)

REQUESTS FOR
INFORMATION
REGARDING
MARSHALS

If a parent or guardian of a student enrolled at a public junior college inquires in writing, the governing board of the public junior college shall provide the parent or guardian written notice indicating whether any employee of the public junior college is currently appointed a school marshal. The notice may not disclose information that is confidential under Education Code 51.220(h). *Education Code 51.220(i)*

IDENTITY
CONFIDENTIAL

The identity of a school marshal appointed under this section is confidential, except as provided by Occupations Code 1701.260(j), and is not subject to a request under the Public Information Act, Government Code Chapter 552. *Education Code 51.220(h)*

NO STATE BENEFITS

A school marshal is not entitled to state benefits normally provided by the state to a peace officer. *Code Crim. Proc. 2.127(c)*

RECORDS RETENTION

For five years, the public junior college must retain documentation that the junior college has met all requirements under law in a format readily accessible to TCOLE. This requirement does not relieve a public junior college from retaining all other relevant records not otherwise listed. *37 TAC 227.1(c)*

The governing board of each state institution of higher education, including public junior colleges, may promulgate rules and regulations for the safety and welfare of students, employees, and property, and other rules and regulations it may deem necessary to carry out the provisions of Education Code Chapter 51, Subchapter E and the governance of the institution, providing for the operation and parking of vehicles on the grounds, streets, drives, alleys, and any other institutional property under its control, including but not limited to the following:

1. Limiting the rate of speed;
2. Assigning parking spaces and designating parking areas and their use and assessing a charge for parking;
3. Prohibiting parking as it deems necessary;
4. Removing vehicles parked in violation of institutional rules and regulations or law at the expense of the violator; and
5. Instituting a system of registration for vehicle identification, including a reasonable charge.

Education Code 51.202(a)

PARKING, BLOCKING,
OR IMPEDING
TRAFFIC

It shall be unlawful for any person to park a vehicle on any property under the control and jurisdiction of a state institution of higher education of this state, including a college district, except in the manner designated by the institution and in the spaces marked and designated by the governing board, or to block or impede traffic through any driveway of that property. All laws regulating traffic on highways and streets shall apply to the operation of vehicles within the property of the institution, except as may be modified in Education Code Chapter 51, Subchapter E. *Education Code 51.205*

VEHICLE
IDENTIFICATION
INSIGNIA

Each public institution of higher education, including each college district, may provide for the issuance and use of suitable vehicle identification insignia. The institution may bar or suspend the permit of any vehicle from driving or parking on any institutional property for the violation of any rule or regulation promulgated by the board as well as for any violation of Education Code Chapter 51, Subchapter E. Reinstatement of the privileges may be permitted and a reasonable fee assessed. *Education Code 51.207(a)*

If the public institution of higher education campus is located in whole or part in an area in which a motor vehicle registered in the area is required to undergo a vehicle emissions inspection under Transportation Code Chapter 548, Subchapter F, the institution may not issue a permit to a student enrolled at the institution to park or drive a motor vehicle that is not registered in this state on

institutional property unless the institution has provided written notice to the student concerning requirements for vehicle emissions inspections pursuant to Transportation Code Chapter 548, Subchapter F. *Education Code 51.207(b)*

If the public institution of higher education campus is not covered by Education Code 51.207(b), the institution may not issue a permit to a student of the institution for driving or parking a motor vehicle on institutional property unless the institution provides written notice to the student that failure to register the vehicle in this state may violate state law if the owner of the vehicle resides in this state.

Each institution of higher education that maintains a campus police force shall adopt procedures for enforcing State of Texas vehicle inspection laws for vehicles parking or driving on the campus of the institution.

Education Code 51.207(d)–(e)

PARKING PRIVILEGES
OF DISABLED
VETERANS

This section applies to a vehicle that:

1. Is being operated by or for the transportation of the person who registered the vehicle under Transportation Code 504.202(a) or a person described by Transportation Code 504.202(b) if the vehicle is registered under that subsection; and displays special license plates issued under Transportation Code 504.202; or
2. Displays license plates issued by another state of the United States that indicate on the face of the license plates that the owner or operator of the vehicle is a disabled veteran of the U.S. armed forces.

A qualifying vehicle may be parked for an unlimited period in a parking space or area that is designated specifically for persons with physical disabilities on the property of an institution of higher education, including a college district, regardless of whether a permit is generally required for the use of the space or area. An institution of higher education may require the vehicle to display a parking permit issued by the institution specifically for the purpose of implementing this section but may not charge a fee for the permit. This section does not entitle a person to park a qualifying vehicle in a parking space or area that has not been designated specifically for persons with physical disabilities on the property of the institution if the vehicle has not been granted or assigned a parking permit required by the institution.

This section does not apply to a parking space or area located in:

SITE MANAGEMENT
TRAFFIC AND PARKING CONTROLS

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1. A controlled access parking facility if at least 50 percent of the number of parking spaces or areas designated specifically for persons with physical disabilities on the property of the institution of higher education are located outside a controlled access parking facility;
2. An area temporarily designated for special event parking; or
3. An area where parking is temporarily prohibited for health or safety concerns.

Transp. Code 681.008(a)-(a-2)

PARKING AND
TRAFFIC TICKETS

In connection with traffic and parking violations, only the officers authorized to enforce the provisions of Education Code Chapter 51, Subchapter E have the authority to issue and use traffic tickets and summons of the type used by the Texas Highway Patrol, with any changes that are necessitated by reason of Subchapter E. On the issuance of any parking or traffic ticket or summons, the same procedures shall be followed as prevail in connection with the use of parking and traffic violation tickets by the cities of this state and the Texas Highway Patrol. Nothing in Subchapter E restricts the application and use of regular arrest warrants. *Education Code 51.206*

SITE MANAGEMENT
WEAPONS

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DEFINITIONS

“CAMPUS”

"Campus" means all land and buildings owned or leased by an institution of higher education. *Gov't Code 411.2031(a)(1), .2032*

“FIREARM”

A “firearm” is any device designed, made, or adapted to expel a projectile through a barrel by using the energy generated by an explosion or burning substance or any device readily convertible to that use. *Penal Code 46.01(3)*

“ILLEGAL KNIFE”

An “illegal knife” is a knife with a blade over five and one-half inches; hand instrument designed to cut or stab another by being thrown; dagger, including, but not limited to, a dirk, stiletto, and poniard; bowie knife; sword; or spear. *Penal Code 46.01(6)*

“CLUB”

A “club” is an instrument that is specially designed, made, or adapted for the purpose of inflicting serious bodily injury or death by striking a person with the instrument, and includes, but is not limited to, a blackjack, nightstick, mace, and tomahawk. *Penal Code 46.01(1)*

“PROHIBITED WEAPONS”

“Prohibited weapons” include:

1. Any of the following items, unless the item is registered in the National Firearms Registration and Transfer Record maintained by the Bureau of Alcohol, Tobacco, Firearms and Explosives or classified as a curio or relic by the U.S. Department of Justice:
 - a. An explosive weapon (any explosive or incendiary bomb, grenade, rocket, or mine that is designed, made, or adapted for the purpose of inflicting serious bodily injury, death, or substantial property damage, or for the principal purpose of causing such a loud report as to cause undue public alarm or terror, and includes a device designed, made, or adapted for delivery or shooting an explosive weapon). *Penal Code 46.01(2)*
 - b. A machine gun (any firearm that is capable of shooting more than two shots automatically, without manual reloading, by a single function of the trigger). *Penal Code 46.01(9)*
 - c. A short-barrel firearm (rifle with a barrel length of less than 16 inches or a shotgun with a barrel length of less than 18 inches, or any weapon made from a shotgun or rifle if, as altered, it has an overall length of less than 26 inches). *Penal Code 46.01(10)*
 - d. A firearm silencer (any device designed, made, or adapted to muffle the report of a firearm). *Penal Code 46.01(4)*

2. Knuckles (any instrument consisting of finger rings or guards made of a hard substance that is designed, made, or adapted for the purpose of inflicting serious bodily injury or death by striking a person with a fist enclosed in the knuckles). *Penal Code 46.01(8)*
3. Armor-piercing ammunition (handgun ammunition that is designed primarily for the purpose of penetrating metal or body armor and to be used primarily in pistols and revolvers). *Penal Code 46.01(12)*
4. A chemical dispensing device (a device, other than a small chemical dispenser sold commercially for personal protection, that is designed, made, or adapted for the purpose of dispensing a substance capable of causing an adverse psychological or physiological effect on a human being). *Penal Code 46.01(14)*
5. A zip gun (a device or combination of devices that was not originally a firearm and is adapted to expel a projectile through a smooth-bore or rifled-bore barrel by using the energy generated by an explosion or burning substance). *Penal Code 46.01(16)*
6. A tire deflation device (a device, including a caltrop or spike strip, that, when driven over, impedes or stops the movement of a wheeled vehicle by puncturing one or more of the vehicle's tires; it does not include a traffic control device that is designed to puncture one or more of a vehicle's tires when driven over in a specific direction, and has a clearly visible sign posted in close proximity to the traffic control device that prohibits entry or warns motor vehicle operators of the traffic control device). *Penal Code 46.01(17)*

Penal Code 46.05(a)

"PREMISES"

"Premises" means a building or a portion of a building. The term does not include any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area. *Penal Code 46.03(c)(1), .035(f)(3); Gov't Code 441.2031(a)(3)*

GENERAL
PROVISIONS

A person commits an offense if the person intentionally, knowingly, or recklessly possesses or goes with a firearm, illegal knife, or prohibited weapon listed in Penal Code 46.05(a):

1. On the physical premises of a school or educational institution, any grounds or building on which an activity sponsored by a school or educational institution is being conducted, or a passenger transportation vehicle of a school or educational institution, unless:

- a. Pursuant to written regulations or written authorization of the institution; or
 - b. The person possesses or goes with a concealed handgun that the person is licensed to carry under Subchapter H, Chapter 411, Government Code, and no other weapon to which this section applies, on the premises of an institution of higher education or private or independent institution of higher education, on any grounds or building on which an activity sponsored by the institution is being conducted, or in a passenger transportation vehicle of the institution; or
2. On the premises of a polling place on the day of an election or while early voting is in progress. [See also FLBF]

Penal Code 46.03

INTERSCHOLASTIC
EVENTS

A license holder commits an offense if the license holder intentionally, knowingly, or recklessly carries a handgun under the authority of Government Code Chapter 411, Subchapter H, regardless of whether the handgun is concealed or carried in a shoulder or belt holster, on or about the license holder's person, on the premises where a high school, collegiate, or professional sporting event or interscholastic event is taking place, unless the license holder is a participant in the event and a handgun is used in the event.

The prohibition does not apply on the premises where a collegiate sporting event is taking place if the actor was not given effective notice under Penal Code 30.06.

Penal Code 46.035(b), (l)

BOARD MEETINGS

A license holder commits an offense if the license holder intentionally, knowingly, or recklessly carries a handgun under the authority of Government Code Chapter 411, Subchapter H, regardless of whether the handgun is concealed or carried in a shoulder or belt holster, in the room or rooms where a meeting of a governmental entity is held and if the meeting is an open meeting subject to Government Code Chapter 551 and the entity provided notice as required by that chapter [see BD]. This offense does not apply if the actor was not given effective notice under Penal Code 30.06 or 30.07. *Penal Code 46.035(c), (i)*

DEFENSE TO
PROSECUTION

It is a defense to prosecution under Penal Code 46.035(b) and (c), above that the actor, at the time of the commission of the offense, was:

1. A judge or justice of a federal court;

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2. An active judicial officer, as defined by Government Code 411.201;
3. A district attorney, assistant district attorney, criminal district attorney, assistant criminal district attorney, county attorney, or assistant county attorney; or
4. A bailiff designated by the active judicial officer and engaged in escorting the officer.

Penal Code 46.035(h-1)

WRONGFUL
EXCLUSION OF
HANDGUN LICENSE
HOLDER

A state agency or a political subdivision of the state, including a college district, may not provide notice by a communication described by Penal Code 30.06 or by any sign expressly referring to that law or to a concealed handgun license, that a license holder carrying a handgun under the authority of this subchapter is prohibited from entering or remaining on a premise or other place owned or leased by the governmental entity unless license holders are prohibited from carrying a handgun on the premises or other place by Penal Code 46.03 or 46.035. *Penal Code 411.209(a)*

A state agency or a political subdivision of the state that violates Penal Code 411.209(a) is liable for a civil penalty of:

1. Not less than \$1,000 and not more than \$1,500 for the first violation; and
2. Not less than \$10,000 and not more than \$10,500 for the second or a subsequent violation.

Each day of a continuing violation of Penal Code 411.209(a) constitutes a separate violation.

Penal Code 411.209(b)-(c)

FIREARMS AND
AMMUNITION IN
PRIVATE VEHICLES

An institution of higher education, including a college district, in this state may not adopt or enforce any rule, regulation, or other provision or take any other action, including posting notice under Penal Code 30.06 or 30.07, prohibiting or placing restrictions on the storage or transportation of a firearm or ammunition in a locked, privately owned or leased motor vehicle by a person, including a student enrolled at that institution, who holds a license to carry a handgun under Government Code Chapter 411, Subchapter H and lawfully possesses the firearm or ammunition:

1. On a street or driveway located on the campus of the institution; or
2. In a parking lot, parking garage, or other parking area located on the campus of the institution.

Gov't Code 411.2032

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CARRY BY
EMPLOYEES IN
PERSONAL
VEHICLES

A public or private employer, including a college district, may not prohibit an employee who holds a license to carry a handgun under Government Code Chapter 411, Subchapter H, who otherwise lawfully possesses a firearm, or who lawfully possesses ammunition from transporting or storing a firearm or ammunition the employee is authorized by law to possess in a locked, privately owned motor vehicle in a parking lot, parking garage, or other parking area the college district provides for employees. *Labor Code 52.061*

Labor Code 52.061 does not apply to a vehicle owned or leased by a public or private employer and used by an employee in the course and scope of the employee's employment, unless the employee is required to transport or store a firearm in the official discharge of the employee's duties. *Labor Code 52.062(a)*

Section 52.061 does not authorize a person who holds a license to carry a concealed handgun under Government Code Chapter 411, Subchapter H, who otherwise lawfully possesses a firearm, or who lawfully possesses ammunition to possess a firearm or ammunition on any property where the possession of a firearm or ammunition is prohibited by state or federal law. Section 52.061 does not prohibit an employer from prohibiting an employee who holds a license to carry a handgun under Government Code Chapter 411, Subchapter H, or who otherwise lawfully possesses a firearm, from possessing a firearm the employee is otherwise authorized by law to possess on the premises of the employer's business. *Labor Code 52.062(a)-(b)*

"Premises" means a building or a portion of a building. The term does not include any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area. *Penal Code 46.035(f)(3)*

IMMUNITY

Except in cases of gross negligence, a public or private employer, or the employer's principal, officer, director, employee, or agent, is not liable in a civil action for personal injury, death, property damage, or any other damages resulting from or arising out of an occurrence involving a firearm or ammunition that the employer is required to allow on the employer's property under this section.

The presence of a firearm or ammunition on an employer's property under the authority of this section does not by itself constitute a failure by the employer to provide a safe workplace.

For purposes of Labor Code 52.063, a public or private employer, or the employer's principal, officer, director, employee, or agent, does not have a duty:

SITE MANAGEMENT
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1. To patrol, inspect, or secure any parking lot, parking garage, or other parking area the employer provides for employees or any privately owned motor vehicle located in a parking lot, parking garage, or other parking area; or
2. To investigate, confirm, or determine an employee's compliance with laws related to the ownership or possession of a firearm or ammunition or the transportation and storage of a firearm or ammunition.

Labor Code 52.063

CONCEALED CARRY

A license holder may carry a concealed handgun on or about the license holder's person while the license holder is on the campus of an institution of higher education or private or independent institution of higher education in this state. *Gov't Code 441.2031(b)*

REGULATION OF
CARRY

After consulting with students, staff, and faculty of the institution regarding the nature of the student population, specific safety considerations, and the uniqueness of the campus environment, the president or other chief executive officer of an institution of higher education in this state shall establish reasonable rules, regulations, or other provisions regarding the carrying of concealed handguns by license holders on the campus of the institution or on premises located on the campus of the institution.

An institution of higher education or private or independent institution of higher education in this state may establish rules, regulations, or other provisions concerning the storage of handguns in dormitories or other residential facilities that are owned or leased and operated by the institution and located on the campus of the institution.

The president or officer may not establish provisions that generally prohibit or have the effect of generally prohibiting license holders from carrying concealed handguns on the campus of the institution. The president or officer may amend the provisions as necessary for campus safety.

Gov't Code 441.2031(d)-(d-1)

Except as provided by Government Code 411.2031(d), (d-1), or (e), an institution of higher education or private or independent institution of higher education in this state may not adopt any rule, regulation, or other provision prohibiting license holders from carrying handguns on the campus of the institution. *Gov't Code 441.2031(c)*

The provisions take effect as determined by the president or officer unless subsequently amended by the board of regents or other

governing board under Government Code 411.2031(d-2). *Gov't Code 441.2031(d-1)*

BOARD REVIEW

Not later than the 90th day after the date that the rules, regulations, or other provisions are established as described by Government Code 411.2031(d-1), the board of regents or other governing board of the institution of higher education shall review the provisions. The board of regents or other governing board may, by a vote of not less than two-thirds of the board, amend wholly or partly the established provisions. If amended, the provisions are considered to be those of the institution as established under Government Code 411.2031(d-1). *Gov't Code 441.2031(d-2)*

NOTICE CARRY
PROHIBITED

The institution must give effective notice under Penal Code 30.06 with respect to any portion of a premises on which license holders may not carry. *Gov't Code 441.2031(d-1)*

DISTRIBUTION OF
REGULATIONS

An institution of higher education shall widely distribute the rules, regulations, or other provisions above to the institution's students, staff, and faculty, including by prominently publishing the provisions on the institution's Internet website. *Gov't Code 441.2031(d-3)*

REPORT TO
LEGISLATURE

Not later than September 1 of each even-numbered year, each institution of higher education in this state shall submit a report to the legislature and to the standing committees of the legislature with jurisdiction over the implementation and continuation of this section that:

1. Describes its rules, regulations, or other provisions regarding the carrying of concealed handguns on the campus of the institution; and
2. Explains the reasons the institution has established those provisions.

Gov't Code 441.2031(d-4)

CONCEALED
CARRY IN
VIOLATION OF
REGULATIONS

Notwithstanding Penal Code 46.035(a) or Penal Code 46.03(a), a license holder commits an offense if the license holder intentionally carries a concealed handgun on a portion of a premises located on the campus of an institution of higher education in this state on which the carrying of a concealed handgun is prohibited by rules, regulations, or other provisions established under Government Code 411.2031(d-1) provided the institution gives effective notice under Penal Code 30.06 with respect to that portion. *Penal Code 46.035(a-3)*

AS TRESPASS

A handgun license holder commits an offense if the license holder carries a concealed handgun under the authority of Government Code Chapter 411, Subchapter H, on property of another without

effective consent and received notice that entry on the property by a license holder with a concealed handgun was forbidden.

A person receives notice if the owner of the property or someone with apparent authority to act for the owner provides notice to the person by oral or written communication.

“Written communication” means:

1. A card or other document on which is written language identical to the following: “Pursuant to Section 30.06, Penal Code (trespass by license holder with a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun”; or
2. A sign posted on the property that includes the language described above in both English and Spanish, appears in contrasting colors with block letters at least one inch in height, and is displayed in a conspicuous manner clearly visible to the public.

An offense under this section is a Class C misdemeanor punishable by a fine not to exceed \$200, except that the offense is a Class A misdemeanor if it is shown on the trial of the offense that, after entering the property, the license holder was personally given the notice by oral communication described by Penal Code 30.06(b) and subsequently failed to depart.

Penal Code 30.06 (a)–(b), (c)(3), (d)

PREMISE
EXCEPTION

It is an exception to the application of Penal Code 30.06 that the property on which the license holder carries a handgun is owned or leased by a governmental entity, including a college district, and is not a premises or other place on which the license holder is prohibited from carrying the handgun under Government Code 46.03 or 46.035. *Penal Code 30.06(e)*

OPEN CARRY

A license holder commits an offense if the license holder carries a handgun on or about the license holder's person under the authority of Government Code Chapter 411, Subchapter H and intentionally displays the handgun in plain view of another person in a public place. It is an exception to the application of this prohibition that the handgun was partially or wholly visible but was carried in a shoulder or belt holster by the license holder. *Penal Code 46.035(a)*

AT AN INSTITUTION
OF HIGHER
EDUCATION

A license holder commits an offense if the license holder carries a partially or wholly visible handgun, regardless of whether the handgun is holstered, on or about the license holder's person under the

authority of Subchapter H, Chapter 411, Government Code, and intentionally displays the handgun in plain view of another person:

1. On the premises of an institution of higher education, including a college district, or private or independent institution of higher education; or
2. On any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area of an institution of higher education or private or independent institution of higher education.

Penal Code 46.035(a-1)

AS TRESPASS

A license holder commits an offense if the license holder openly carries a handgun under the authority of Government Code Chapter 411, Subchapter H on property of another without effective consent and received notice that entry on the property by a license holder openly carrying a handgun was forbidden.

A person receives notice if the owner of the property or someone with apparent authority to act for the owner provides notice to the person by oral or written communication.

“Written communication” means:

1. A card or other document on which is written language identical to the following: "Pursuant to Section 30.07, Penal Code (trespass by license holder with an openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a handgun that is carried openly"; or
2. A sign posted on the property that:
 - a. Includes the language described above in item 1 in both English and Spanish;
 - b. Appears in contrasting colors with block letters at least one inch in height; and
 - c. Is displayed in a conspicuous manner clearly visible to the public at each entrance to the property.

An offense under this section is a Class C misdemeanor punishable by a fine not to exceed \$200, except that the offense is a Class A misdemeanor if it is shown on the trial of the offense that, after entering the property, the license holder was personally given the notice by oral communication described by Penal Code 30.07(b) and subsequently failed to depart.

Penal Code 30.07(a)–(b), (c)(3), (d)

PREMISE EXCEPTION

It is an exception to the application of Penal Code 30.07 that the property on which the license holder openly carries the handgun is owned or leased by a governmental entity and is not a premises or other place on which the license holder is prohibited from carrying the handgun under Penal Code 46.03 or 46.035. *Penal Code 30.07(e)*

SITE MANAGEMENT
WEAPONS

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FIREARMS

The College District prohibits the use, possession, or display of a firearm on College District property or at a College District-sponsored or -related activity in violation of law and College District regulations.

OTHER WEAPONS
PROHIBITED

The College District prohibits the use, possession, or display of any illegal knife, club, or prohibited weapon, as defined by law, on College District property or at a College District-sponsored or -related activity, unless written authorization is granted in advance by the College President or designee.

Additionally, the following weapons are prohibited on College District property or at any College District-sponsored or -related activity:

1. Fireworks of any kind;
2. Incendiary devices;
3. Instruments designed to expel a projectile with the use of pressurized air, like a BB gun;
4. Razors;
5. Chains; or
6. Martial arts throwing stars.

The possession or use of articles not generally considered to be weapons may be prohibited when the College President or designee determines that a danger exists for any student, College District employee, or College District property by virtue of possession or use.

VIOLATIONS

Employees and students found to be in violation of this policy shall be subject to disciplinary action. [See DH, FM, and FMA]

EQUIPMENT AND SUPPLIES MANAGEMENT
RECORDS MANAGEMENT

CIA
(LOCAL)

The College President shall oversee the performance of records management functions prescribed by state and federal law:

- Records Administrator, as prescribed by Local Government Code 176.001 and 176.007 [See BBFA and CFE]
- Officer for Public Information, as prescribed by Government Code 552.201–.205 [See GCB]
- Public Information Coordinator, as prescribed by Government Code 552.012 [See BBD]

LOCAL GOVERNMENT
RECORDS ACT

The term “local government record” shall pertain to all items identified as such by the Local Government Records Act.

“LOCAL
GOVERNMENT
RECORD”

RECORDS
MANAGEMENT
OFFICER

The College President shall serve as and perform the duties of the College District’s records management officer, as prescribed by Local Government Code 203.023, and shall administer the College District’s records management program pertaining to local government records in compliance with the Local Government Records Act.

NOTIFICATION

The records management officer shall file his or her name with the Texas State Library and Archives Commission (TSLAC) within 30 days of assuming the position.

RECORDS
CONTROL
SCHEDULES

The records management officer shall file with the TSLAC a written declaration that the College District has adopted records control schedules that comply with records retention schedules issued by the TSLAC as provided by law.

WEBSITE POSTINGS

The College District’s records management program shall address the length of time records will be posted on the College District’s website when the law does not specify a posting period.

RECORDS
DESTRUCTION
PRACTICES

All local government records shall be considered College District property and any unauthorized destruction or removal shall be prohibited. The College District shall follow its records control schedules, records management program, and all applicable laws regarding records destruction. However, the College District shall preserve records, including electronically stored information, and suspend routine record destruction practices where appropriate and in accordance with procedures developed by the records management officer. Such procedures shall describe the circumstances under which local government records scheduled for destruction must be retained. Notification shall be given to appropri-

EQUIPMENT AND SUPPLIES MANAGEMENT
RECORDS MANAGEMENT

CIA
(LOCAL)

ate staff when routine record destruction practices must be suspended and when they may be resumed.

TRAINING

The records management officer shall receive appropriate training regarding the Local Government Records Act and shall ensure that custodians of records, as defined by law, and other applicable College District staff are trained on the College District's records management program, including this policy and corresponding procedures.

INSURANCE AND ANNUITIES MANAGEMENT
HEALTH AND LIFE INSURANCE

CKD
(LEGAL)

UNIFORM GROUP
INSURANCE
PROGRAM

An institution of higher education, including a college district, shall be covered by the Texas Employees Uniform Group Insurance Program.

The institution shall provide a health care insurance program in compliance with the Employee Retirement System of Texas (ERS) policies and regulations and federal law.

Health Insurance Portability and Accountability Act of 1996, Pub. Law 104-191, 45 C.F.R. 146.111(a); Insurance Code Chapter 1551; 34 TAC Chapter 81

An institution of higher education, including a college district, shall, at the time of employment, notify each of the institution's employees eligible to participate in the group benefits program of the employee's eligibility to participate. *Insurance Code 1551.107(b)*

STATE CONSUMER-
DIRECTED HEALTH
PLAN

Each individual eligible to participate in the basic coverage may choose instead to participate in the state consumer-directed health plan, a high deductible health plan described by Insurance Code Chapter 1551, Subchapter J, if the plan enrollee is an eligible individual under Internal Revenue Code 223(c)(1). The dependents of a plan enrollee may participate in the state consumer-directed health plan in accordance with Insurance Code 1551.455. *Insurance Code 1551.452, .454(a)*

ELIGIBILITY

Employees and officers shall be eligible to participate in the group benefits program pursuant to Insurance Code, Chapter 1551, Subchapter C and 34 Administrative Code 81.5.

INELIGIBLE
EMPLOYEES

An employee of a public junior college who is employed to perform services outside of this state is not eligible to participate in the group benefits program unless the college elects, under procedures adopted by the ERS board of trustees, to permit the employee to participate in the group benefits program.

An employee is employed to perform services outside of this state if 75 percent or more of the services performed by the employee are performed outside of this state.

A person employed by a public junior college on August 31, 1999, remains eligible to participate in the group benefits program in the same manner as other employees of the college even if the individual's employment by the college is not continuous.

Insurance Code 1551.110(a)-(c)

CURRENT AND
FORMER BOARD
MEMBER

Subject to Insurance Code 1551.351, on application to the board of trustees of ERS and arrangement for payment of contributions, an individual participating in the group benefits program on August 31,

INSURANCE AND ANNUITIES MANAGEMENT
HEALTH AND LIFE INSURANCE

CKD
(LEGAL)

2003, as a current or former member of the governing body of an institution of higher education remains eligible for participation in a group health benefit plan offered under Insurance Code Chapter 1551 if a lapse in coverage has not occurred. A participant described by this section may not receive a state contribution for premiums. The governing body of an institution of higher education may pay from local funds part or all of the contributions the state would pay for similar coverage of other participants in the group benefits program. The participant's contribution for coverage under a health benefit plan may not be greater than the contribution for continuation coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. No. 99-272). *Insurance Code 1551.109; 34 TAC 81.5(i)*

CONTINUATION
COVERAGE

DURING MILITARY
LEAVE

In any case in which a person (or the person's dependents) has coverage under a health plan in connection with the person's position of employment, including a group health plan, as defined in section 607(1) of the Employee Retirement Income Security Act of 1974, and such person is absent from such position of employment by reason of service in the uniformed services the plan shall provide that the person may elect to continue such coverage. The maximum period of coverage of such a person and the person's dependents under such an election shall be the lesser of:

1. The 24-month period beginning on the date on which the person's absence begins; or
2. The day after the date on which the person fails to apply for or return to a position of employment. [See DECB]

38 U.S.C. 4317(a)(1)

DURING FMLA
LEAVE

During any period that an eligible employee takes family and medical leave, the employer shall maintain coverage under any "group health plan," as defined in 26 U.S.C. 5000(b)(1), for the duration of such leave at the level and under the conditions coverage would have been provided if the employee had continued in employment continuously for the duration of such leave. [See also DECA] *29 U.S.C. 2614(c); 29 C.F.R. 825.209-.210, .213*

UPON TERMINATION
OR OTHER
QUALIFYING EVENT
(COBRA)

In accordance with regulations which the Secretary of Health and Human Services shall prescribe, each group health plan that is maintained by any state that receives funds under 42 U.S.C. Chapter 6A, by any political subdivision of such a state, or by any agency or instrumentality of such a state or political subdivision, shall provide, in accordance with 42 U.S.C. Chapter 6A, Subchapter XX, that each qualified beneficiary who would lose coverage under the plan as a result of a qualifying event is entitled, under the plan, to

elect, within the election period, continuation coverage under the plan.

The coverage must consist of coverage which, as of the time the coverage is being provided, is identical to the coverage provided under the plan to similarly situated beneficiaries under the plan with respect to whom a qualifying event has not occurred. If coverage is modified under the plan for any group of similarly situated beneficiaries, such coverage shall also be modified in the same manner for all individuals who are qualified beneficiaries under the plan in connection with such group.

42 U.S.C. 300bb-1(a), 300bb-2(1)

“QUALIFYING
EVENT”

“Qualifying event” means, with respect to any covered employee, any of the following events which, but for the continuation coverage required under 42 U.S.C. Chapter 6A, Subchapter XX, would result in the loss of coverage of a qualified beneficiary:

1. The death of the covered employee.
2. The termination, other than by reason of such employee’s gross misconduct, or reduction of hours, of the covered employee’s employment.
3. The divorce or legal separation of the covered employee from the employee’s spouse.
4. The covered employee becoming entitled to benefits under Medicare, 42 U.S.C. 1395 et seq.
5. A dependent child ceasing to be a dependent child under the generally applicable requirements of the plan.

42 U.S.C. 300bb-3

PERIOD OF
COVERAGE

The coverage must extend for at least the period beginning on the date of the qualifying event and ending not earlier than the earliest of the following:

1. In the case of the termination or reduction of hours of a covered employee as described at “QUALIFYING EVENT,” the date which is 18 months after the date of the termination or reduction of hours.
2. If a qualifying event occurs during the 18 months after the date of the termination or reduction of hours, the date which is 36 months after the date of the termination or reduction of hours.

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3. In the case of a qualifying event other than termination or reduction of hours, the date which is 36 months after the date of the qualifying event.
4. In the case of the termination or reduction of hours of a covered employee as described at "QUALIFYING EVENT" that occurs less than 18 months after the date the covered employee became entitled to benefits under Medicare, 42 U.S.C. 1395 et seq., the period of coverage for qualified beneficiaries other than the covered employee shall not terminate under this provision before the close of the 36-month period beginning on the date the covered employee became so entitled.
5. In the case of a qualified beneficiary who is determined, under Title II or XVI of the Social Security Act, 42 U.S.C. 401 et seq., 1381 et seq., to have been disabled at any time during the first 60 days of continuation coverage, any reference in paragraph 1 or 2 to 18 months is deemed a reference to 29 months with respect to all qualified beneficiaries, but only if the qualified beneficiary has provided notice of such determination under 42 U.S.C. 300bb-6(3) before the end of such 18 months.

42 U.S.C. 300bb-2(2)

PREMIUM

The plan may require payments of a premium for any period of continuation coverage, except that such premium shall not exceed 102 percent of the applicable premium for such period, and may, at the election of the payor, be made in monthly installments. In the case of an individual entitled to 29 months of continuation coverage under 42 U.S.C. 300bb-2(2)(A)(vi) the plan may require payment of a premium that shall not exceed 150 percent of the applicable premium for any month after the 18th month. The qualified beneficiary may choose to pay the premiums in monthly installments. In no event may the plan require the payment of any premium before the day that is 45 days after the day on which the qualified beneficiary made the initial election for continuation coverage. *42 U.S.C. 300bb-2(2)(A), (3)*

NOTICE

The employer of an employee under a group health plan must notify the plan administrator of an employee's death, termination, reduction of hours, or eligibility for Medicare payments within 30 days of the date of the qualifying event.

Each covered employee or qualified beneficiary is responsible for notifying the plan administrator of a divorce or legal separation from a spouse or a dependent child ceasing to be a dependent within 60 days after the date of the qualifying event and each qualified beneficiary who is determined, under Title II or XVI of the So-

cial Security Act, 42 U.S.C. 401 et seq., 1381 et seq., to have been disabled at any time during the first 60 days of continuation coverage is responsible for notifying the plan administrator of such determination within 60 days after the date of the determination and for notifying the plan administrator within 30 days after the date of any final determination that the qualified beneficiary is no longer disabled.

42 U.S.C. 300bb-6(2)–(3)

Note: See also DEB for continuation benefits that are available to survivors of college district peace officers under certain conditions.

PREEXISTING
CONDITIONS

A group health plan may not impose any preexisting condition exclusion with respect to such plan or coverage. *42 U.S.C. 300gg-3(a); 45 C.F.R. 146.111, 147.108*

HEALTH INSURANCE
PORTABILITY AND
ACCOUNTABILITY ACT
(HIPAA)

The Public Health Service Act (PHS Act) requirements are the following:

ELECTION TO BE
EXEMPTED

1. Limitations on preexisting condition exclusion periods in accordance with section 2701 of the PHS Act as codified before enactment of the Affordable Care Act;
2. Special enrollment periods for individuals and dependents described under section 2704(f) of the PHS Act;
3. Prohibitions against discriminating against individual participants and beneficiaries based on health status under section 2705 of the PHS Act, except that the sponsor of a self-funded non-federal governmental plan cannot elect to exempt its plan from requirements under section 2705(a)(6) and 2705(c) through (f) that prohibit discrimination with respect to genetic information;
4. Standards relating to benefits for mothers and newborns under section 2725 of the PHS Act;
5. Parity in mental health and substance use disorder benefits under section 2726 of the PHS Act;
6. Required coverage for reconstructive surgery and certain other services following a mastectomy under section 2727 of the PHS Act; and
7. Coverage of dependent students on a medically necessary leave of absence under section 2728 of the PHS Act.

A sponsor of a non-federal governmental plan may elect to exempt its plan, to the extent the plan is not provided through health insurance coverage (that is, it is self-funded), from one or more of the requirements described in items 4 through 7, above.

42 U.S.C. 300gg-21(a)(2); 45 C.F.R. 146.180(a)

FORM OF ELECTION

The election must meet the following requirements:

1. Be made in an electronic format in a form and manner as described by the U.S. Secretary of Health and Human Services in guidance.
2. Be made in conformance with all of the plan sponsor's rules, including any public hearing requirements.
3. Specify the beginning and ending dates of the period to which the election is to apply. This period is a single specified plan year, as defined in 45 C.F.R. 144.103.
4. Specify the name of the plan and the name and address of the plan administrator, and include the name and telephone number of a person the Centers for Medicare and Medicaid Services (CMS) may contact regarding the election.
5. State that the plan does not include health insurance coverage, or identify which portion of the plan is not funded through health insurance coverage.
6. Specify each requirement described in 45 C.F.R. 146.180(a)(1) of this section from which the plan sponsor elects to exempt the plan.
7. Certify that the person signing the election document, including, if applicable, a third party plan administrator, is legally authorized to do so by the plan sponsor.
8. Include, as an attachment, a copy of the notice described in 45 C.F.R. 146.180(f).

42 U.S.C. 300gg-21(a)(2); 45 C.F.R. 146.180(b)

TIMING OF
ELECTION

Absent an extension by the U.S. Department of Health and Human Services CMS for good cause, a plan sponsor or entity acting on behalf of a plan sponsor must file an election with CMS before the first day of the plan year. The election applies for a single specified plan year.

A plan sponsor may renew an election through subsequent elections.

42 U.S.C. 300gg-21(a)(2)(A); 45 C.F.R. 146.180(c), (f)

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CONTENTS OF
NOTICE

In accordance with 45 C.F.R. 146.180(f), a plan that makes the election described in this section must notify each affected enrollee of the election, and explain the consequences of the election. The notice must be in writing and must be provided to each enrollee at the time of enrollment under the plan, and on an annual basis no later than the last day of each plan year for which there is an election. A plan may meet the notification requirements by prominently printing the notice in a summary plan description, or equivalent description, that it provides to each enrollee at the time of enrollment, and annually. Also, when a plan provides a notice to an enrollee at the time of enrollment, that notice may serve as the initial annual notice for that enrollee. *42 U.S.C. 300gg-21(a)(2)(C); 45 C.F.R. 146.180(f)*

PRIVACY OF HEALTH
INFORMATION

To the extent the college district is a covered entity under the Administrative Simplification provisions of HIPAA, the college district must maintain the privacy of protected health information in accordance with the Privacy Rule, 45 C.F.R. Part 164, Subpart E. *42 U.S.C. Chapter 7, Subchapter XI, Part C*

DEFINITIONS

“COVERED
ENTITY”

“Covered entity” means:

1. A health plan;
2. A health-care clearinghouse; or
3. A health-care provider who transmits any health information in electronic form in connection with a transaction covered by 45 C.F.R. Subtitle A, Subchapter C.

45 C.F.R. 160.103

“PROTECTED
HEALTH
INFORMATION”

“Protected health information” means individually identifiable health information that is transmitted by electronic media, maintained by electronic media, or transmitted or maintained in any form or medium. “Protected health information” excludes individually identifiable health information in:

1. Education records covered by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g.
2. Medical treatment records described at 20 U.S.C. 1232g(a)(4)(B)(iv) on a student who is at least 18 years of age.
3. Employment records held by a covered entity in its role as employer.

20 U.S.C. 1232g, 45 C.F.R. 160.103 [See FJ(LEGAL) at “EDUCATION RECORDS” DEFINED]

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| "PLAN SPONSOR" | The term "plan sponsor" includes the employer in the case of an employee benefit plan established or maintained by a single employer. <i>29 U.S.C. 1002(16)(B)</i> |
| SPONSORS OF GROUP HEALTH PLANS | <p>A group health plan, to disclose protected health information to the plan sponsor or to provide for or permit the disclosure of protected health information to the plan sponsor by a health insurance issuer or HMO with respect to the group health plan, must ensure that the plan documents restrict uses and disclosures of such information by the plan sponsor consistent with the requirements of the Privacy Rule.</p> <p>The group health plan, or a health insurance issuer or HMO with respect to the group health plan, may disclose summary health information to the plan sponsor, if the plan sponsor requests the summary health information for the purpose of:</p> <ol style="list-style-type: none"><li data-bbox="560 829 1432 903">1. Obtaining premium bids from health plans for providing health insurance coverage under the group health plan; or<li data-bbox="560 913 1432 955">2. Modifying, amending, or terminating the group health plan. <p>The group health plan, or a health insurance issuer or HMO with respect to the group health plan, may disclose to the plan sponsor information on whether the individual is participating in the group health plan, or is enrolled in or has disenrolled from a health insurance issuer or HMO offered by the plan.</p> <p><i>45 C.F.R. 164.504(f)</i></p> |
| PHARMACY BENEFIT MANAGER SERVICES CONTRACTS DISCLOSURE | <p>A state agency on request of another state agency shall disclose information relating to the amounts charged by a pharmacy benefit manager for pharmacy benefit manager services provided under a prescription drug program and other requested pricing information related to a contract for pharmacy benefit manager services. A state agency shall provide information requested under this section not later than the 30th day after the date the information is requested.</p> <p>A state agency is not required to disclose information the agency is specifically prohibited from disclosing under a contract with a pharmacy benefit manager executed before September 1, 2009.</p> <p>A contract entered, amended, or extended on or after September 1, 2009, may not contain a provision that prohibits a state agency from disclosing information on the amounts charged by a pharmacy benefit manager for pharmacy benefit manager services provided under a prescription drug program or from disclosing other pricing information related to the contract.</p> <p><i>Gov't Code 2158.402</i></p> |

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| REDISCLASURE | The information received by a state agency under this section may not be disclosed to a person outside of the state agency or its agents. <i>Gov't Code 2158.403</i> |
| "STATE AGENCY" | "State agency" means a board, commission, department, office, or other agency in the executive, legislative, or judicial branch of state government that is created by the constitution or a statute of this state, including an institution of higher education as defined by Education Code 61.003. <i>Gov't Code 2158.401(a)</i> |

Note: For information on procuring goods and services under Education Code Chapter 44, including the delegation of authority and pursuit of injunctions, see CF(LEGAL). For information on providing notice to the Legislative Budget Board (LBB) regarding contracts exceeding \$50,000, see GGC.

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| | Education Code Chapter 44, Subchapter B, applies to junior college districts. <i>Education Code 44.0311(a)</i> |
| BOARD AUTHORITY | A governmental entity, including a college district, may adopt rules as necessary to implement Government Code Chapter 2269. <i>Gov't Code 2269.051</i> |
| DELEGATION OF AUTHORITY | <p>The governing body of a governmental entity may delegate its authority under Government Code Chapter 2269 regarding an action authorized or required by Chapter 2269 to a designated representative, committee, or other person.</p> <p>The governmental entity shall provide notice of the delegation, the limits of the delegation, and the name or title of each designated person by rule or in the request for bids, proposals, or qualifications or in an addendum to the request.</p> <p><i>Gov't Code 2269.053</i></p> |
| CONTRACTS VALUED AT OR ABOVE \$50,000 | <p>Except as provided by Education Code Chapter 44, Subchapter B, all college district contracts valued at \$50,000 or more in the aggregate for each 12-month period shall be made by the method that provides the best value for the district: [See also CF]</p> <ol style="list-style-type: none">1. An interlocal contract. [See CF]2. Competitive bidding. [See CMA]3. Competitive sealed proposals. [See CMB]4. Construction manager-agent method. [See CMC]5. Construction manager-at-risk method. [See CMD]6. Design-build method. [See CME]7. The reverse auction procedure as defined by Government Code 2155.062(d). [See CF] <p><i>Education Code 44.031(a); Gov't Code Ch. 2269</i></p> |
| SELECTING A CONTRACTING METHOD | The governing body of a governmental entity that considers a construction contract using a method authorized by Government Code Chapter 2269 other than competitive bidding must, before advertis- |

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ing, determine which method provides the best value for the governmental entity. *Gov't Code 2269.056(a)*

EXCEPTIONS

EMERGENCY
DAMAGE OR
DESTRUCTION

If school equipment, a school facility, or a portion of a school facility or personal property is destroyed or severely damaged or, as a result of an unforeseen catastrophe or emergency, undergoes major operational or structural failure, and the board of trustees determines that the delay posed by the methods provided for in Education Code 44.031 would prevent or substantially impair the conduct of classes or other essential school activities, then contracts for the replacement or repair of the equipment, school facility, or the part of the school facility may be made by methods other than those required by Education Code 44.031. *Education Code 44.031(h)*

CONTRACTS
REQUIRING A
BOND

A reverse auction procedure, whether the same or similar to that described by Government Code 2155.062, may not be used to obtain services related to a public work contract for which a bond is required under Government Code 2253.021 [see PAYMENT AND PERFORMANCE BONDS, below]. *Gov't Code 2253.021(h)*

PUBLIC NOTICE

Notice of the time by when and place where the bids or proposals, or the responses to a request for qualifications, will be received and opened shall be published in the county in which the district's central administrative office is located, once a week for at least two weeks before the deadline for receiving bids, proposals, or responses to a request for qualifications. If there is not a newspaper in that county, the advertising shall be published in a newspaper in the county nearest the county seat of the county in which the district's central administrative office is located. In a two-step procurement process, the time and place where the second-step bids, proposals, or responses will be received are not required to be published separately. *Education Code 44.031(g); Gov't Code 2269.052(a)–(b)*

CONTRACT
SELECTION CRITERIA

In determining the award of a contract, the governmental entity shall:

1. Consider and apply any existing laws, including any criteria, related to historically underutilized businesses; and
2. Consider and apply any existing laws, rules, or applicable municipal charters, including laws applicable to local governments, related to the use of women- or minority-owned, small, or disadvantaged businesses.

In determining the award of a contract, the governmental entity may consider:

1. The price.

2. The offeror's experience and reputation.
3. The quality of the offeror's goods or services.
4. The impact on the ability of the governmental entity to comply with rules relating to historically underutilized businesses.
5. The offeror's safety record.
6. The offeror's proposed personnel.
7. Whether the offeror's financial capability is appropriate to the size and scope of the project.
8. Any other relevant factor specifically listed in the request for bids, proposals, or qualifications.

Gov't Code 2269.055

OUT-OF-STATE
BIDDER

A governmental entity, including a college district, may not award a governmental contract for general construction, an improvement, a service, or a public works project or for a purchase of supplies, materials, or equipment to a nonresident bidder whose principal place of business is not in this state, unless the nonresident underbids the lowest bid submitted by a responsible resident bidder by an amount that is not less than the greater of the amount by which a resident bidder would be required to underbid a nonresident bidder to obtain a comparable contract in the state in which the nonresident's principal place of business is located or the amount by which a resident bidder would be required to underbid the nonresident bidder to obtain a comparable contract in the state in which a majority of the manufacturing relating to the contract will be performed. *Gov't Code 2252.001-.002*

This requirement does not apply to a contract involving federal funds. A governmental entity shall use the information published by the comptroller in the Texas Register to evaluate the bid of a nonresident bidder. *Gov't Code 2252.003-.004*

PUBLISHING
CRITERIA

The governmental entity shall publish in the request for proposals or qualifications the criteria that will be used to evaluate the offerors and the applicable weighted value for each criterion. *Gov't Code 2269.056(b)*

REQUIRED
DISCLOSURES
DISCLOSURE OF
INTERESTED
PARTIES

A governmental entity or state agency may not enter into a contract with a business entity that requires an action or vote by the governing body of the entity or agency before the contract may be signed or has a value of at least \$1 million, with certain exceptions, unless the business entity, in accordance with Government Code 2252.908 and rules adopted by the Texas Ethics Commission, submits a disclosure of interested parties to the governmental enti-

ty or state agency at the time the business entity submits the signed contract to the governmental entity or state agency. [See GC] *Gov't Code 2252.908*

DISCLOSURES BY
PURCHASING
PERSONNEL

Before a state agency, including a college district, may award a major contract, a contract that has a value of at least \$1 million, for the purchase of goods or services to a business entity, each of the state agency's purchasing personnel working on the contract must disclose in writing to the administrative head of the state agency any relationship the purchasing personnel is aware about that the employee has with an employee, a partner, a major stockholder, a paid consultant with a contract with the business entity the value of which exceeds \$25,000, or other owner of the business entity who is within a degree described by Government Code 573.002, the third degree by consanguinity or within the second degree by affinity of the purchasing employee. The state auditor shall develop a form for use in reporting a specified relationship.

"Purchasing personnel" means an employee of a state agency who makes decisions on behalf of the state agency or recommendations regarding contract terms or conditions on a major contract, who is to be awarded a major contract, preparation of a solicitation for a major contract, or evaluation of a bid or proposal.

Gov't Code 2262.001(4), .004

NOTICE
PUBLICATION

Notice of the time by when and place where the bids or proposals, or the responses to a request for qualifications, will be received and opened shall be published in the county in which the district's central administrative office is located, once a week for at least two weeks before the deadline for receiving bids, proposals, or responses to a request for qualifications. If there is not a newspaper in that county, the advertising shall be published in a newspaper in the county nearest the county seat of the county in which the district's central administrative office is located. In a two-step procurement process, the time and place where the second-step bids, proposals, or responses will be received are not required to be published separately. *Education Code 44.031(g)*

SUBMISSION

A person who submits a bid, proposal, or qualification to a governmental entity shall seal it before delivery. *Gov't Code 2269.059*

ELECTRONIC BIDS
OR PROPOSALS

A college district may receive bids or proposals through electronic transmission if the board of trustees of the college district adopts rules to ensure the identification, security, and confidentiality of electronic bids or proposals and to ensure that the electronic bids or proposals remain effectively unopened until the proper time. An electronic bid or proposal is not required to be sealed. A provision of this chapter that applies to a sealed bid or proposal applies to a

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bid or proposal received through electronic transmission. *Education Code 44.0313*

SELECTION

The governmental entity shall base its selection among offerors on applicable criteria listed for the particular method used. *Gov't Code 2269.056(b)*

MAKING EVALUATIONS
PUBLIC

The governmental entity shall document the basis of its selection and shall make the evaluations public not later than the seventh day after the date the contract is awarded. *Gov't Code 2269.056(c), .105*

CONSOLIDATED
INSURANCE
PROGRAM

If a construction contract requires a person to enroll in a consolidated insurance program, the parties are subject to the disclosure requirements described by Insurance Code Chapter 151, Subchapter A.

CHANGE ORDERS

If a change in plans or specifications is necessary after the performance of a contract is begun or if it is necessary to decrease or increase the quantity of work to be performed or of materials, equipment, or supplies to be furnished, the district may approve change orders making the changes. The district may grant general authority to an administrative official to approve the change orders.

The total contract price may not be increased because of the changes unless additional money for increased costs is approved for that purpose from available money or is provided for by the authorization of the issuance of time warrants.

A contract with an original contract price of \$1 million or more may not be increased by more than 25 percent. If a change order for a contract with an original contract price of less than \$1 million increases the contract amount to \$1 million or more, the total of the subsequent change orders may not increase the revised contract amount by more than 25 percent of the original contract price.

Education Code 44.0411

INSPECTION,
VERIFICATION, AND
TESTING

Independently of the contractor, construction manager-at-risk, or design-build firm, a governmental entity shall provide or contract for the construction materials engineering, testing, and inspection services and the verification testing services necessary for acceptance of the facility by the governmental entity. The governmental entity shall select the services for which it contracts in accordance with Government Code 2254.004. *Gov't Code 2269.058*

ENERGY SAVINGS
PERFORMANCE
CONTRACTS

The contracting and delivery procedures for construction projects described at Government Code Chapter 2269 do not apply to energy savings performance contracts described at Education Code 51.927. [See CH] *Education Code 51.927(k)*

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PROFESSIONAL
SERVICES

An architect or engineer required to be selected or designated under Government Code Chapter 2269 has full responsibility for complying with Occupations Code Chapter 1051 or 1001, as applicable.

If the selected or designated architect or engineer is not a full-time employee of the governmental entity, the governmental entity shall select the architect or engineer on the basis of demonstrated competence and qualifications as provided by Government Code 2254.004 [see PROCURING PROFESSIONAL SERVICES, below].

Gov't Code 2269.057

REGISTERED
ARCHITECT

An architectural plan or specification for any of the following may be prepared only by an architect registered under Occupations Code Chapter 1051 to engage in the practice of architecture:

1. A new building having construction costs exceeding \$100,000 that is to be constructed and owned by a political subdivision of this state and used for education, assembly, or office occupancy.
2. An alteration or addition having construction costs exceeding \$50,000 that is to be made to an existing building that is owned by a political subdivision of this state and is or will be used for education, assembly, or office occupancy and requires the removal, relocation, or addition of a wall or partition or the alteration or addition of an exit.

This section does not prohibit an owner of a building from contracting with an architect or an engineer as the prime design professional for a building construction, alteration, or addition project. Designation as the prime design professional does not expand the scope of practice of an architect or engineer beyond the scope of practice that the architect or engineer is authorized to practice under Occupations Code Chapter 1001 or 1051.

Occupations Code 1051.101(1), .703; 22 TAC 1.212

REGISTERED
ENGINEER

The following work is exempt from Occupations Code Chapter 1001:

1. A public work that involves electrical or mechanical engineering, if the contemplated expense for the completed project is \$8,000 or less; or
2. A public work that does not involve electrical or mechanical engineering, if the contemplated expense for the completed project is \$20,000 or less.

Occupations Code 1001.053; Atty. Gen. Op. C-791 (1966)

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CERTIFICATION
FOR PURCHASES
THROUGH
PURCHASING
COOPERATIVES

A local government may not enter into a contract to purchase construction-related goods or services through a purchasing cooperative in an amount greater than \$50,000 unless a person designated by the local government certifies in writing that:

1. The project for which the construction-related goods or services are being procured does not require the preparation of plans and specifications under Occupations Code Chapters 1001 or 1051; or
2. The plans and specifications required under Occupations Code Chapters 1001 and 1051 have been prepared.

“Purchasing cooperative” means a group purchasing organization that governmental entities join as members and the managing entity of which receives fees from members or vendors.

Gov't Code 791.011(j)

PROCURING
PROFESSIONAL
SERVICES

The purchasing requirements of Education Code 44.031 do not apply to a contract for professional services rendered, including the services of an architect. A college district may, at its option, contract for professional services rendered by a financial consultant or a technology consultant in the manner provided by Government Code 2254.003, in lieu of the methods provided by Education Code 44.031. *Education Code 44.031(f)*

A governmental entity, including a college district, may not select a provider of professional services or a group or association of providers or award a contract for the services on the basis of competitive bids submitted for the contract or for the services, but shall make the selection and award on the basis of demonstrated competence and qualifications to perform the services and for a fair and reasonable price.

"Professional services" means services:

1. Within the scope of the practice, as defined by state law, of accounting, architecture, landscape architecture, land surveying, medicine, optometry, professional engineering, real estate appraising, or professional nursing; or
2. Provided in connection with the professional employment or practice of a person who is licensed or registered as a certified public accountant, an architect, a landscape architect, a land surveyor, a physician, including a surgeon, an optometrist, a professional engineer, a state certified or state licensed real estate appraiser, or a registered nurse.

Gov't Code 2254.002, .003(a)

In procuring architectural, engineering, or land-surveying services, a governmental entity shall:

1. First select the most highly qualified provider of those services on the basis of demonstrated competence and qualifications; and
2. Then attempt to negotiate with that provider a contract at a fair and reasonable price.

If a satisfactory contract cannot be negotiated with the most highly qualified provider of architectural, engineering, or land-surveying services, the entity shall formally end negotiations with that provider, select the next most highly qualified provider, and attempt to negotiate a contract with that provider at a fair and reasonable price. The entity shall continue the process to select and negotiate with providers until a contract is entered into.

Gov't Code 2254.004

An interlocal contract between a governmental entity and a purchasing cooperative may not be used to purchase engineering or architectural services. *Gov't Code 791.011(h)*

PROFESSIONAL
SERVICE
CONTRACT
EXCEEDING \$14,000

A state agency, including a college district and other institutions of higher education, shall provide written notice to the LBB of a contract for professional services, other than a contract for physician or optometric services, if the amount of the contract, including an amendment, modification, renewal, or extension of the contract, exceeds \$14,000. The notice must be on a form prescribed by the LBB and filed not later than the tenth day after the date the agency enters into the contract. *Gov't Code 2254.006*

CONTRACTS FOR
ENGINEERING
OR
ARCHITECTURAL
SERVICES

REQUIRED
STANDARD OF
CARE

A contract for engineering or architectural services to which a governmental agency is a party must require a licensed engineer or registered architect to perform services:

1. With the professional skill and care ordinarily provided by competent engineers or architects practicing in the same or similar locality and under the same or similar circumstances and professional license; and
2. As expeditiously as is prudent considering the ordinary professional skill and care of a competent engineer or architect.

In a contract for engineering or architectural services to which a governmental agency is a party, a provision establishing a different standard of care is void and unenforceable. If a contract contains a void and unenforceable provision, the standard of care described above applies.

Local Gov't Code 271.904(d)–(e)

LIMITATION ON
INDEMNIFICA-
TION

A covenant or promise in, in connection with, or collateral to a contract for engineering or architectural services to which a governmental agency is a party is void and unenforceable if the covenant or promise provides that a licensed engineer or registered architect whose work product is the subject of the contract must indemnify or hold harmless the governmental agency against liability for damage, other than liability for damage to the extent that the damage is caused by or results from an act of negligence, intentional tort, intellectual property infringement, or failure to pay a subcontractor or supplier committed by the indemnitor or the indemnitor's agent, consultant under contract, or another entity over which the indemnitor exercises control.

Except as provided by Local Government Code 271.904(c), a covenant or promise in, in connection with, or collateral to a contract for engineering or architectural services to which a governmental agency is a party is void and unenforceable if the covenant or promise provides that a licensed engineer or registered architect whose work product is the subject of the contract must defend a party, including a third party, against a claim based wholly or partly on the negligence of, fault of, or breach of contract by the governmental agency, the agency's agent, the agency's employee, or other entity, excluding the engineer or architect or that person's agent, employee, or subconsultant, over which the governmental agency exercises control. A covenant or promise may provide for the reimbursement of a governmental agency's reasonable attorney's fees in proportion to the engineer's or architect's liability.

Local Gov't Code 271.904(a)-(b)

Notwithstanding Local Government Code 271.904(b), a governmental agency may require in a contract for engineering or architectural services to which the governmental agency is a party that the engineer or architect name the governmental agency as an additional insured under the engineer's or architect's general liability insurance policy and provide any defense provided by the policy.

Local Gov't Code 271.904(c)

CRIMINAL HISTORY

A person or business entity, with the exception of a publicly held corporation, that enters into a contract with a college district must give advance notice to the district if the person or an owner or operator of the business entity has been convicted of a felony. A college district may terminate a contract with a person or business if the district determines that the person or business entity failed to give such notice or misrepresented the conduct resulting in the conviction. The district must compensate the person or business entity for services performed before the termination of the contract.
Education Code 44.034

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RIGHT TO WORK

When engaged in procuring goods or services, awarding a contract, or overseeing procurement or construction for a public work or public improvement under Government Code Chapter 2269, the governmental entity:

1. May not consider whether a person is a member of or has another relationship with any organization; and
2. Shall ensure that its bid specifications and any subsequent contract or other agreement do not deny or diminish the right of a person to work because of the person's membership or other relationship status with respect to any organization.

Gov't Code 2269.054

ACCESSIBILITY

Each facility or part of a facility constructed by, on behalf of, or for the use of the college district shall be designed and constructed in such manner that the facility or part of the facility is readily accessible to and usable by individuals with disabilities. Alterations of facilities that affect or could affect their usability shall, to the maximum extent feasible, be altered in such manner that the altered portion is readily accessible to and usable by individuals with disabilities. *28 C.F.R. 35.151; 34 C.F.R. 104.23*

PAYMENT AND
PERFORMANCE
BONDS

A governmental entity that makes a public work contract with a prime contractor shall require the contractor, before beginning the work, to execute payment and/or performance bonds as specified below. The bonds must be executed by a corporate surety in accordance with Insurance Code 7.19-1. A bond executed for a public work contract with another governmental entity must be payable to and its form must be approved by the awarding governmental entity. *Gov't Code 2253.021(a), (d)–(e)*

For a contract in excess of \$100,000, a performance bond shall be executed. The performance bond is solely for the protection of the governmental entity awarding the public work contract, in the amount of the contract, and conditioned on the faithful performance of the work in accordance with the plans, specifications, and contract documents. *Gov't Code 2253.021(a)–(b)*

For a contract in excess of \$25,000, a payment bond shall be executed. The payment bond is solely for the protection and use of payment bond beneficiaries who have a direct contractual relationship with the prime contractor or a subcontractor to supply public work labor or material and in the amount of the contract. *Gov't Code 2253.021(a), (c)*

FAILURE TO OBTAIN
PAYMENT BOND

If a governmental entity fails to obtain from a prime contractor a payment bond as required by Government Code 2253.021 the entity is subject to the same liability as a surety would have if the sure-

ty had issued a payment bond and if the entity had obtained the bond, and a payment bond beneficiary is entitled to a lien on money due to the prime contractor in the same manner and to the same extent as if the contract were subject to Property Code Chapter 53, Subchapter J. *Gov't Code 2253.027*

NO BOND FOR
DESIGN SERVICES
ONLY

A payment or performance bond is not required and may not provide coverage for the design portion of the design-build contract with the design-build firm under Government Code Chapter 2269, Subchapter G. [See CME for more information on design/build contracts, including bond amounts] *Gov't Code 2269.311(a)*

BOND FOR
INSURED LOSS

A governmental entity shall ensure that an insurance company that is fulfilling its obligation under a contract of insurance by arranging for the replacement of a loss, rather than by making a cash payment directly to the governmental entity, furnishes or has furnished by a contractor, in accordance with Government Code Chapter 2253:

1. A performance bond as described by Government Code 2253.021(b) for the benefit of the governmental entity; and
2. A payment bond as described in Government Code 2253.021(c) for the benefit of the beneficiaries described by that subsection. If the payment bond is not furnished, the governmental entity is subject to the same liability that a surety would have if the surety had issued the payment bond and the governmental entity had required the bond to be provided.

The bonds must be furnished before the contractor begins work. It is an implied obligation under a contract of insurance for the insurance company to furnish the bonds.

Gov't Code 2253.022(a)–(c), (f)

EXCEPTION TO
BOND
REQUIREMENT

Government Code 2253.022 does not apply to a governmental entity when a surety company is complying with an obligation under a bond that had been issued for the benefit of the governmental entity. *Gov't Code 2253.022(e)*

PREVAILING WAGE
ON PUBLIC WORKS

A worker, such as a laborer or mechanic, employed on a public work, exclusive of maintenance work, by or on behalf of a political subdivision, including a college district, shall be paid not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the work is performed, and not less than the general prevailing rate of per diem wages for legal holiday and overtime work. A worker is employed on a public work if the worker is employed by a contractor or subcontractor in the execution of a contract for the public work with a political subdivi-

sion of the state or any officer or public body of a political subdivision of the state. *Gov't Code 2258.001, .021(3)*

For a contract for a public work awarded by a political subdivision of the state, the public body shall determine the general prevailing rate of per diem wages in the locality in which the public work is to be performed for each craft or type of worker needed to execute the contract and the prevailing rate for legal holiday and overtime work by conducting a survey of the wages received by classes of workers employed on projects of a character similar to the contract work in the political subdivision of the state in which the public work is to be performed or using the prevailing wage rate as determined by the U.S. Department of Labor.

The public body shall determine the general prevailing rate of per diem wages as a sum certain, expressed in dollars and cents. A public body shall specify in the call for bids for the contract and in the contract itself the calculated prevailing wage rates. The public body's determination of the general prevailing rates of per diem wages shall be final.

Gov't Code 2258.022

ENFORCEMENT

A public body awarding a contract, and an agent or officer of the public body, shall take cognizance of complaints of all violations of Government Code Chapter 2258, and withhold money forfeited or required to be withheld under this chapter from the payments to the contractor under the contract, except that the public body may not withhold money from other than the final payment without a determination by the public body that there is good cause to believe that the contractor has violated Chapter 2258.

On receipt of information, including a complaint by a worker, concerning an alleged violation of Section 2258.023 by a contractor or subcontractor, a public body shall make an initial determination as to whether good cause exists to believe that the violation occurred. A public body must make its determination before the 31st day after the date the public body receives the information. A public body shall notify in writing the contractor or subcontractor and any affected worker of its initial determination.

Gov't Code 2258.051, .052(a)-(c)

RETAINAGE AND
REIMBURSEMENT

A public body shall retain any amount due under the contract pending a final determination of the violation. A public body shall use any amounts retained under Government Code Chapter 2258 to pay the worker the difference between the amount the worker received in wages for labor on the public work at the rate paid by the contractor or subcontractor and the amount the worker would have

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received at the general prevailing rate as provided in the arbitrator's award. The public body may adopt rules, orders, or ordinances relating to the manner in which the reimbursement is made.

Gov't Code 2258.052(d), .056

PENALTY FOR
NONCOMPLIANCE

The contractor who is awarded a contract by a public body or a subcontractor of the contractor shall pay not less than the rates determined under Government Code 2258.022 to a worker employed in the execution of the contract. A contractor or subcontractor who fails to pay the specified rates as required shall pay to the political subdivision of the state on whose behalf the contract is made, \$60 for each worker employed for each calendar day or part of the day that the worker is paid less than the wage rates specified in the contract. A public body awarding a contract shall specify this penalty in the contract. A contractor or subcontractor does not violate this section if a public body awarding a contract does not determine the prevailing wage rates and specify the rates in the contract as provided by Section 2258.022. The public body shall use any penalty money collected under this section to offset the costs incurred in the administration of Government Code Chapter 2258.

Gov't Code 2258.023

REQUIRED WORKERS'
COMPENSATION
COVERAGE

A governmental entity that enters into a building or construction contract on a project, which includes the provision of all services related to a building or construction contract for a governmental entity, shall:

1. Include in the bid specifications all the duties and responsibilities of contractors pertaining to required workers' compensation coverages described in 28 Administrative Code 110.110(c)(7). [See CM(EXHIBIT)]
2. As part of the contract, using the language required by 28 Administrative Code 110.110(c)(7), require the contractor to perform the duties and responsibilities described in 28 Administrative Code 110.110(d). [See CM(EXHIBIT)]
3. Obtain from the contractor a certificate of coverage for each person providing services on the project, prior to that person's beginning work on the project. "Person providing services on the project" includes but is not limited to all persons or entities performing all or part of the services the contractor has undertaken to perform on the project, regardless of whether that person contracts directly with the contractor and regardless of whether that person has employees. This includes, but is not limited to, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity furnishing persons to perform services on the contract. "Services" include, but

are not limited to, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other services related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

4. Obtain from the contractor a new certificate of coverage showing extension of coverage:
 - a. Before the end of the coverage period, if the contractor's current certificate shows that the coverage period ends during the duration of the project; and
 - b. No later than seven days after the expiration of the coverage for each other person providing services on the project whose current certificate shows that the coverage period ends during the duration of the project.
5. Retain certificates of coverage on file for the duration of the project and for three years thereafter.
6. Provide a copy of the certificate of coverage to the Texas Department of Insurance, Division of Workers' Compensation upon request and to any person entitled to a copy by law.
7. Use the prescribed language for bid specifications and contracts, without any additional words or changes, except those required to accommodate the specific document in which they are contained or to impose stricter standards of documentation. [See CM(EXHIBIT) for prescribed language]

Labor Code 406.096; 28 TAC 110.110(a)(7)–(8), (c)

EXCEPTION

A sole proprietor, partner, or corporate executive officer of a business entity that elects to provide workers' compensation insurance coverage is entitled to benefits under that coverage as an employee unless the sole proprietor, partner, or corporate executive officer is specifically excluded from coverage through an endorsement to the insurance policy or certificate of authority to self-insure. *Labor Code 406.097; 28 TAC 110.110(i)*

USE OF STUDENT
FEES IN
CONSTRUCTION

A junior college district facility constructed with student fees may be used only for junior college district purposes, as determined by the board. Student fees may not be used for construction, repair, or rehabilitation of a community center or junior college district auxiliary enterprise unless the enterprise serves as a student center or dormitory. *Education Code 130.124; Atty. Gen. Op. JM-139 (1984)*

IMPERMISSIBLE
PRACTICES

An officer, employee, or agent of a college district who knowingly or with criminal negligence violates the purchasing laws found in Ed-

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| | |
|---|--|
| | Education Code Chapter 44 as described at Education Code 44.032 is subject to criminal penalties. [See CF] <i>Education Code 44.032</i> |
| ENFORCEMENT ACTIONS | Government Code Chapter 2269 may be enforced through an action for declaratory or injunctive relief filed not later than the tenth day after the date on which the contract is awarded. <i>Gov't Code 2269.452(a)</i> |
| ATTORNEY FEES | A governmental contract may not provide for the award of attorney's fees to the governmental entity in a dispute in which the entity prevails unless the contract provides for the award of attorney's fees to each other party to the contract if that party prevails in the dispute. <i>Gov't Code 2252.904(b)</i> |
| PUBLIC AND PRIVATE FACILITIES AND INFRASTRUCTURE PARTNERSHIPS | A governmental entity, including a college district, may enter into a partnership with a private entity for the acquisition, design, construction, improvement, renovation, expansion, equipping, maintenance, operation, implementation, and installation of education facilities, technology and other public infrastructure, and government facilities that serve a public need and purpose in accordance with the requirements of Government Code Chapter 2267. <i>Gov't Code Ch. 2267</i> |

REQUIRED WORKERS' COMPENSATION COVERAGES

A governmental entity, including a college district, that enters into a building or construction contract on a project shall use the language found at 28 Administrative Code 110.110(c)(7) for bid specifications and contracts, without any additional words or changes, except those required to accommodate the specific document in which they are contained or to impose stricter standards of documentation. *28 TAC 110.110(c)*

The language is available at <http://texreg.sos.state.tx.us/fids/201505160-2.pdf>.

ELECTRONIC
TRANSACTIONS

The Uniform Electronic Transactions Act (UETA), Business and Commerce Code Chapter 322, and 1 Administrative Code Chapter 203, Subchapter C apply to transactions between parties each of which has agreed to conduct transactions by electronic means. *Business and Commerce Code 322.005(b); 1 TAC 203.43-.46*

Pursuant to Business and Commerce Code 322.017, the Department of Information Resources (DIR) and the Texas State Library and Archives Commission jointly formed the UETA Task Force to create rules and develop the Guidelines for the Management of Electronic Transactions and Signed Records. The Guidelines for the Management of Electronic Transactions and Signed Records are applicable to institutions of higher education that send and accept electronic records and electronic signatures to and from other persons and to other institutions of higher education and state agencies that otherwise create, generate, communicate, store, process, use, and rely upon electronic records and electronic signatures. These guidelines are available on the department's website. *1 TAC 203.40*

ELECTRONIC
SIGNATURES

An institution of higher education, including a college district, shall determine whether, and the extent to which, the institution will send and accept electronic or digital signatures to and from other persons and otherwise create, generate, communicate, store, process, use, and rely on electronic or digital signatures. The institution may adopt rules and procedures governing the use of electronic or digital signatures.

To the extent of any conflict, this provision prevails over Business and Commerce Code Chapter 322, the UETA, and rules and guidelines adopted under that Chapter.

Education Code 51.9336

ELECTRONIC
PAYMENTS

An institution of higher education, including a college district, may make any payment through electronic funds transfer or by electronic pay card. *Education Code 51.012*

INTERAGENCY
CONTRACTS FOR
INFORMATION
RESOURCES
TECHNOLOGIES

Each institution of higher education, including each college district, that proposes to receive information resources technologies under a contract from another state agency or institution of higher education shall comply with 1 Administrative Code Chapter 204, Subchapter C. *1 TAC 204.30-.32*

ACCESS TO
ELECTRONIC
COMMUNICATIONS

ELECTRONIC
COMMUNICATION
PRIVACY ACT

Except as otherwise provided in the Electronic Communication Privacy Act (ECPA), 18 U.S.C. 2510–22, a person commits an offense if the person:

1. Intentionally intercepts, endeavors to intercept, or procures any other person to intercept or endeavor to intercept any wire, oral, or electronic communication;
2. Intentionally uses, endeavors to use, or procures any other person to use or endeavor to use any electronic, mechanical, or other device to intercept any oral communication when:
 - a. Such device is affixed to, or otherwise transmits a signal through, a wire, cable, or other like connection used in wire communication;
 - b. Such device transmits communications by radio or interferes with the transmission of such communication;
 - c. Such person knows, or has reason to know, that such device or any component thereof has been sent through the mail or transported in interstate or foreign commerce;
 - d. Such use or endeavor to use takes place on the premises of any business or other commercial establishment the operations of which affect interstate or foreign commerce; or obtains or is for the purpose of obtaining information relating to the operations of any business or other commercial establishment the operations of which affect interstate or foreign commerce; or
 - e. Such person acts in the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.
3. Intentionally discloses, or endeavors to disclose, to any other person the contents of any wire, oral, or electronic communication, knowing or having reason to know that the information was obtained through the prohibited interception of a wire, oral, or electronic communication;
4. Intentionally uses, or endeavors to use, the contents of any wire, oral, or electronic communication, knowing or having reason to know that the information was obtained through the prohibited interception of a wire, oral, or electronic communication; or
5. Intentionally discloses, or endeavors to disclose, to any other person the contents of any wire, oral, or electronic communication, intercepted by means authorized by 18 U.S.C.

2511(2)(a)(ii), 2511(2)(b)–(c), 2511(2)(e), 2516, and 2518; knowing or having reason to know that the information was obtained through the interception of such a communication in connection with a criminal investigation; having obtained or received the information in connection with a criminal investigation; and with intent to improperly obstruct, impede, or interfere with a duly authorized criminal investigation.

It shall not be unlawful for a person not acting under color of law to intercept a wire, oral, or electronic communication where such person is a party to the communication or where one of the parties to the communication has given prior consent to such interception unless such communication is intercepted for the purpose of committing any criminal or tortious act in violation of the Constitution or laws of the United States or of any state.

18 U.S.C. 2511(1), (2)(d)

STORED WIRE AND
ELECTRONIC
COMMUNICATIONS
AND
TRANSACTIONAL
RECORDS ACCESS
ACT

A college district must comply with the Stored Wire and Electronic Communications and Transactional Records Access Act, 18 U.S.C. 2701–12.

Whoever intentionally accesses without authorization a facility through which an electronic communication service is provided or intentionally exceeds an authorization to access that facility and thereby obtains, alters, or prevents authorized access to a wire or electronic communication while it is in electronic storage in such system commits an offense. *18 U.S.C. 2701(a)*

EXCEPTIONS

This section does not apply with respect to conduct authorized:

1. By the person or entity providing a wire or electronic communications service;
2. By a user of that service with respect to a communication of or intended for that user; or
3. By sections 18 U.S.C. 2703, 2704, or 2518.

18 U.S.C. 2701(c)

DEFINITIONS

“ELECTRONIC
COMMUNICATION”

“Electronic communication” means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic, or photooptical system that affects interstate or foreign commerce. *18 U.S.C. 2510(12)*

“ELECTRONIC
STORAGE”

“Electronic storage” means:

1. Any temporary, intermediate storage of a wire or electronic communication incidental to the electronic transmission thereof; and
2. Any storage of such communication by an electronic communication service for purposes of backup protection of such communication.

18 U.S.C. 2510(17)

The term encompasses only the information that has been stored by an electronic communication service provider. Information that an individual stores to the individual's hard drive or cell phone is not in electronic storage under the statute. *Garcia v. City of Laredo*, 702 F.3d 788 (5th Cir. 2012)

"ELECTRONIC COMMUNICATIONS SYSTEM"

"Electronic communications system" means any wire, radio, electromagnetic, photooptical, or photoelectronic facilities for the transmission of wire or electronic communications and any computer facilities or related electronic equipment for the electronic storage of such communications. *18 U.S.C. 2510(14)*

"ELECTRONIC COMMUNICATIONS SERVICE"

"Electronic communication service" means any service that provides to users thereof the ability to send or receive wire or electronic communications. *18 U.S.C. 2510(15)*

"FACILITY"

"Facility" includes servers operated by electronic communication service providers for the purpose of storing and maintaining electronic storage. The term does not include technology, such as cell phones and computers, that enables the use of an electronic communication service. *Garcia v. City of Laredo*, 702 F.3d 788 (5th Cir. 2012)

DRONES

FEDERAL LAW

SMALL UNMANNED AIRCRAFT

"Small unmanned aircraft" means an unmanned aircraft weighing less than 55 pounds on takeoff, including everything that is on board or otherwise attached to the aircraft.

SMALL AIRCRAFT SYSTEMS

"Small unmanned aircraft system" (small UAS) means a small unmanned aircraft and its associated elements (including communication links and the components that control the small unmanned aircraft) that are required for the safe and efficient operation of the small unmanned aircraft in the national airspace system.

The registration, airman certification, and operation of civil small UAS within the United States is subject to 14 C.F.R. Part 107. Part 107 does not apply to the following:

1. Air carrier operations;
2. Any aircraft subject to the provisions of 14 C.F.R. Part 101; or
3. Any operation that a remote pilot in command elects to conduct pursuant to an exemption issued under Section 333 of Public Law 112–95, unless otherwise specified in the exemption.

14 C.F.R. 107.1, .3

MODEL
AIRCRAFT

A “model aircraft” is an unmanned aircraft that is capable of sustained flight in the atmosphere, flown within visual line of sight of the person operating the aircraft, and flown for hobby or recreational purposes.

Title 14 C.F.R. Part 101, Subpart E prescribes rules governing the operation of a model aircraft (or an aircraft being developed as a model aircraft) that meets all of the following conditions:

1. The aircraft is flown strictly for hobby or recreational use;
2. The aircraft is operated in accordance with a community-based set of safety guidelines and within the programming of a nationwide community-based organization;
3. The aircraft is limited to not more than 55 pounds unless otherwise certified through a design, construction, inspection, flight test, and operational safety program administered by a community-based organization;
4. The aircraft is operated in a manner that does not interfere with and gives way to any manned aircraft; and
5. When flown within five miles of an airport, the operator of the aircraft provides the airport operator and the airport air traffic control tower (when an air traffic facility is located at the airport) with prior notice of the operation.

No person may operate a model aircraft so as to endanger the safety of the national airspace system.

14 C.F.R. 101.1(5), .41-.42

STATE PRIVACY
LAW

It is lawful to capture an image using an unmanned aircraft in this state for the reasons listed in Government Code 423.002, including:

1. For the purpose of professional or scholarly research and development or for another academic purpose by a person acting on behalf of an institution of higher education or a private or independent institution of higher education, as those terms

are defined by Section 61.003, Education Code, including a person who:

- a. Is a professor, employee, or student of the institution; or
 - b. Is under contract with or otherwise acting under the direction or on behalf of the institution; or
2. With the consent of the individual who owns or lawfully occupies the real property captured in the image.

Gov't Code 423.002(a)

CYBERSECURITY
INFORMATION
SHARING ACT

A non-federal entity, including a college district may, for a cybersecurity purpose and consistent with the protection of classified information, share with, or receive from, any other non-federal entity or the federal government a cyber threat indicator or defensive measure. A non-federal entity receiving a cyber threat indicator or defensive measure from another non-federal entity or a federal entity shall comply with otherwise lawful restrictions placed on the sharing or use of such cyber threat indicator or defensive measure by the sharing non-federal or federal entity. *6 U.S.C. 1503(c)*

PROTECTION AND
USE OF
INFORMATION
SECURITY

A non-federal entity monitoring an information system, operating a defensive measure, or providing or receiving a cyber threat indicator or defensive measure under 6 U.S.C. 1503 shall implement and utilize a security control to protect against unauthorized access to or acquisition of such indicator or measure. *6 U.S.C. 1503(d)(1)*

REMOVAL OF
PERSONAL
INFORMATION

A non-federal entity sharing a cyber threat indicator pursuant to 6 U.S.C. Chapter 6, Subchapter I shall, prior to sharing:

1. Review such cyber threat indicator to assess whether such cyber threat indicator contains any information not directly related to a cybersecurity threat that the non-federal entity knows at the time of sharing to be personal information of a specific individual or information that identifies a specific individual and remove such information; or
2. Implement and utilize a technical capability configured to remove any information not directly related to a cybersecurity threat that the non-federal entity knows at the time of sharing to be personal information of a specific individual or information that identifies a specific individual.

6 U.S.C. 1503(d)(2)

USE OF
INFORMATION

A cyber threat indicator or defensive measure shared or received may, for cybersecurity purposes:

1. Be used by a non-federal entity to monitor or operate a defensive measure that is applied to an information system of the non-federal entity, or an information system of another non-federal entity or a federal entity upon written consent of that other non-federal entity or federal entity; and
2. Be otherwise used, retained, and further shared by a non-federal entity subject to an otherwise lawful restriction placed by the sharing non-federal entity or federal entity on such cyber threat indicator or defensive measure, or an otherwise applicable provision of law.

6 U.S.C. 1503(d)(3)

EXCEPTION

A cyber threat indicator or defensive measure shared with a state, tribal, or local government under 6 U.S.C. Chapter 6, Subchapter I shall not be used by any state, tribal, or local government to regulate, including an enforcement action, the lawful activity of any non-federal entity or any activity taken by a non-federal entity pursuant to mandatory standards, including an activity relating to monitoring, operating a defensive measure, or sharing of a cyber threat indicator. A cyber threat indicator or defensive measure shared as described in this provision may, consistent with a state, tribal, or local government regulatory authority specifically relating to the prevention or mitigation of cybersecurity threats to information systems, inform the development or implementation of a regulation relating to such information systems. *6 U.S.C. 1503(d)(4)(C)*

LAW
ENFORCEMENT
USE

A college district that receives a cyber threat indicator or defensive measure under 6 U.S.C. Chapter 6, Subchapter I, may use such indicator or measure for the purposes described in 6 U.S.C. 1504(d)(5)(A). [See CKE] *6 U.S.C. 1503(d)(4)(A)*

EXEMPTION
FROM PUBLIC
DISCLOSURE

A cyber threat indicator or defensive measure shared by or with a state, tribal, or local government, including a component of a state, tribal, or local government that is a private entity, under 6 U.S.C. 1503 shall be deemed voluntarily shared information and exempt from disclosure under any provision of state, tribal, or local freedom of information law, open government law, open meetings law, open records law, sunshine law, or similar law requiring disclosure of information or records. *6 U.S.C. 1503(d)(4)(B)*

A cyber threat indicator or defensive measure shared with the federal government under 6 U.S.C. Chapter 6, Subchapter I, shall be:

1. Deemed voluntarily shared information and exempt from disclosure under 5 U.S.C. 552 and any state, tribal, or local provision of law requiring disclosure of information or records; and

2. Withheld, without discretion, from the public under 5 U.S.C. 552(b)(3)(B) and any state, tribal, or local provision of law requiring disclosure of information or records.

6 U.S.C. 1504(d)(3) [See GCA]

NO DUTY

Nothing in this section shall be construed to create a duty to share a cyber threat indicator or defensive measure or a duty to warn or act based on the receipt of a cyber threat indicator or defensive measure; or to undermine or limit the availability of otherwise applicable common law or statutory defenses. *6 U.S.C. 1505(c)*

DEFINITIONS

“NON-FEDERAL
ENTITY”

“Non-federal entity” means any private entity, non-federal government agency or department, or state, tribal, or local government (including a political subdivision, department, or component thereof). *6 U.S.C. 1501(14)*

“CYBER-
SECURITY
PURPOSE”

“Cybersecurity purpose” means the purpose of protecting an information system or information that is stored on, processed by, or transiting an information system from a cybersecurity threat or security vulnerability. *6 U.S.C. 1501(4)*

“CYBERSECURITY
THREAT”

“Cybersecurity threat” means an action, not protected by the First Amendment to the U.S. Constitution, on or through an information system that may result in an unauthorized effort to adversely impact the security, availability, confidentiality, or integrity of an information system or information that is stored on, processed by, or transiting an information system. The term does not include any action that solely involves a violation of a consumer term of service or a consumer licensing agreement. *6 U.S.C. 1501(5)*

“CYBER THREAT
INDICATOR”

“Cyber threat indicator” means information that is necessary to describe or identify:

1. Malicious reconnaissance, as defined in *6 U.S.C. 1501(12)*, including anomalous patterns of communications that appear to be transmitted for the purpose of gathering technical information related to a cybersecurity threat or security vulnerability;
2. A method of defeating a security control or exploitation of a security vulnerability;
3. A security vulnerability, including anomalous activity that appears to indicate the existence of a security vulnerability;
4. A method of causing a user with legitimate access to an information system or information that is stored on, processed by, or transiting an information system to unwittingly enable

the defeat of a security control or exploitation of a security vulnerability;

5. Malicious cyber command and control, as defined in 6 U.S.C. 1501(11);
6. The actual or potential harm caused by an incident, including a description of the information exfiltrated as a result of a particular cybersecurity threat;
7. Any other attribute of a cybersecurity threat, if disclosure of such attribute is not otherwise prohibited by law; or
8. Any combination thereof.

6 U.S.C. 1501(6)

“DEFENSIVE MEASURE”

“Defensive measure” means an action, device, procedure, signature, technique, or other measure applied to an information system or information that is stored on, processed by, or transiting an information system that detects, prevents, or mitigates a known or suspected cybersecurity threat or security vulnerability. The term does not include a measure that destroys, renders unusable, provides unauthorized access to, or substantially harms an information system or information stored on, processed by, or transiting such information system not owned by the private entity operating the measure or another entity or federal entity that is authorized to provide consent and has provided consent to that private entity for operation of such measure. *6 U.S.C. 1501(7)*

“INFORMATION SYSTEM”

“Information system” has the meaning given the term in 44 U.S.C. 3502 and includes industrial control systems, such as supervisory control and data acquisition systems, distributed control systems, and programmable logic controllers. *6 U.S.C. 1501(9)*

“SECURITY CONTROL”

“Security control” means the management, operational, and technical controls used to protect against an unauthorized effort to adversely affect the confidentiality, integrity, and availability of an information system or its information. *6 U.S.C. 1501(16)*

“SECURITY VULNERABILITY”

“Security vulnerability” means any attribute of hardware, software, process, or procedure that could enable or facilitate the defeat of a security control. *6 U.S.C. 1501(17)*

Note: For Board member use of College District technology resources, see BBI.

For purposes of this policy, "technology resources" means electronic communication systems and electronic equipment.

AVAILABILITY OF ACCESS

Access to the College District's technology resources, including the Internet, shall be made available to students and employees primarily for instructional and administrative purposes and in accordance with administrative regulations.

LIMITED PERSONAL USE

Limited personal use of the College District's technology resources shall be permitted if the use:

1. Imposes no tangible cost on the College District;
2. Does not unduly burden the College District's technology resources; and
3. Has no adverse effect on an employee's job performance or on a student's academic performance.

USE BY MEMBERS OF THE PUBLIC

Access to the College District's technology resources, including the Internet, shall be made available to members of the public, in accordance with administrative regulations. Such use shall be permitted so long as the use:

1. Imposes no tangible cost on the College District; and
2. Does not unduly burden the College District's technology resources.

ACCEPTABLE USE

The College President or designee shall develop and implement administrative regulations, guidelines, and user agreements consistent with the purposes and mission of the College District and with law and policy.

Access to the College District's technology resources is a privilege, not a right. All users shall be required to acknowledge receipt and understanding of all administrative regulations governing use of the College District's technology resources and shall agree in writing to allow monitoring of their use and to comply with such regulations and guidelines. Noncompliance may result in suspension of access or termination of privileges and other disciplinary action consistent with College District policies. [See DH, FL series, and FM series] Violations of law may result in criminal prosecution as well as disciplinary action by the College District.

MONITORED USE

Electronic mail transmissions and other use of the College District's technology resources by students, employees, and members of the

TECHNOLOGY RESOURCES

CR
(LOCAL)

public shall not be considered private. Designated College District staff shall be authorized to monitor the College District's technology resources at any time to ensure appropriate use.

DISCLAIMER OF
LIABILITY

The College District shall not be liable for users' inappropriate use of the College District's technology resources, violations of copyright restrictions or other laws, users' mistakes or negligence, and costs incurred by users. The College District shall not be responsible for ensuring the availability of the College District's technology resources or the accuracy, appropriateness, or usability of any information found on the Internet.

RECORD RETENTION

A College District employee shall retain electronic records, whether created or maintained using the College District's technology resources or using personal technology resources, in accordance with the College District's record management program. [See CIA]

DRONES

The flying of drones from sites on College District property or as part of the College District's academic or research program is permitted only in accordance with law and College District regulations.

INFORMATION SECURITY

CS
(LEGAL)

INFORMATION
SECURITY PROGRAM

A financial institution, as defined below, shall develop, implement, and maintain a comprehensive information security program that is written in one or more readily accessible parts and contains administrative, technical, and physical safeguards that are appropriate to its size and complexity, the nature and scope of its activities, and the sensitivity of any customer information at issue. Such safeguards shall include the elements set forth below at ELEMENTS and shall be reasonably designed to achieve the objectives set forth below at OBJECTIVES. *16 C.F.R. 314.3(a); 15 U.S.C. 6801(b)*

OBJECTIVES

The objectives are to:

1. Ensure the security and confidentiality of customer information;
2. Protect against any anticipated threats or hazards to the security or integrity of such information; and
3. Protect against unauthorized access to or use of such information that could result in substantial harm or inconvenience to any customer.

16 C.F.R. 314.3(b)

ELEMENTS

To develop, implement, and maintain the information security program, the financial institution shall:

1. Designate an employee or employees to coordinate the program;
2. Identify reasonably foreseeable internal and external risks to the security, confidentiality, and integrity of customer information that could result in the unauthorized disclosure, misuse, alteration, destruction or other compromise of such information, and assess the sufficiency of any safeguards in place to control these risks. At a minimum, such a risk assessment should include consideration of risks in each relevant area of the institution's operations, including:
 - a. Employee training and management;
 - b. Information systems, including network and software design, as well as information processing, storage, transmission and disposal; and
 - c. Detecting, preventing and responding to attacks, intrusions, or other systems failures.
3. Design and implement information safeguards to control the risks the institution identifies through risk assessment, and

regularly test or otherwise monitor the effectiveness of the safeguard's key controls, systems, and procedures.

4. Oversee service providers by:
 - a. Taking reasonable steps to select and retain service providers that are capable of maintaining appropriate safeguards for the customer information at issue; and
 - b. Requiring the institution's service providers by contract to implement and maintain such safeguards.
5. Evaluate and adjust the information security program in light of the results of testing and monitoring, any material changes to the institution's operations or business arrangements, or any other circumstances that the college district knows or has reason to know may have a material impact on the information security program.

16 C.F.R. 314.4

DEFINITIONS

"CUSTOMER
INFORMATION"

"Customer Information" means any record containing nonpublic personal information, as defined below, about a customer of a financial institution, whether in paper, electronic, or other form, that is handled or maintained by or on behalf of the institution or its affiliates. *16 C.F.R. 314.2(b)*

"FINANCIAL
INSTITUTION"

"Financial institution" means any institution the business of which is engaging in financial activities as described in the Bank Holding Company Act of 1956, 12 U.S.C. 1843(k), including lending, exchanging, transferring, investing for others, or safeguarding money or securities. An institution that is significantly engaged in financial activities is a financial institution. *12 U.S.C. 1843(k); 16 C.F.R. 313.3(k)*

"NONPUBLIC
PERSONAL
INFORMATION"

"Nonpublic personal information" means:

1. Personally identifiable financial information; and
2. Any list, description, or other grouping of consumers (and publicly available information pertaining to them) that is derived using any personally identifiable financial information that is not publicly available.

16 C.F.R. 313.3(n)

"SERVICE
PROVIDER"

"Service provider" means any person or entity that receives, maintains, processes, or otherwise is permitted access to customer information through its provisions of services directly to a qualifying entity. *16 C.F.R. 314.2(d)*

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| SECURITY BREACH NOTIFICATION TO RESIDENTS OF TEXAS AND CERTAIN OTHER STATES | <p>A person, including a college district, who conducts business in this state and owns or licenses computerized data that includes sensitive personal information shall disclose, in accordance with the notice provisions at Business and Commerce Code 521.053(e), any breach of system security, after discovering or receiving notification of the breach, to any individual whose sensitive personal information was, or is reasonably believed to have been, acquired by an unauthorized person. The disclosure shall be made as quickly as possible, except as provided at CRIMINAL INVESTIGATION EXCEPTION, below, or as necessary to determine the scope of the breach and restore the reasonable integrity of the data system. <i>Business and Commerce Code 521.053(b)</i></p> <p>If the individual whose sensitive personal information was or is reasonably believed to have been acquired by an unauthorized person is a resident of a state that requires a person described by Business and Commerce Code 521.053(b) to provide notice of a breach of system security, the notice of the breach of system security required by Section 521.053(b) may be provided under that state's law or under Business and Commerce Code 521.053(b). <i>Business and Commerce Code 521.053(b-1); Gov't Code 2054.1125; Local Gov't Code 205.010</i></p> |
| TO THE OWNER OR LICENSE HOLDER | <p>A person who maintains computerized data that includes sensitive personal information not owned by the person shall notify the owner or license holder, in accordance with Business and Commerce Code 521.053(e), of the information of any breach of system security immediately after discovering the breach, if the sensitive personal information was, or is reasonably believed to have been, acquired by an unauthorized person. <i>Business and Commerce Code 521.053(c); Gov't Code 2054.1125; Local Gov't Code 205.010</i></p> |
| TO A CONSUMER REPORTING AGENCY | <p>If a person is required to notify at one time more than 10,000 persons of a breach of system security, the person shall also notify each consumer reporting agency, as defined by 15 U.S.C. 1681a, that maintains files on consumers on a nationwide basis, of the timing, distribution, and content of the notices. The person shall provide the notice without unreasonable delay. <i>Business and Commerce Code 521.053(h); Gov't Code 2054.1125; Local Gov't Code 205.010</i></p> |
| CRIMINAL INVESTIGATION EXCEPTION | <p>A person may delay providing the required notice to state residents or the owner or license holder at the request of a law enforcement agency that determines that the notification will impede a criminal investigation. The notification shall be made as soon as the law enforcement agency determines that the notification will not compromise the investigation. <i>Business and Commerce Code 521.053(d); Gov't Code 2054.1125; Local Gov't Code 205.010</i></p> |

INFORMATION
SECURITY POLICY

A person who maintains the person's own notification procedures as part of an information security policy for the treatment of sensitive personal information that complies with the timing requirements for notice under Business and Commerce Code 521.053 if the person notifies affected persons in accordance with that policy. *Business and Commerce Code 521.053(g); Gov't Code 2054.1125; Local Gov't Code 205.010*

DEFINITIONS
"BREACH OF
SYSTEM
SECURITY"

"Breach of system security" means unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of sensitive personal information maintained by a person, including data that is encrypted if the person accessing the data has the key required to decrypt the data. Good faith acquisition of sensitive personal information by an employee or agent of the person for the purposes of the person is not a breach of system security unless the person uses or discloses the sensitive personal information in an unauthorized manner. *Business and Commerce Code 521.053(a)*

"SENSITIVE
PERSONAL
INFORMATION"

"Sensitive personal information" means:

1. An individual's first name or first initial and last name in combination with any one or more of the following items, if the name and the items are not encrypted:
 - a. Social security number;
 - b. Driver's license number or government-issued identification number; or
 - c. Account number or credit or debit card number in combination with any required security code, access code, or password that would permit access to an individual's financial account; or
2. Information that identifies an individual and relates to:
 - a. The physical or mental health or condition of the individual;
 - b. The provision of health care to the individual; or
 - c. Payment for the provision of health care to the individual.

"Sensitive personal information" does not include publicly available information that is lawfully made available to the public from the federal government or a state or local government.

Business and Commerce Code 521.002(a)(2), (b)

INTERAGENCY
CONTRACTS FOR
INFORMATION
RESOURCES
TECHNOLOGIES

Each institution of higher education, including each college district, that proposes to receive information resources technologies under a contract from another state agency or institution of higher education shall comply with 1 Administrative Code Chapter 204, Subchapter C. *1 TAC 204.30-.32*

DISCLOSURE OF
SPONSORS

In any public communication the content of which is based on the results of sponsored research, a faculty member or other employee or appointee of an institution of higher education, including a college district, who conducted or participated in conducting the research shall conspicuously disclose the identity of each sponsor of the research. *Education Code 51.954(a)*

DEFINITIONS

"PUBLIC
COMMUN-
ICATION"

"Public communication" means oral or written communication intended for public consumption or distribution, including:

1. Testimony in a public administrative, legislative, regulatory, or judicial proceeding;
2. Printed matter including a magazine, journal, newsletter, newspaper, pamphlet, or report; or
3. Posting of information on a website or similar Internet host for information.

Education Code 51.954(b)(2)

"SPONSOR"

"Sponsor" means an entity that contracts for or provides money or materials for research. *Education Code 51.954(b)(3)*

"SPONSORED
RESEARCH"

"Sponsored research" means research:

1. That is conducted under a contract with, or that is conducted under a grant awarded by and pursuant to a written agreement with, an individual or entity other than the institution conducting the research; and
2. In which payments received or the value of materials received under that contract or grant, or under a combination of more than one such contract or grant, constitutes at least 50 percent of the cost of conducting the research.

Education Code 51.954(b)(4)

RESTRICTION ON
STATE AGENCY
CONTRACTS

A state agency that expends appropriated funds may not enter into a research contract with an institution of higher education, including a college district, if that contract contains a provision precluding public disclosure of any final data generated or produced in the course of executing the contract unless the agency reasonably determines that the premature disclosure of such data would adversely affect public safety, the protection of intellectual property rights of the institution of higher education, publication rights in professional scientific publications, or valuable confidential information of the institution of higher education or a third party. This prohibition does not apply to a research contract between an institution of higher education and the Cancer Prevention and Research Institute of Texas. *Education Code 51.955(b)-(c)*

RESEARCH
INVOLVING HUMAN
SUBJECTS

Title 45 C.F.R. Part 46, Subpart A applies to all research involving human subjects conducted, supported, or otherwise subject to regulation by any federal department or agency which takes appropriate administrative action to make the policy applicable to such research. This includes research conducted by federal civilian employees or military personnel, except that each department or agency head may adopt such procedural modifications as may be appropriate from an administrative standpoint. It also includes research conducted, supported, or otherwise subject to regulation by the federal government outside the United States.

Research that is conducted or supported by a federal department or agency, whether or not it is regulated as defined in 45 C.F.R. 46.102(e), must comply with all sections of 45 C.F.R. Part 46, Subpart A.

Research that is neither conducted nor supported by a federal department or agency but is subject to regulation as defined in 45 C.F.R. 46.102(e) must be reviewed and approved, in compliance with 45 C.F.R. 46.101, 46.102, and 46.107 through 46.117, by an institutional review board (IRB) that operates in accordance with the pertinent requirements of 45 C.F.R. Part 46, Subpart A.

45 C.F.R. 46.101(a)

EXCEPTION

Unless otherwise required by department or agency heads, research activities in which the only involvement of human subjects will be in one or more of the following categories are exempt from this policy:

1. Research conducted in established or commonly accepted educational settings, involving normal educational practices, such as research on regular and special education instructional strategies, or research on the effectiveness of or the comparison among instructional techniques, curricula, or classroom management methods.
2. Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures, or observation of public behavior, unless information obtained is recorded in such a manner that human subjects can be identified, directly or through identifiers linked to the subjects; and any disclosure of the human subjects' responses outside the research could reasonably place the subjects at risk of criminal or civil liability or be damaging to the subjects' financial standing, employability, or reputation.
3. Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, inter-

view procedures, or observation of public behavior that is not exempt under item 2, if the human subjects are elected or appointed public officials or candidates for public office; or federal statute(s) require(s) without exception that the confidentiality of the personally identifiable information will be maintained throughout the research and thereafter.

4. Research, involving the collection or study of existing data, documents, records, pathological specimens, or diagnostic specimens, if these sources are publicly available or if the information is recorded by the investigator in such a manner that subjects cannot be identified, directly or through identifiers linked to the subjects.
5. Research and demonstration projects which are conducted by or subject to the approval of department or agency heads, and which are designed to study, evaluate, or otherwise examine public benefit or service programs; procedures for obtaining benefits or services under those programs; possible changes in or alternatives to those programs or procedures; or possible changes in methods or levels of payment for benefits or services under those programs.
6. Taste and food quality evaluation and consumer acceptance studies, if wholesome foods without additives are consumed or if a food is consumed that contains a food ingredient at or below the level and for a use found to be safe, or agricultural chemical or environmental contaminants at or below the level found to be safe, by the U.S. Food and Drug Administration or approved by the U.S. Environmental Protection Agency or the Food Safety and Inspection Service of the U.S. Department of Agriculture.

45 C.F.R. 46.101(b)

SOME POLICY TITLES ARE INCLUDED FOR FUTURE EXPANSION

SECTION D: PERSONNEL

| | |
|------|--|
| DA | EMPLOYMENT OBJECTIVES |
| DAA | Equal Employment Opportunity |
| DAAA | Genetic Nondiscrimination |
| DAB | Objective Criteria for Personnel Decisions |
| DB | EMPLOYMENT REQUIREMENTS AND RESTRICTIONS |
| DBA | Credentials and Records |
| DBB | Medical Examinations and Communicable Diseases |
| DBC | Oath of Office |
| DBD | Conflict of Interest |
| DBE | Nepotism |
| DBF | Nonschool Employment |
| DC | EMPLOYMENT PRACTICES |
| DCA | Term Contracts |
| DCB | Tenure |
| DCC | At-Will Employment |
| DD | PERSONNEL POSITIONS |
| DDA | Qualifications and Duties |
| DDB | Substitute, Temporary, and Part-time Positions |
| DE | COMPENSATION AND BENEFITS |
| DEA | Salaries and Wages |
| DEB | Fringe Benefits |
| DEC | Leaves and Absences |
| DECA | Family and Medical Leave |
| DECB | Military Leave |
| DED | Holidays |
| DEE | Expense Reimbursement |
| DF | RETIREMENT PROGRAMS |
| DG | EMPLOYEE RIGHTS AND PRIVILEGES |
| DGA | Freedom of Association |
| DGB | Personnel-Management Relations |
| DGBA | Employee Grievances |
| DGC | Academic Freedom and Responsibilities |
| DGD | Employee Use of College District Facilities |
| DH | EMPLOYEE STANDARDS OF CONDUCT |
| DHB | Searches and Alcohol/Drug Testing |
| DHC | Child Abuse and Neglect Reporting |

SOME POLICY TITLES ARE INCLUDED FOR FUTURE EXPANSION

SECTION D: PERSONNEL

| | |
|------|--|
| DI | EMPLOYEE WELFARE |
| DIA | Freedom from Discrimination, Harassment, and Retaliation |
| DIAA | Sex and Sexual Violence |
| DIAB | Other Protected Characteristics |
| DJ | ASSIGNMENT, WORK LOAD, AND SCHEDULES |
| DK | PROFESSIONAL DEVELOPMENT |
| DL | EMPLOYEE PERFORMANCE |
| DLA | Evaluation |
| DLB | Probation |
| DLC | Promotion and Demotion |
| DLD | Employee Awards |
| DM | TERMINATION OF EMPLOYMENT |
| DMA | Term Contracts |
| DMAA | Termination Mid-Contract |
| DMAB | Nonrenewal |
| DMB | Tenure |
| DMC | Reduction in Force |
| DMD | Resignation |

Note: For complaints of discrimination, harassment, and retaliation targeting employees on the basis of a protected characteristic, see DIAA(LEGAL) and DIAB(LEGAL).

TITLE VII—
DISCRIMINATION ON
THE BASIS OF SEX,
RACE, COLOR,
RELIGION, OR
NATIONAL ORIGIN
GENERALLY

No governmental entity, including a college district, shall deny to any person within its jurisdiction the equal protection of the laws. *U.S. Const. Amend. XIV*

It shall be an unlawful employment practice for an employer to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin or to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin. *42 U.S.C. 2000e-2(a)*

Title VII proscribes not only overt discrimination (disparate treatment) but also employment practices that are fair in form but discriminatory in operation (disparate impact). *Wards Cove Packing Co. v. Atonio, 490 U.S. 642 (1989)*

DISPARATE
TREATMENT

Disparate treatment (intentional discrimination) occurs where members of a race, sex, or ethnic group have been denied the same employment, promotion, membership, or other employment opportunities as have been available to other employees or applicants. *29 C.F.R. 1607.11*

DISPARATE
IMPACT

An unlawful employment practice based on disparate impact is established only if a complaining party demonstrates that a respondent uses a particular employment practice that causes a disparate (disproportionate) impact on the basis of race, color, religion, sex, or national origin, and the respondent fails to demonstrate that the challenged practice is job-related and consistent with business necessity. *42 U.S.C. 2000e-2(k)(1)(A)*

TRAINING

It shall be an unlawful employment practice for any employer controlling apprenticeship or other training or retraining, including on-the-job training programs, to discriminate against any individual because of his race, color, religion, sex, or national origin in admission to, or employment in, any program established to provide apprenticeship or other training. *42 U.S.C. 2000e-2(a), (d)*

JOB QUALIFICATION

It shall not be an unlawful employment practice for an employer to hire and employ an employee on the basis of his religion, sex, national origin, or age in those certain instances where religion, sex,

EMPLOYMENT OBJECTIVES
EQUAL EMPLOYMENT OPPORTUNITY

DAA
(LEGAL)

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| | <p>national origin, or age is a bona fide occupational qualification. 42 U.S.C. 2000e-2(e)</p> |
| EMPLOYMENT POSTINGS | <p>It shall be an unlawful employment practice for an employer controlling apprenticeship or other training or retraining, including on-the-job training programs, to print or publish or cause to be printed or published any notice or advertisement relating to employment by such an employer or membership in or any classification or referral for employment by such a labor organization, or relating to any classification or referral for employment by such an employment agency, or relating to admission to, or employment in, any program established to provide apprenticeship or other training by such a joint labor-management committee, indicating any preference, limitation, specification, or discrimination based on race, color, religion, sex, or national origin, except that such a notice or advertisement may indicate a preference, limitation, specification, or discrimination based on religion, sex, or national origin when religion, sex, or national origin is a bona fide occupational qualification. 42 U.S.C. 2000e-3(b)</p> |
| ADDITIONAL CONSIDERATIONS SEX DISCRIMINATION GENDER STEREOTYPES PREGNANCY | <p>An employer, including a college district, may not evaluate employees by assuming or insisting that they match the stereotype associated with their group. <u>Price Waterhouse v. Hopkins</u>, 490 U.S. 228 (1989)</p> <p>The terms “because of sex” or “on the basis of sex” include, but are not limited to, because of or on the basis of pregnancy, childbirth, or related medical conditions; and women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work, and nothing in 29 U.S.C. 2000e-2(h) shall be interpreted to permit otherwise. 42 U.S.C. 2000e(k)</p> |
| EQUAL PAY | <p>No employer having employees subject to any provisions of this section shall discriminate, within any establishment in which such employees are employed, between employees on the basis of sex by paying wages to employees in such establishment at a rate less than the rate at which he pays wages to employees of the opposite sex in such establishment for equal work on jobs the performance of which requires equal skill, effort, or responsibility, and which are performed under similar working conditions, except where such payment is pursuant to a seniority system, a merit system, a system which measures earnings by quantity or quality of production, or a differential based on any other factor other than sex. 29 U.S.C. 206(d); 34 C.F.R. 106.54</p> |

EMPLOYMENT OBJECTIVES
EQUAL EMPLOYMENT OPPORTUNITY

DAA
(LEGAL)

RELIGIOUS
DISCRIMINATION

The prohibition against discrimination on the basis of religion includes all aspects of religious observances and practice, as well as religious belief, unless an employer demonstrates that it is unable to reasonably accommodate an employee's or prospective employee's religious observance or practice without undue hardship to the an employer's business. "Undue hardship" means more than a *de minimus* (minimal) cost. 42 U.S.C. 2000e(j); 29 C.F.R. 1605.2

Note: See STATE LAW, below, for state prohibitions on discrimination based on race, color, religion, sex, or national origin.

TITLE VII—
HARASSMENT OF
EMPLOYEES ON THE
BASIS OF SEX, RACE,
COLOR, RELIGION,
AND NATIONAL ORIGIN

Harassment violates Title VII if it is sufficiently severe and pervasive to alter the conditions of employment. *Pennsylvania State Police v. Suders*, 542 U.S. 129 (2004)

Harassment on the basis of sex is a violation of 42 U.S.C. 2000e-2 (Title VII).

The Equal Employment Opportunity Commission (EEOC) has consistently held that harassment on the basis of national origin is a violation of Title VII. An employer has an affirmative duty to maintain a working environment free of harassment on the basis of national origin.

42 U.S.C. 2000e-2; 29 C.F.R. 1606.8(a), 1604.11(a)

Title VII does not prohibit all verbal and physical harassment in the workplace. For example, harassment between men and women is not automatically unlawful sexual harassment merely because the words used have sexual content or connotations. *Oncale v. Sun-downer Offshore Services, Inc.*, 523 U.S. 75 (1998)

HOSTILE
ENVIRONMENT

Verbal or physical conduct based on a person's sex, race, color, religion, or national origin constitutes unlawful harassment when the conduct:

1. Has the purpose or effect of creating an intimidating, hostile, or offensive working environment;
2. Has the purpose or effect of unreasonably interfering with an individual's work performance; or
3. Otherwise adversely affects an individual's employment opportunities.

Pennsylvania State Police v. Suders, 542 U.S. 129 (2004); *Nat'l Railroad Passenger Corp. v. Morgan*, 536 U.S. 101 (2002); *Meritor Savings Bank v. Vinson*, 477 U.S. 57 (1986); 29 C.F.R. 1604.11, 1606.8

EMPLOYMENT OBJECTIVES
EQUAL EMPLOYMENT OPPORTUNITY

DAA
(LEGAL)

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| QUID PRO QUO | <p>Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes sexual harassment when:</p> <ol style="list-style-type: none">1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual. <p><i>29 C.F.R. 1604.11(a)</i></p> |
| SAME-SEX SEXUAL HARASSMENT | <p>Same-sex sexual harassment constitutes sexual harassment. <u><i>Oncale v. Sundowner Offshore Services, Inc.</i></u>, 523 U.S. 75 (1998)</p> |
| SEXUAL HARASSMENT POLICY | <p>An employer should take all steps necessary to prevent sexual harassment from occurring, such as affirmatively raising the subject, expressing strong disapproval, developing appropriate sanctions, informing employees of their right to raise and how to raise the issue of harassment under Title VII, and developing methods to sensitize all concerned. <i>29 C.F.R. 1604.11(f)</i></p> |
| CORRECTIVE ACTION | <p>With respect to conduct between fellow employees, an employer is responsible for acts of sexual harassment or harassment in the workplace on the basis of national origin in the workplace where the employer (or its agents or supervisory employees) knows or should have known of the conduct, unless it can show that it took immediate and appropriate corrective action.</p> <p>An employer may also be responsible for the acts of non-employees, with respect to sexual harassment of employees in the workplace or harassment of employees in the workplace on the basis of national origin, where the employer (or its agents or supervisory employees) knows or should have known of the conduct and fails to take immediate and appropriate corrective action. In reviewing these cases, the EEOC will consider the extent of the employer's control and any other legal responsibility that the employer may have with respect to the conduct of such non-employees.</p> <p><i>29 C.F.R. 1604.11(d)–(e), 1606.8(d)–(e)</i></p> <p>When no tangible employment action is taken, an employer may raise the following affirmative defense:</p> <ol style="list-style-type: none">1. That the employer exercised reasonable care to prevent and promptly correct any harassing behavior; and |

EMPLOYMENT OBJECTIVES
EQUAL EMPLOYMENT OPPORTUNITY

DAA
(LEGAL)

2. That the employee unreasonably failed to take advantage of any preventive or corrective opportunities provided by the employer or to avoid harm otherwise.

Burlington Industries, Inc. v. Ellerth, 524 U.S. 742 (1998); *Faragher v. City of Boca Raton*, 524 U.S. 775 (1998)

Note: For related information regarding Title IX and the Clery Act see FA(LEGAL).

ADEA—AGE
DISCRIMINATION

It shall be unlawful for an employer:

1. To fail or refuse to hire or to discharge any individual or otherwise discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment because of such individual's age;
2. To limit, segregate, or classify his employees in any way that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee because of such individual's age; or
3. To reduce the wage rate of any employee in order to comply with 29 U.S.C. Chapter 14.

29 U.S.C. 623(a)

It shall not be unlawful for an employer:

1. To take any action otherwise prohibited under 29 U.S.C. 623(a) where age is a bona fide occupational qualification reasonably necessary to the normal operation of the particular business, or where the differentiation is based on reasonable factors other than age, or where such practices involve an employee in a workplace in a foreign country, and compliance with such subsections would cause such employer, or a corporation controlled by such employer, to violate the laws of the country in which such workplace is located;
2. To take any action otherwise prohibited under 29 U.S.C. 623(a):
 - a. To observe the terms of a bona fide seniority system that is not intended to evade the purposes of 29 U.S.C. Chapter 14, except that no such seniority system shall require or permit the involuntary retirement of any individual specified by 29 U.S.C. 631(a) because of the age of such individual; or

EMPLOYMENT OBJECTIVES
EQUAL EMPLOYMENT OPPORTUNITY

DAA
(LEGAL)

- b. To observe the terms of a bona fide employee benefit plan in compliance with 29 U.S.C. 623. No such employee benefit plan shall excuse the failure to hire any individual, and no such employee benefit plan shall require or permit the involuntary retirement of any individual specified by 29 U.S.C. 631(a) because of the age of such individual.
3. To discharge or otherwise discipline an individual for good cause.

29 U.S.C. 623(f)

It shall be unlawful for an employer to discriminate against any of his employees or applicants for employment because such individual has opposed any practice made unlawful by this section, or because such individual has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or litigation under 29 U.S.C. Chapter 14. *29 U.S.C. 623(d)*

Note: See STATE LAW, below, for state prohibitions on discrimination based on age.

ADA AND SECTION 504
—DISABILITY
DISCRIMINATION

No covered entity, including a college district, shall discriminate against a qualified individual on the basis of disability in regard to job application procedures, hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment. *42 U.S.C. 12112(a); 29 C.F.R. 1630.4(b)*

DISCRIMINATION
BASED ON LACK OF
DISABILITY

Nothing in 42 U.S.C. Chapter 126 (the Americans with Disabilities Act [ADA]) shall provide the basis for a claim by an individual without a disability that the individual was subject to discrimination because of the individual's lack of disability. *42 U.S.C. 12201(g); 29 C.F.R. 1630.4(b)*

DEFINITION OF
"DISABILITY"

"Disability" means, with respect to an individual:

1. A physical or mental impairment that substantially limits one or more major life activities of an individual;
2. A record of having such an impairment; or
3. Being regarded as having such an impairment.

An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability. An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

42 U.S.C. 12102(1), (4)(C)–(D); 29 C.F.R. 1630.2(g), (j)(1), .3

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| "REGARDED AS HAVING SUCH AN IMPAIRMENT" | An individual meets the requirement of being "regarded as having such an impairment" if the individual establishes that he or she has been subjected to an action prohibited under the ADA because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity. <i>42 U.S.C. 12102(3)(A); 29 C.F.R. 1630.2(g), (l)</i> |
| TRANSITORY AND MINOR | Item 3 in the definition of "disability," above, ("regarded as having such an impairment") shall not apply to impairments that are transitory or minor. A transitory impairment is an impairment with an actual or expected duration of six months or less. <i>42 U.S.C. 12102(3)(B); 29 C.F.R. 1630.2(j)(1)(ix)</i> |
| MITIGATING MEASURES | <p>The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as medication, medical supplies, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy or supplies; use of assistive technology; reasonable accommodations or auxiliary aids or services; or learned behavioral or adaptive neurological modifications.</p> <p>The ameliorative effects of mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity.</p> <p>"Ordinary eyeglasses and contact lenses" are lenses that are intended to fully correct visual acuity or to eliminate refractive error.</p> <p>"Low-vision devices" means devices that magnify, enhance, or otherwise augment a visual image.</p> <p><i>42 U.S.C. 12102(4)(E)</i></p> |
| OTHER DEFINITIONS "MAJOR LIFE ACTIVITIES" | <p>"Major life activities" include, but are not limited to:</p> <ol style="list-style-type: none"><li data-bbox="561 1415 1425 1583">1. Caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, and working; and<li data-bbox="561 1604 1425 1835">2. The operation of a major bodily function, including functions of the immune system, special sense organs and skin, normal cell growth, and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions. The operation of a major bodily function includes the operation of an individual organ within the body system. <p><i>42 U.S.C. 12102(2); 29 C.F.R. 1630.2(i)</i></p> |

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“PHYSICAL OR
MENTAL
IMPAIRMENT”

“Physical or mental impairment” means:

1. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems, such as neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic, lymphatic, skin, and endocrine; or
2. Any mental or psychological disorder, such as an intellectual disability (formerly termed “mental retardation”), organic brain syndrome, emotional or mental illness, and specific learning disabilities.

29 C.F.R. 1630.2(h)

“QUALIFIED
INDIVIDUAL”

“Qualified” with respect to an individual with a disability, means that the individual:

1. Satisfies the requisite skill, experience, education, and other job-related requirements of the employment position such individual holds or desires; and
2. With or without reasonable accommodation, can perform the essential functions of such position. Consideration shall be given to the employer’s judgment as to what functions of a job are essential, and if an employer has prepared a written job description before advertising or interviewing applicants for the job, this description shall be considered evidence of the essential functions of the job.

42 U.S.C. 12111(8); 29 C.F.R. 1630.2(m)

“REASONABLE
ACCOMMO-
DATIONS”

A covered entity is required, absent undue hardship, to provide a reasonable accommodation to an otherwise qualified individual who meets the definition of disability under the “actual disability” prong or “record of disability” prong, but is not required to provide a reasonable accommodation to an individual who meets the definition of disability solely under the “regarded as” prong. [See DBB regarding medical examinations and inquiries under the Americans with Disabilities Act] *29 U.S.C. 794, 42 U.S.C. 12112(b)(5); 29 C.F.R. 1630.2(o)(4), .9, 34 C.F.R. 104.11*

“Reasonable accommodation” may include:

1. Making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and
2. Job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modification

EMPLOYMENT OBJECTIVES
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of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

42 U.S.C. 12111(9); 29 C.F.R. 1630.2(o); 34 C.F.R. 104.12(b)

“UNDUE
HARDSHIP”

“Undue hardship” means an action requiring significant difficulty or expense, when considered in light of the following factors. In determining whether an accommodation would impose an undue hardship on a covered entity, factors to be considered include the nature and cost of the accommodation needed, the overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation, the overall financial resources of the covered entity, the type of operation or operations of the covered entity, and other factors set out in 42 U.S.C. 12111(10). *42 U.S.C. 12111(10); 29 C.F.R. 1630.2(p); 34 C.F.R. 104.12(c)*

DISCRIMINATION
BASED ON
RELATIONSHIP

It is unlawful for a covered entity to exclude or deny equal jobs or benefits to, or otherwise discriminate against, a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a family, business, social, or other relationship or association. *42 U.S.C. 12112(b)(4); 29 C.F.R. 1630.8*

ILLEGAL DRUGS
AND ALCOHOL

A qualified individual with a disability shall not include any employee or applicant who is currently engaging in the illegal use of drugs, when the covered entity acts on the basis of such use. *42 U.S.C. 12114(a); 29 C.F.R. 1630.3(a)*

DRUG TESTING

Nothing in this subchapter shall be construed to encourage, prohibit, or authorize the conducting of drug testing for the illegal use of drugs by job applicants or employees or making employment decisions based on the results of such tests. [See DHB] *42 U.S.C. 12114(d); 29 C.F.R. 1630.3(c), .16(c)*

ALCOHOL USE

The term “individual with a disability” does not include any individual who is an alcoholic whose current use of alcohol prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol abuse, would constitute a direct threat to property or the safety of others. *29 U.S.C. 705(20)(C)(v); 42 U.S.C. 12114(a); 29 C.F.R. 1630.16(b)*

QUALIFICATION
STANDARDS

It is unlawful for a covered entity to use qualification standards, employment tests, or other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities, on the basis of disability, unless the standard, test, or other selection criteria, as used by the covered entity, is shown to be job-related for the position in question and is consistent with business necessity. *29 C.F.R. 1630.10(a)*

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| DIRECT THREAT TO HEALTH OR SAFETY | The term “qualification standards” may include a requirement that an individual shall not pose a direct threat to the health or safety of other individuals in the workplace. “Direct threat” means a significant risk to the health or safety of the individual or others that cannot be eliminated by reasonable accommodation. The determination that an individual poses a “direct threat” shall be based on an individualized assessment of the individual's present ability to safely perform the essential functions of the job. This assessment shall be based on a reasonable medical judgment that relies on the most current medical knowledge and/or on the best available objective evidence. In determining whether an individual would pose a direct threat, the factors to be considered include the duration of the risk; the nature and severity of the potential harm; the likelihood that the potential harm will occur; and the imminence of the potential harm. <i>42 U.S.C. 12111(3), 12113(b); 29 C.F.R. 1630.2(r)</i> |
| VISION STANDARDS AND TESTS | A covered entity shall not use qualification standards, employment tests, or other selection criteria based on an individual's uncorrected vision unless the standard, test, or other selection criteria, as used by the covered entity, is shown to be job-related for the position in question and consistent with business necessity. <i>42 U.S.C. 12113(c); 29 C.F.R. 1630.10(b)</i> |
| COMMUNICABLE DISEASES | In any case in which an individual has an infectious or communicable disease that is transmitted to others through the handling of food, that is included on the list developed by the U.S. Secretary of Health and Human Services under 42 U.S.C. 12113(e)(1), and that cannot be eliminated by reasonable accommodation, a covered entity may refuse to assign or continue to assign an individual to a job involving food handling. <i>42 U.S.C. 12113(e)(2); 29 U.S.C. 705(20)(D); 29 C.F.R. 1630.16(e)</i> |
| SERVICE ANIMALS | <p>A covered entity that is subject to the jurisdiction of Title I of the ADA (employment discrimination) or to section 504 of the Rehabilitation Act (EMPLOYMENT DISCRIMINATION), shall comply with the reasonable accommodation requirements of those laws with respect to service animals. [See REASONABLE ACCOMMODATIONS, above]</p> <p>A covered entity that is not subject to either Title I or section 504 shall comply with Title II of the ADA (discrimination by public entity). An employer that is subject to Title II shall comply with 28 C.F.R. part 35, including the requirements relating to service animals at 28 C.F.R. 35.136 [see FAA].</p> <p><i>28 C.F.R. 35.140</i></p> |

Note: See STATE LAW, below, for state prohibitions on discrimination based on disability.

MILITARY SERVICE

A person who is a member of, applies to be a member of, performs, has performed, applies to perform, or has an obligation to perform service in a uniformed service shall not be denied initial employment, reemployment, retention in employment, promotion, or any benefit of employment on the basis of that membership, application for membership, performance of service, application for service, or obligation.

An employer, including a college district, may not discriminate in employment against or take any adverse employment action against any person because such person has taken action to enforce protections afforded any person under 38 U.S.C. Chapter 43 (the Uniformed Services Employment and Re-employment Rights Act of 1994 (USERRA)), has testified or otherwise made a statement in or in connection with any proceeding under USERRA, has assisted or otherwise participated in an investigation under USERRA, or has exercised a right provided for in USERRA.

38 U.S.C. 4311 [See DECB]

RETALIATION

An employer, including a college district, may not discriminate against any employee or applicant for employment because the employee or applicant has opposed any unlawful, discriminatory employment practices or participated in the investigation of any complaint related to an unlawful, discriminatory employment practice. *29 U.S.C. 623(d) (ADEA); 42 U.S.C. 2000e-3(a) (Title VII); 34 C.F.R. 100.7(e) (Title VI); 34 C.F.R. 110.34 (Age Act); 42 U.S.C. 12203 (ADA); Jackson v. Birmingham Bd. of Educ., 544 U.S. 167 (2005) (Title IX)*

Note: See STATE LAW, below, for state prohibitions on retaliation.

STATE LAW

An employer commits an unlawful employment practice if because of race, color, disability, religion, sex, national origin, or age the employer fails or refuses to hire an individual, discharges an individual, or discriminates in any other manner against an individual in connection with compensation or the terms, conditions, or privileges of employment; or limits, segregates, or classifies an employee or applicant for employment in a manner that would deprive or tend to deprive an individual of any employment opportunity or adversely affect in any other manner the status of an employee. *Labor Code 21.051; 40 TAC 819.12(a)*

EMPLOYMENT OBJECTIVES
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An employer commits an unlawful employment practice if it aids, abets, incites, or coerces a person to engage in an unlawful discriminatory practice based on race, color, disability, religion, sex, national origin, or age. *40 TAC 819.12(f)*

An employer controlling an apprenticeship, on-the-job training, or other training or retraining program commits an unlawful employment practice if based on race, color, disability, religion, sex, national origin, or age, it discriminates against an individual in admission to or participation in the program, unless a training or retraining opportunity or program is provided under an affirmative action plan approved by federal or state law, rule, or court order. The prohibition against discrimination based on age applies only to individuals who are at least 40 years of age but younger than 56 years of age. *40 TAC 819.12(d)*

An employer does not commit an unlawful employment practice by engaging in a practice that has a discriminatory effect and that would otherwise be prohibited by Labor Code Chapter 21 if the employer establishes that the practice is not intentionally devised or operated to contravene the prohibitions of Chapter 21; and is justified by business necessity. *Labor Code 21.115(a)*

An unlawful employment practice based on disparate impact is established under Chapter 21 only if a complainant demonstrates that a respondent uses a particular employment practice that causes a disparate impact on the basis of race, color, sex, national origin, religion, or disability and the respondent fails to demonstrate that the challenged practice is job-related for the position in question and consistent with business necessity; or the complainant makes the demonstration in accordance with federal law as that law existed June 4, 1989, with respect to the concept of alternative employment practices, and the respondent refuses to adopt such an alternative employment practice. To demonstrate that a particular employment practice causes a disparate impact, the complainant must demonstrate that each particular challenged employment practice causes a disparate impact, except that if the complainant demonstrates to the satisfaction of the court that the elements of a respondent's decision-making process are not capable of separation for analysis, that decision-making process may be analyzed as one employment practice. *Labor Code 21.122(a), (c)*

SELECTION
CRITERION

An employer may not use a qualification standard, employment test, or other selection criterion based on an individual's uncorrected vision unless the standard, test, or criterion is consistent with business necessity and job-related for the position to which the standard, test, or criterion applies. *Labor Code 21.115(b)*

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BONA FIDE
OCCUPATIONAL
QUALIFICATION

If disability, religion, sex, national origin, or age is a bona fide occupational qualification reasonably necessary to the normal operation of the particular business or enterprise, performing any of the following practices on the basis of disability, religion, sex, national origin, or age of an employee, member, or other individual is not an unlawful employment practice:

1. An employer hiring and employing an employee;
2. An employment agency classifying or referring an individual for employment; or
3. An employer controlling an apprenticeship, on-the-job training, or other training or retraining program admitting or employing an individual in its program.

Labor Code 21.119

JOB
ADVERTISEMENT

An employer, labor organization, employment agency, or joint labor-management committee controlling an apprenticeship, on-the-job training, or other training or retraining program commits an unlawful employment practice if the employer, labor organization, employment agency, or committee prints or publishes or causes to be printed or published a notice or advertisement relating to employment that:

1. Indicates a preference, limitation, specification, or discrimination based on race, color, disability, religion, sex, national origin, or age; and
2. Concerns an employee's status, employment, or admission to or membership or participation in a labor union or training or retraining program.

This section does not apply if disability, religion, sex, national origin, or age is a bona fide occupational qualification.

Labor Code 21.059; 40 TAC 819.12(i)

BONA FIDE
EMPLOYEE
BENEFIT PLAN

An employer does not commit an unlawful employment practice by applying different standards of compensation or different terms, conditions, or privileges of employment under a bona fide seniority system, merit system, or an employee benefit plan, such as a retirement, pension, or insurance plan, that is not a subterfuge to evade Labor Code Chapter 21; or a system that measures earnings by quantity or quality of production. *Labor Code 21.102(a)*

EXCEPTION

An employee benefit plan may not excuse a failure to hire on the basis of age. A seniority system or employee benefit plan may not require or permit involuntary retirement on the basis of age except as permitted by Labor Code 21.103.

EMPLOYMENT OBJECTIVES
EQUAL EMPLOYMENT OPPORTUNITY

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This section does not apply to standards of compensation or terms, conditions, or privileges of employment that are discriminatory on the basis of race, color, disability, religion, sex, national origin, or age.

Labor Code 21.102(b)–(c)

ADDITIONAL
CONSIDERATIONS

PREGNANCY
DISCRIMINATION

A provision in Labor Code Chapter 21 referring to discrimination because of sex or on the basis of sex includes discrimination because of or on the basis of pregnancy, childbirth, or a related medical condition. A woman affected by pregnancy, childbirth, or a related medical condition shall be treated for all purposes related to employment, including receipt of a benefit under a fringe benefit program, in the same manner as another individual not affected but similar in the individual's ability or inability to work. *Labor Code 21.106*

RELIGIOUS
DISCRIMINATION

A provision in Labor Code Chapter 21 referring to discrimination because of religion or on the basis of religion applies to discrimination because of or on the basis of any aspect of religious observance, practice, or belief, unless an employer demonstrates that the employer is unable reasonably to accommodate the religious observance or practice of an employee or applicant without undue hardship to the conduct of the employer's business. *Labor Code 21.108*

A government agency, including a college district, may not substantially burden a person's free exercise of religion. The prohibition does not apply if the government agency demonstrates that the application of the burden to the person is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that interest. *Civ. Prac. and Rem. Code 110.003(a)–(b)*

DISCRIMINATION
BASED ON LACK
OF DISABILITY

Nothing in this chapter may be construed as the basis for a claim by an individual without a disability that the individual was subject to discrimination because of the individual's lack of a disability. *Labor Code 21.005(c)*

REASONABLE
ACCOMMO-
DATION

It is an unlawful employment practice for a respondent covered under this chapter to fail or refuse to make a reasonable workplace accommodation to a known physical or mental limitation of an otherwise qualified individual with a disability who is an employee or applicant for employment, unless the respondent demonstrates that the accommodation would impose an undue hardship on the operation of the business of the respondent. A showing of undue hardship by the respondent is a defense to a complaint of discrimination made by an otherwise qualified individual with a disability. *Labor Code 21.128(a)–(b)*

EMPLOYMENT OBJECTIVES
EQUAL EMPLOYMENT OPPORTUNITY

DAA
(LEGAL)

OFFICIAL
OPPRESSION

A public servant acting under color of his office or employment commits an offense if he intentionally subjects another to sexual harassment.

“Sexual harassment” means unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, submission to which is made a term or condition of a person’s exercise or enjoyment of any right, privilege, power, or immunity, either explicitly or implicitly. An offense under this section is a Class A misdemeanor.

Penal Code 39.03(a), (c)–(d)

SEXUAL
HARASSMENT OF
UNPAID INTERNS

An employer commits an unlawful employment practice if sexual harassment of an unpaid intern occurs and the employer or the employer's agents or supervisors:

1. Know or should have known that the conduct constituting sexual harassment was occurring; and
2. Fail to take immediate and appropriate corrective action.

An individual is considered to be an unpaid intern of an employer if:

1. The individual's internship, even though it includes engagement in the employer's operations or the performance of productive work for the employer, is similar to training that would be given in an educational environment;
2. The individual's internship experience is for the individual's benefit;
3. The individual does not displace the employer's regular employees but works under close supervision of the employer's existing staff;
4. The employer does not derive any immediate advantage from the individual's internship activities and on occasion the employer's operations may be impeded by those activities;
5. The individual is not entitled to a job at the conclusion of the internship; and
6. The individual is not entitled to wages for the time spent in the internship.

“Sexual harassment” means an unwelcome sexual advance, a request for a sexual favor, or any other verbal or physical conduct of a sexual nature if:

EMPLOYMENT OBJECTIVES
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1. Submission to the advance, request, or conduct is made a term or condition of an individual's internship, either explicitly or implicitly;
2. Submission to or rejection of the advance, request, or conduct by an individual is used as the basis for a decision affecting the individual's internship;
3. The advance, request, or conduct has the purpose or effect of unreasonably interfering with an individual's work performance at the individual's internship; or
4. The advance, request, or conduct has the purpose or effect of creating an intimidating, hostile, or offensive working environment.

Labor Code 21.1065

RETALIATION

An employer commits an unlawful employment practice if the employer, labor union, or employment agency retaliates or discriminates against a person who, under Labor Code Chapter 21 opposes a discriminatory practice; makes or files a charge; files a complaint; or testifies, assists, or participates in any manner in an investigation, proceeding, or hearing. *Labor Code 21.055; 40 TAC 819.12(e)*

NOTICES
TITLE VII

Every employer, including each college district, shall post and keep posted in conspicuous places upon its premises, where notices to employees, applicants for employment, and members are customarily posted, a notice to be prepared or approved by the Equal Employment Opportunity Commission (EEOC) setting forth excerpts from or, summaries of, the pertinent provisions of this subchapter and information pertinent to the filing of a complaint. *42 U.S.C. 2000e-10*

ADEA

Every employer shall post and keep posted in conspicuous places upon its premises a notice to be prepared or approved by the EEOC setting forth information as the EEOC deems appropriate to effectuate the purposes of the ADEA. *29 U.S.C. 627*

SECTION 504
NOTICE

A recipient of federal funds that employs 15 or more persons shall take appropriate steps to notify applicants and employees, including those with impaired vision or hearing, that it does not discriminate on the basis of disability in violation of Section 504 of the Rehabilitation Act or 34 C.F.R. Part 104.

The notification shall state, where appropriate, that the recipient does not discriminate in employment in its program or activity. The notification shall also include an identification of the responsible

employee designated pursuant to 34 C.F.R. 104.7(a) (Section 504 coordinator).

Methods of initial and continuing notification may include:

1. Posting of notices;
2. Publication in newspapers and magazines;
3. Placement of notices in recipients' publications; and
4. Distribution of memoranda or other written communications.

If a recipient publishes or uses recruitment materials or publications containing general information that it makes available to applicants or employees, it shall include in those materials or publications a statement of its nondiscrimination policy.

34 C.F.R. 104.8

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
CREDENTIALS AND RECORDS

DBA
(LOCAL)

SOCIAL SECURITY
NUMBER

The College District shall not use an employee's social security number as an employee identifier, except for tax purposes [see DC]. In accordance with law, the College District shall keep an employee's social security number confidential.

PERSONNEL
RECORDS

Present and past employees shall have access to their personnel files and records, exclusive of those items made confidential by law, which are maintained by the College District.

CONTENTS OF
PERSONNEL FILE

The following information and/or records relating to employees shall be maintained in each employee's personnel file where applicable:

1. Original application.
2. Original transcript(s), except the original transcripts for faculty members, which are maintained in the office of the vice president for instructional services.
3. W-4 form (copy).
4. Teacher Retirement System (TRS) form or Optional Retirement Plan (ORP) Contract (copy).
5. Contract.
6. Employment Recommendation form.
7. Letters of reference and verification of past employment.
8. Correspondence relating to commendations, recognition, awards submitted by supervisors and approved for inclusion in the employee's personnel file by the appropriate executive administrator.
9. Job description (copy).
10. Correspondence and materials relating to job deficiencies, reprimands, and disciplinary action.
11. Correspondence pertaining to leaves and absence.
12. Personal leave requests.
13. Correspondence and forms pertaining to job changes, i.e., part-time to full-time, changes of position, promotions, and transfers.
14. Evaluation forms.

CUSTODIAN OF
PERSONNEL
RECORDS

The vice president for business services shall, as the agent of the College President, serve as the custodian of all records and maintain applicable records relating to all present and past employees

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
CREDENTIALS AND RECORDS

DBA
(LOCAL)

of the College District. The College District complies with the public information provisions in Chapter 552 of the Texas Government Code.

ACCESS TO
CONFIDENTIAL
PERSONNEL
RECORDS

All information in personnel files, except for information specifically designated as public information, that would constitute an unwarranted invasion of personal privacy if disclosed to the public, is confidential information subject to disclosure only as provided in the Texas Open Records Act. Information in personnel files shall not be made available to the public, but shall be available during normal working hours of the College District's human resource office as follows:

1. Personal Review — Employees shall be entitled to review their own personnel files upon reasonable notice.
2. Request for Copies — Copies of an employee's personnel file shall be made available by the custodian within a reasonable time after a request for copies is made in person by the employee and after payment of the actual cost of reproduction for requested copies has been made.
3. Copies Requested to be Mailed — Copies of personnel files or records shall not be mailed unless there has first been an in-person request by the employee and the request for copies to be mailed has been approved by the vice president for business services. The vice president for business services shall have the discretion to waive the requirement of an in-person request for copies by mail in the event of a hardship or urgent necessity on the part of the employee, provided that the proper identity of the employee is established and the request is in writing.

DESIGNATION OF
REPRESENTATIVE
TO REVIEW FILE

Notwithstanding anything to the contrary, the following information is a matter of public record, and pursuant to the Public Information Act, in accordance with Chapter 552 of the Texas Government Code, the following information shall be public information as it pertains to present and past employees of the College District:

1. Name;
2. Sex;
3. Ethnicity;
4. Salary;
5. Title; and
6. Dates of employment.

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
CREDENTIALS AND RECORDS

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The above information shall be furnished to any interested person within a reasonable time after written request to the vice president for business services and upon agreement of the person requesting such information to pay the cost of providing copies if requested.

AVAILABILITY TO
COLLEGE DISTRICT
PERSONNEL

Personnel files shall be available only to human resources department staff and College District administrative personnel who have a right to and a need for the information contained in personnel files in order to properly perform the duties assigned to them. These persons must not remove any files from the department unless authority is given by the vice president for business services. Established check-out procedures shall be followed.

PRODUCTION
PURSUANT TO
SUBPOENA OR
COURT ORDER

Personnel files shall be made available pursuant to proper court order or subpoena issued to the College President, the vice president for business services, or the designated agent of the vice president for business services.

Personnel files shall be made available to state and federal officials for auditing purposes in compliance with appropriate state and federal laws and regulations thereunder.

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
MEDICAL EXAMINATIONS AND COMMUNICABLE DISEASES

DBB
(LEGAL)

Note: For the definition of individuals with disabilities and related terms and concepts addressed in this policy, see DAA(LEGAL).

PRE-EMPLOYMENT
EXAMINATION AND
INQUIRIES

Except as provided below, a covered entity, including a college district, shall not conduct a medical examination or make inquiries of a job applicant as to whether such applicant is an individual with a disability or as to the nature or severity of a disability. A covered entity may make pre-employment inquiries into the ability of an applicant to perform job-related functions and/or may ask an applicant to describe or to demonstrate how, with or without reasonable accommodation, the applicant will be able to perform job-related functions. *42 U.S.C. 12112(d)(2); 29 C.F.R. 1630.14(a)*

A covered entity may require a medical examination (and/or inquiry) after making an offer of employment to a job applicant and before the applicant begins his or her employment duties, and may condition an offer of employment on the results of such examination (and/or inquiry), if all entering employees in the same job category are subjected to such an examination (and/or inquiry) regardless of disability.

The results of such examination shall not be used for any purpose inconsistent with 42 U.S.C. Chapter 126, Subchapter I or 29 C.F.R. Part 1630. Information obtained regarding the medical condition or history of the applicant shall be collected and maintained on separate forms and in separate medical files and be treated as a confidential medical record, except that supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations, and first-aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment.

42 U.S.C. 12112(d)(3); 29 C.F.R. 1630.14(b)

Medical examinations conducted in accordance with this section do not have to be job-related and consistent with business necessity. However, if certain criteria are used to screen out an employee or employees with disabilities as a result of such an examination or inquiry, the exclusionary criteria must be job-related and consistent with business necessity, and performance of the essential job functions cannot be accomplished with reasonable accommodation as required in 29 C.F.R. Part 1630. *29 C.F.R. 1630.14(b)(3)*

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EXAMINATION AND
INQUIRIES OF
EMPLOYEE
REQUIRED

A covered entity, including a college district, may require a medical examination (and/or inquiry) of an employee that is job-related and consistent with business necessity. A covered entity may make inquiries into the ability of an employee to perform job-related functions.

Information obtained regarding the medical condition or history of any employee shall not be used for any purpose inconsistent with 42 U.S.C. Chapter 126, Subchapter I or 29 C.F.R. Part 1630. Information obtained regarding the medical condition or history of any employee shall be collected and maintained on separate forms and in separate medical files and be treated as a confidential medical record, except that supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations, and first-aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment.

42 U.S.C. 12112(d)(3)–(4); 29 C.F.R. 1630.14(c)

VOLUNTARY

A covered entity may conduct voluntary medical examinations and activities, including voluntary medical histories, which are part of an employee health program available to employees at the work site.

Information obtained regarding the medical condition or history of any employee shall not be used for any purpose inconsistent with 42 U.S.C. Chapter 126, Subchapter I or 29 C.F.R. Part 1630. Information obtained regarding the medical condition or history of any employee shall be collected and maintained on separate forms and in separate medical files and be treated as a confidential medical record, except that supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations, and first-aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment.

42 U.S.C. 12112(d)(3), (4)(B)–(C); 29 C.F.R. 1630.14(d)

HIV/AIDS
TESTING

A person, including a college district, may not require another person, such as an employee, to undergo a medical procedure or test designed to determine or help determine if a person has AIDS or HIV infection, antibodies to HIV, or infection with any other probable causative agent of AIDS unless:

1. The medical procedure or test is necessary:
 - a. As a bona fide occupational qualification, and there is not a less discriminatory means of satisfying the occupational qualification. “Bona fide occupational qualification” means a qualification that is reasonably related to the

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satisfactory performance of the duties of the job and for which there is reasonable cause to believe that a person of the excluded group would be unable to perform satisfactorily the duties of the job with safety.

- b. In relation to a particular person under Health and Safety Code Chapter 81.
 - c. To manage accidental exposure to blood or other bodily fluids, but only if the test is conducted under written infectious disease control protocols adopted by a health-care facility. The protocols must clearly establish procedural guidelines with criteria for testing that respect the rights of the person with the infection and the person who may be exposed to that infection. The protocols may not require the person who may have been exposed to be tested and must ensure the confidentiality of the person with the infection in accordance with Health and Safety Code Chapter 81.
2. A medical procedure is to be performed on the person that could expose health-care personnel to AIDS or HIV infection, according to Texas Department of State Health Services' (DSHS) guidelines defining the conditions that constitute possible exposure to AIDS or HIV infection, and there is sufficient time to receive the test result before the procedure is conducted.

Health and Safety Code 81.102

Each institution of higher education, including each college district, shall make available the institution's policy on HIV infection and AIDS to faculty and staff members by including the policy in the personnel handbook if practicable or by any other method. *Education Code 51.919(b)*

CONFIDENTIALITY
OF AIDS TESTING

"Test result" means any statement that indicates that an identifiable individual has or has not been tested for AIDS or HIV infection, antibodies to HIV, or infection with any other probable causative agent of AIDS, including a statement or assertion that the individual is positive, negative, at risk, has, or does not have a certain level of antibodies.

A test result is confidential. A person who possesses or has knowledge of a test result may not release or disclose the test result or allow the test result to become known except as provided by this section. A test result may be released to:

1. DSHS.

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2. A local health authority if reporting is required under Health and Safety Code Chapter 81.
3. The Centers for Disease Control and Prevention of the United States Public Health Service if reporting is required by federal law or regulation.
4. The physician or other person authorized by law who ordered the test.
5. A physician, nurse, or other health-care personnel who have a legitimate need to know the test result in order to provide for their protection and to provide for the patient's health and welfare.
6. The person tested or a person legally authorized to consent to the test on the person's behalf.
7. The spouse of the person tested if the person tests positive for AIDS or HIV infection, antibodies to HIV, or infection with any other probable causative agent of AIDS.
8. A person authorized to receive the test results under Code of Criminal Procedure 21.31 (regarding testing of persons indicted for or who waive indictment for certain crimes), concerning a person who is tested as required or authorized under that article.
9. A person exposed to HIV infection as provided by Health and Safety Code, Section 81.050.
10. A county or district court to comply with Health and Safety Code Chapter 81 or rules relating to the control and treatment of communicable diseases and health conditions.
11. A designated infection control officer of an affected emergency response employee or volunteer.

A person tested or a person legally authorized to consent to the test on the person's behalf may voluntarily release or disclose that person's test results to any other person, and may authorize the release or disclosure of the test results. An authorization must be in writing and signed by the person tested or the person legally authorized to consent to the test on the person's behalf. The authorization must state the person or class of persons to whom the test results may be released or disclosed.

An employee of a health-care facility whose job requires the employee to deal with permanent medical records may view test results in the performance of the employee's duties under reasonable health practices.

Health and Safety Code 81.103(a)–(b), (d), (i)

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
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HIV EDUCATION Each state agency, including each college district, shall provide to each state employee an educational pamphlet about methods of transmission and methods of prevention of HIV infection, and state laws relating to the transmission of HIV infection, and conduct that may result in the transmission of HIV infection. The educational pamphlet shall be provided to a newly hired state employee on the first day of employment. The educational pamphlet shall be based on the model developed by DSHS and shall include the workplace guidelines adopted by the state agency. DSHS shall prepare and distribute to each state agency a model informational pamphlet that can be reproduced by each state agency to meet the requirements of this section. *Health and Safety Code 85.111*

HIV / AIDS
WORKPLACE
GUIDELINES Each state agency shall adopt and implement workplace guidelines concerning persons with AIDS and HIV infection. The workplace guidelines shall, at a minimum, incorporate the model workplace guidelines developed by DSHS. *Health and Safety Code 85.112*

BLOODBORNE
PATHOGEN CONTROL

DEFINITIONS

“BLOODBORNE
PATHOGENS” “Bloodborne pathogens” means pathogenic microorganisms that are present in human blood and that can cause diseases in humans. The term includes hepatitis B virus, hepatitis C virus, and human immunodeficiency virus. *Health and Safety Code 81.301(1)*

“SHARP” “Sharp” means an object used or encountered in a health-care setting that can be reasonably anticipated to penetrate the skin or any other part of the body and to result in an exposure incident, including a needle device, a scalpel, a lancet, a piece of broken glass, a broken capillary tube, an exposed end of a dental wire, or a dental knife, drill, or bur. *Health and Safety Code 81.301(5)*

MINIMUM
STANDARDS

The minimum standards apply to a governmental unit, including a college district, that employs employees who provide services in a public or private facility providing health-care-related services, including home health-care organizations, or otherwise have a risk of exposure to blood or other material potentially containing bloodborne pathogens in connection with exposure to sharps. The exposure control plan developed by DSHS is adopted as the minimum standard to implement Health and Safety Code 81.304. The plan is designed to minimize exposure of employees as described in 25 Administrative Code 96.201 and includes policies relating to occupational exposure to bloodborne pathogens, training and educational requirements for employees, measures to increase vaccination of employees, and increased use of personnel protective equipment by employees.

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Employers should review the plan for particular requirements applicable to their specific situation. The employer may modify the plan appropriately to its practice settings. Employers will need to include provisions relevant to their particular facility or organization in order to develop an effective, comprehensive exposure control plan specific to their facility or organization. Employers will annually review their exposure control plan, update when necessary, and document when accomplished.

Health and Safety Code 81.302, .304; 25 TAC 96.201-.203

Note: Copies of the exposure control plan are available on the Internet at http://www.dshs.state.tx.us/idcu/health/bloodborne_pathogens/reporting/ or from the DSHS regional offices.

DSHS-ORDERED
TESTS

A person whose occupation or whose volunteer service is included in one or more of the categories listed at Health and Safety Code 81.050, including a law enforcement officer, may request the DSHS or a health authority to order testing of another person who may have exposed the person to a reportable disease, including HIV infection. A request under this section may be made only if the person has experienced the exposure in the course of the person's employment or volunteer service; believes that the exposure places the person at risk of a reportable disease, including HIV infection; and presents to the DSHS or health authority a sworn affidavit that delineates the reasons for the request. *Health and Safety Code 81.050(b)–(c)*

COST OF
REPORTABLE
DISEASE TESTING
AFTER ACCIDENTAL
EXPOSURE

This section applies only in a case of accidental exposure of certified emergency medical services personnel, an emergency response employee or volunteer as defined by Health and Safety Code 81.003(1-a) (see below), or a first responder who renders assistance at the scene of an emergency or during transport to the hospital to blood or other body fluids of a patient who is transported to a licensed hospital. The hospital receiving the patient, following a report of the exposure incident, shall take reasonable steps to test the patient for hepatitis B, hepatitis C, HIV, or any reportable disease if the report shows there is significant risk to the person exposed. The organization, including a college district, that employs the person or for which the person works as a volunteer in connection with rendering the assistance is responsible for paying the costs of the test. *Health and Safety Code 81.095(b)*

GENETIC
INFORMATION

If a covered entity, including a college district, uses language described at 29 C.F.R. 1635.8(b)(1)(i)(B), any receipt of genetic in-

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
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DESIGNATED
INFECTION CONTROL
OFFICER

formation in response to the request for medical information will be deemed inadvertent. [See DAAA] 29 C.F.R. 1635.8(b)(1)(i)(A)–(B)

An entity that employs or uses the services of an emergency response employee or volunteer shall nominate a designated infection control officer and an alternate designated infection control officer to:

1. Receive notification of a potential exposure to a reportable disease from a health-care facility;
2. Notify the appropriate health-care providers of a potential exposure to a reportable disease;
3. Act as a liaison between the entity's emergency response employees or volunteers who may have been exposed to a reportable disease during the course and scope of employment or service as a volunteer and the destination hospital of the patient who was the source of the potential exposure;
4. Investigate and evaluate an exposure incident, using current evidence-based information on the possible risks of communicable disease presented by the exposure incident; and
5. Monitor all follow-up treatment provided to the affected emergency response employee or volunteer, in accordance with applicable federal, state, and local law.

The entity that employs or uses the services of an emergency response employee or volunteer is responsible for notifying the local health authorities or local health-care facilities, according to any local rules or procedures, that the entity has a designated infection control officer or alternate designated infection control officer.

A "designated infection control officer" is the person serving as an entity's designated infection control officer who has a health-care professional license or specific training in infection control, acts as liaison between the entity and the destination hospital, and monitors all follow-up treatment provided to the affected emergency response employee or volunteer.

"Emergency response employee or volunteer" means an individual acting in the course and scope of employment or service as a volunteer as emergency medical service personnel, a peace officer, a detention officer, a county jailer, or a fire fighter.

Health and Safety Code 81.003(1-a), .012; 25 TAC 97.11

EMPLOYMENT PRACTICES

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FORMER BOARD
MEMBER
EMPLOYMENT

A public junior college may not employ or contract with an individual who was a member of the board of the junior college before the first anniversary of the date the individual ceased to be a member of the board of trustees. *Education Code 130.089*

EMPLOYEE
INFORMATION

A person or entity, including a college district, that hires or recruits an individual for employment must ensure that the individual properly:

1. Completes section 1—"Employee Information and Verification"—on the Form I-9 at the time of hire and signs the attestation with a handwritten or electronic signature in accordance with 8 C.F.R. 274a.2(h), or if an individual is unable to complete the Form I-9 or needs it translated, someone may assist him or her in accordance with 8 C.F.R. 274a.2(b); and
2. Present to the employer or the recruiter or referrer for a fee documentation as set forth in 8 C.F.R. 274a.2(b)(1)(v) establishing his or her identity and employment authorization within the time limits set forth in 8 C.F.R. 274a.2(b)(1)(ii) through (b)(1)(v).

8 C.F.R. 274a.2(b)(1)(i)

VERIFICATION OF
EMPLOYMENT
ELIGIBILITY

A person or entity, including a college district, must verify employment eligibility, pursuant to the Immigration Reform and Control Act, and complete Form I-9 by the following dates:

1. Within three business days of initial hiring.
2. An employer who hires an individual for employment for duration of less than three business days must comply at the time of hire.

An employer will not be deemed to have hired an individual if the individual is continuing in his or her employment and has a reasonable expectation of employment at all times.

When an employer hires an individual whom that person or entity has previously employed, if the employer has previously completed the Form I-9 and complied with the verification requirements set forth in 8 C.F.R. 274a.2(b) with regard to the individual, the employer may (in lieu of completing a new Form I-9) inspect the previously completed Form I-9 and, if upon inspection of the Form I-9, the employer determines that the Form I-9 relates to the individual and that the individual is still eligible to work, that previously executed Form I-9 is sufficient if the individual is hired within three years of the date of the initial execution of the Form I-9 and the employer updates the Form I-9 to reflect the date of rehire.

3. If an individual's employment authorization expires, reverification on the Form I-9 must occur not later than the date work authorization expires.

8 C.F.R. 274a.2(b)(1)(ii)-(iii), (vii)-(viii)

State agencies and institutions of higher education, including college districts, shall register and participate in the federal electronic verification of employment authorization program, E-Verify, for all newly hired employees.

The Texas Workforce Commission (TWC) shall provide notice, registration information, and online forms for the E-Verify program to state agencies and may provide technical assistance, upon request.

Gov't Code 673.002; 40 TAC 843.3

NEW HIRE
REPORTING

"Newly hired employee" means an employee who has not been previously employed by the employer or was previously employed by the employer but has been separated from that employment for at least 60 consecutive days.

Each Texas employer, including each college district, shall furnish to the State Directory of New Hires (Texas Attorney General's Office) in the state in which a newly hired employee works a report of all new hires that contains the following seven required data elements: the employee name, the employee address, the employee social security number, the employee's date of hire, the employer name, the employer address, and the federal employer identification number (FEIN).

Employers, at their option may also provide the following additional information in the report: the employee's date of birth and the employee's expected salary or wages, and employer payroll addresses for mailing of notice to withhold child support.

All employers shall report new hire information on a Form W-4 or an equivalent form by first class mail, telephonically, or electronically as determined by the employer and in a format acceptable to the Title IV-D agency. The Title IV-D agency reserves the right to decline any type of form that it deems as illegible or inappropriate for new hire report processing and requests employers who elect to submit new hire reports via hard copy to adopt the prescribed Employer New Hire Reporting Form (Form 1856e and 1856s) that can be obtained from the Texas Attorney General's Child Support Division webpage <http://www.texasattorneygeneral.gov> under Child Support, Forms.

42 U.S.C. 653a(b)-(c); Family Code 234.104; 1 TAC 55.303(a)-(c)

EMPLOYMENT PRACTICES

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DEADLINE

Employer new hire reports are due:

1. Not later than 20 calendar days after the date the employer hires the employee; or
2. In the case of an employer transmitting reports electronically, by two monthly transmissions (if necessary) not less than 12 days nor more than 16 days apart.

Employer new hire reports shall be considered timely if postmarked by the due date or, if filed electronically, upon receipt by the agency.

1 TAC 55.303(d)

PENALTIES

An employer college district that knowingly violates the new hire provisions may be liable for a civil penalty, as set forth at Family Code 234.105. *42 U.S.C. 653a(d); Family Code 234.105*

SOCIAL SECURITY
NUMBERS

It shall be unlawful for any federal, state or local government agency, including a college district, to deny to any individual any right, benefit, or privilege provided by law because of such individual's refusal to disclose his or her social security number. *5 U.S.C. 552a Note; PL 93-579, 7(b), 88 Stat. 1896 (1974)*

EXCEPTIONS

The above provision shall not apply with respect to:

1. Any disclosure which is required by federal statute.
2. The disclosure of a social security number to a federal, state, or local agency maintaining a system of records in existence and operating before January 1, 1975, if such disclosure was required under statute or regulation adopted before such date to verify the identity of an individual.

5 U.S.C. 552a Note; PL 93-579, 7(b), 88 Stat. 1896 (1974)

It is the policy of the United States that any state (or political subdivision thereof) may, in the administration of any tax, general public assistance, driver's license, or motor vehicle registration law within its jurisdiction, utilize the social security account numbers issued by the Commissioner of Social Security for the purpose of establishing the identification of individuals affected by such law, and may require any individual who is or appears to be so affected to furnish to such state (or political subdivision thereof) or any agency thereof having administrative responsibility for the law involved, the social security account number (or numbers, if he has more than one such number) issued to him by the Commissioner of Social Security. *42 U.S.C. 405(c)(2)(C)*

EMPLOYMENT PRACTICES

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STATEMENT OF
USES

A federal, state, or local agency which requests an individual to disclose his social security account number shall inform that individual whether that disclosure is mandatory or voluntary, by what statutory or other authority such number is solicited, and what uses will be made of it. *5 U.S.C. 552a Note; PL 93-579, 7(b), 88 Stat. 1896 (1974)*

CRIMINAL HISTORY
RECORDS OF
CERTAIN APPLICANTS

Each institution of higher education, including each college district, is entitled to obtain from the Department of Public Safety (DPS) criminal history record information maintained by DPS that relates to a person who is an applicant for a security-sensitive position at the institution. The institution may deny employment to an applicant for a security-sensitive position who fails to provide a complete set of fingerprints upon request.

“Security-sensitive position” means an employment position held by an employee who:

1. Handles currency;
2. Has access to a computer terminal;
3. Has access to the personal information or identifying information of another person;
4. Has access to the financial information of the college district or another person;
5. Has access to a master key; or
6. Works in a location designated as a security-sensitive area.

A security-sensitive position shall be so identified in the job description and advertisement for the position.

The criminal history record information may be used only for the purpose of evaluating applicants for employment in security-sensitive positions.

The criminal history record information may not be released or disclosed to any person except on court order or with the consent of the person who is the subject of the criminal history record information.

All criminal history record information shall be destroyed by the chief of police of the institution of higher education as soon as practicable after the individual becomes employed in a security-sensitive position and after the expiration of any probationary term of employment or, if the individual is not hired for a security-sensitive position, after the information is used for its authorized purpose.

Gov't Code 411.094; Education Code 51.215

A person, agency, department, political subdivision, or other entity that is authorized by Government Code Chapter 411, Subchapter F or Subchapter E-1 to obtain from DPS criminal history record information maintained by DPS that relates to another person is authorized to:

1. Obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to that person; or
2. Obtain from any other criminal justice agency in this state criminal history record information maintained by that criminal justice agency that relates to that person.

Gov't Code 411.087(a)

PARTICIPATION IN
THE CRIMINAL
HISTORY
CLEARINGHOUSE

The purpose of the criminal history clearinghouse is to:

1. Provide authorized entities with the Texas and FBI fingerprint-based criminal history results.
2. Provide authorized entities with subscription and notification service to disseminate updated criminal history information.

Entities shall only submit requests for criminal history record information on a person who has authorized the access of their information. "Request for criminal history record information" is the processing and entry of a person's complete set of fingerprints in DPS's tenprint database and the comparison of those prints to DPS's latent print database and if authorized the entry into FBI's tenprint and comparison to the FBI's latent print database.

Entities may subscribe to a person in the clearinghouse, if the entity has the authority to view the record. Entities shall unsubscribe from a person when it no longer has authority to view a record.

Entities shall validate their subscriptions in accordance with DPS policies. "Validation" is a process whereby the subscriber reviews a subscription to determine whether they are still authorized to receive criminal history record information on that individual and updates the subscription accordingly. Validations are required on a yearly basis.

Entities shall maintain compliance with the FBI Criminal Justice Information Services Security Policy. Entities shall allow DPS and FBI to conduct audits of their clearinghouse accounts to prevent any unauthorized access, use, or dissemination of the information.

37 TAC 27.171, .172(4), (8), .174

EMPLOYMENT PRACTICES

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RETIREEES

An institution of higher education, including a college district, may employ a person who has retired under the Teacher Retirement System (Government Code Title 8, Subtitle C Government Code) or the optional retirement program (Government Code Chapter 830) if:

1. The governing board of the institution determines that the employment is in the best interests of the institution; and
2. The person has been retired for at least 30 days before the effective date of the employment, except that a person retired under the optional retirement program may be rehired after retirement without a break in service.

The governing board may pay a person employed an amount considered by the governing board to be appropriate, notwithstanding any other provision of law.

Education Code 51.964

EMPLOYMENT
PREFERENCE FOR
VETERANS

The following definitions shall apply to employment preferences for veterans.

"VETERAN"

"Veteran" has the meaning assigned by Government Code 2308.251. *Gov't Code 657.001(2)*

"VETERAN WITH A
DISABILITY"

"Veteran with a disability" means a veteran who is classified as disabled by the U.S. Department of Veterans Affairs or its successor or the branch of the service in which the veteran served and whose disability is service-connected. *Gov't Code 657.001(3)*

ELIGIBILITY

The following individuals qualify for a veteran's employment preference:

1. A veteran, including a veteran with a disability;
2. A veteran's surviving spouse who has not remarried; and
3. An orphan of a veteran if the veteran was killed while on active duty.

Gov't Code 657.002

APPLICATION OF
THE PREFERENCE

An individual who qualifies for a veteran's employment preference is entitled to a preference in employment with or appointment to a state agency, including a college district, over other applicants for the same position who do not have a greater qualification.

A state agency shall provide to an individual entitled to a veteran's employment preference for employment or appointment over other applicants for the same position who do not have a greater qualifi-

cation a veteran's employment preference, in the following order of priority:

1. A veteran with a disability;
2. A veteran;
3. A veteran's surviving spouse who has not remarried; and
4. An orphan of a veteran if the veteran was killed while on active duty.

If a state agency requires a competitive examination under a merit system or civil service plan for selecting or promoting employees, an individual entitled to a veteran's employment preference who otherwise is qualified for that position and who has received at least the minimum required score for the test is entitled to have a service credit of ten points added to the test score. A veteran with a disability is entitled to have a service credit of five additional points added to the individual's test score.

An individual entitled to a veteran's employment preference is not disqualified from holding a position with a state agency because of age or an established service-connected disability if the age or disability does not make the individual incompetent to perform the duties of the position.

Gov't Code 657.003

VETERAN
EMPLOYMENT
GOAL

Each state agency shall establish a goal of hiring, in full-time positions at the agency, a number of veterans equal to at least 20 percent of the total number of employees of the state agency. A state agency may establish a veteran employment goal that is greater than the required percentage. *Gov't Code 657.004*

DESIGNATION OF
OPEN POSITION

A state agency may designate an open position as a veteran's position and only accept applications for that position from individuals who are entitled to a veteran's employment preference under Government Code 657.003. Notwithstanding any other law, a state agency may hire or appoint for an open position within the agency an individual entitled to a veteran's employment preference under Section 657.003 without announcing or advertising the position if the agency uses the automated labor exchange system administered by the TWC to identify an individual who qualifies for a veteran's employment preference and determines the individual meets the qualifications required for the position. *Gov't Code 657.0045*

INTERVIEWS

For each announced open position at a state agency, the state agency shall interview:

1. If the total number of individuals interviewed for the position is six or fewer, at least one individual qualified for a veteran's employment preference under Government Code 657.003; or
2. If the total number of individuals interviewed for the position is more than six, a number of individuals qualified for a veteran's employment preference under Section 657.003 equal to at least 20 percent of the total number interviewed.

A state agency that does not receive any applications from individuals who qualify for a veteran's employment preference under Section 657.003 is not required to comply.

Gov't Code 657.0047

EMPLOYMENT
INVESTIGATION

The individual whose duty is to appoint or employ an applicant for a position with a state agency or an officer or the chief administrator of the agency who receives an application for appointment or employment by an individual entitled to a veteran's employment preference, before appointing or employing any individual, shall investigate the qualifications of the applicant for the position. An applicant who is a veteran with a disability shall furnish the official records to the individual whose duty is to fill the position. *Gov't Code 657.005*

FEDERAL LAW AND
GRANTS

To the extent that this chapter conflicts with federal law or a limitation provided by a federal grant to a state agency, Government Code Chapter 657 shall be construed to operate in harmony with the federal law or limitation of the federal grant. *Gov't Code 657.006*

REPORTING

A state agency shall file quarterly with the comptroller a report that states:

1. The percentage of the total number of employees hired or appointed by the agency during the reporting period who are persons entitled to a preference under Government Code Chapter 657;
2. The percentage of the total number of the agency's employees who are persons entitled to a preference under Chapter 657; and
3. The number of complaints filed with the executive director of the agency under Government Code 657.010 during that quarter and the number of those complaints resolved by the executive director.

The comptroller shall make each quarterly report available to the public on the comptroller's Internet website.

Gov't Code 657.008

EMPLOYMENT PRACTICES

DC
(LEGAL)

POSTING
REQUIREMENTS

A public entity or public work shall provide information to the TWC regarding any open position subject to the veterans' preferences as specified in Government Code 657.009.

A public entity or public work shall provide information by one or more of the methods indicated in 40 Administrative Code 843.1(b)(1)–(3) relating to the employer postings of job openings and submit basic information regarding the opening to the TWC as soon as practical, including the following:

1. The name of the public entity;
2. The location where the job is to be performed including city and state;
3. A description of the job opening;
4. The minimum educational and work experience required for the position; and
5. Contact information regarding the opening.

TWC shall make available to the public the information provided by a state agency.

Gov't Code 657.009(a)–(b); 40 TAC 843.2

COMPLAINT
PROCEDURES

An individual entitled to a veteran's employment preference under Government Code Chapter 657 who is aggrieved by a decision of a state agency to which Chapter 657 applies relating to hiring or appointing the individual, or relating to retaining the individual if the state agency reduces its workforce, may appeal the decision by filing a written complaint with the executive director of the state agency. The executive director of a state agency that receives a written complaint shall respond to the complaint not later than the 15th business day after the date the executive director receives the complaint. The executive director may render a different hiring or appointment decision than the decision that is the subject of the complaint if the executive director determines that the veteran's preference was not applied. *Gov't Code 657.010*

EMPLOYMENT
PREFERENCE FOR
FORMER FOSTER
CHILDREN

An individual who was under the permanent managing conservatorship of the Department of Family and Protective Services on the day preceding the individual's 18th birthday is entitled to preference in employment with a state agency, including a college district, over other applicants for the same position who does not have a greater qualification. An individual is entitled to an employment preference under this chapter only if the individual is 25 years of age or younger. *Gov't Code 672.002(a), .005*

EMPLOYMENT PRACTICES

DC
(LEGAL)

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| EXCEPTIONS | This section does not apply to the position of private secretary or deputy of an official or department, or to an individual holding a strictly confidential relation to the employing officer. <i>Gov't Code 672.002(b)</i> |
| CONFLICT WITH FEDERAL LAW OR GRANT | To the extent that this preference conflicts with federal law or a limitation provided by a federal grant to a state agency, this section shall be construed to operate in harmony with federal law or limitation of the federal grant. <i>Gov't Code 672.003</i> |
| GRIEVANCE PROCESS | An individual entitled to an employment preference under this section who is aggrieved by a decision of a state agency to which this section applies relating to hiring the individual, or relating to retaining the individual if the state agency reduces its workforce, may appeal the decision by filing a written complaint with the governing body of the state agency. The governing body of a state agency that receives a written complaint shall respond to the complaint not later than the 15th business day after the date the governing body receives the complaint. The governing body may render a different hiring decision than the decision that is the subject of the complaint if the governing body determines that the employment preference under this section was not applied. <i>Gov't Code 672.004</i> |
| CAMPUS PROGRAMS FOR MINORS | <p>A program operator may not employ an individual in a position involving contact with campers at a campus program for minors unless:</p> <ol style="list-style-type: none">1. The individual submits to the program operator or the campus program for minors has on file documentation that verifies the individual within the preceding two years successfully completed the training and examination program on sexual abuse and child molestation; or2. The individual successfully completes the campus program for minors' training and the examination program on sexual abuse and child molestation, which must be approved by the department, during the individual's first five days of employment by the campus program for minors, and the campus program issues and files documentation verifying successful completion. <p>The requirement does not apply to an individual who is a student enrolled at the institution of higher education or a private or independent institution of higher education, or at which the campus program is conducted, and whose contact with campers program operator district that operates a campus program for minors must:</p> <ol style="list-style-type: none">1. Submit to the Texas Department of State Health Services (DSHS), on the form and within the time prescribed by DSHS, |

verification that each employee of the campus program for minors has complied with the training and examination requirements and the fee assessed by DSHS; and

2. Retain in the operator's records a copy of the required documentation for each employee until the second anniversary of the examination date.

"Campus program for minors" means a program that:

1. Is operated by or on the campus of an institution of higher education or a private or independent institution of higher education;
2. Offers recreational, athletic, religious, or educational activities for at least 20 campers who are not enrolled at the institution; and attend or temporarily reside at the camp for all or part of at least four days; and
3. Is not a day camp or youth camp as defined by Health and Safety Code 141.002 or a facility or program required to be licensed by the Department of Family and Protective Services.

Education Code 51.976(a)(2), (b)–(d)

CONSUMER CREDIT
REPORTS
DEFINITIONS

"Adverse action" includes a denial of employment or any other decision for employment purposes that adversely affects any current or prospective employee.

"Consumer report" includes any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer's eligibility for employment purposes.

"Consumer reporting agency" means any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly assembles or evaluates consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.

"Employment purposes," when used in connection with a consumer report, means a report used for the purpose of evaluating a consumer for employment, promotion, reassignment, or retention as an employee.

15 U.S.C. 1681a(d), (f), (h), (k)

OBTAINING
REPORTS

A person may not procure a consumer report, or cause a consumer report to be procured, for employment purposes with respect to any consumer, unless:

1. A clear and conspicuous disclosure has been made in writing to the consumer at any time before the report is procured or caused to be procured, in a document that consists solely of the disclosure, that a consumer report may be obtained for employment purposes; and
2. The consumer has authorized in writing (which authorization may be made on the document referred to in item 1) the procurement of the report by that person.

15 U.S.C. 1681b(b)(2)(A)

EXCEPTION

If a consumer described in 15 U.S.C. 1681b(2)(C) applies for employment by mail, telephone, computer, or other similar means, at any time before a consumer report is procured or caused to be procured in connection with that application the person who procures the consumer report on the consumer for employment purposes shall provide to the consumer, by oral, written, or electronic means, notice that a consumer report may be obtained for employment purposes, and a summary of the consumer's rights under 15 U.S.C. 1681m(a)(3); and the consumer shall have consented orally, in writing, or electronically to the procurement of the report by that person. *15 U.S.C. 1681b(b)(2)(B)*

ADVERSE ACTION

In using a consumer report for employment purposes, before taking any adverse action based in whole or in part on the report, the person intending to take such adverse action shall provide the consumer to whom the report relates a copy of the report and a description in writing of the person's rights under the Fair Credit Reporting Act, as prescribed by the Federal Trade Commission. *15 U.S.C. 1681b(b)(3)*

Note: The following provisions apply to a college district that uses consumer reports.

ADDRESS
DISCREPANCIES

"Notice of address discrepancy" means a notice sent to a user by a consumer reporting agency described in 15 U.S.C. 1681a(p) pursuant to 15 U.S.C. 1681c(h)(1) that informs the user of a substantial difference between the address for the consumer that the user provided to request the consumer report and the address(es) in the agency's file for the consumer.

A user, including a college district, must develop and implement reasonable policies and procedures designed to enable the user to

form a reasonable belief that a consumer report relates to the consumer about whom it has requested the report, when the user receives a notice of address discrepancy.

If a college district regularly and in the ordinary course of business furnishes information to the consumer reporting agency from which it received the notice of address discrepancy, a user must develop and implement reasonable policies and procedures for furnishing an address for the consumer that the user has reasonably confirmed is accurate to the consumer reporting agency from whom it received the notice of address discrepancy when the user can form a reasonable belief that the consumer report relates to the consumer about whom the user requested the report, establishes a continuing relationship with the consumer, and regularly and in the ordinary course of business furnishes information to the consumer reporting agency from which the notice of address discrepancy relating to the consumer was obtained.

16 C.F.R. 641.1

DISPOSAL OF
RECORDS

Any person, including a college district, who maintains or otherwise possesses consumer information for a business purpose must properly dispose of such information by taking reasonable measures to protect against unauthorized access to or use of the information in connection with its disposal.

“Consumer information” means any record about an individual, whether in paper, electronic, or other form, that is a consumer report or is derived from a consumer report. Consumer information also means a compilation of such records. Consumer information does not include information that does not identify individuals, such as aggregate information or blind data.

“Dispose,” “disposing,” or “disposal” means discarding or abandoning of consumer information, or the sale, donation, or transfer of any medium, including computer equipment, upon which consumer information is stored.

Reasonable measures to protect against unauthorized access to or use of consumer information in connection with its disposal include the following examples. These examples are illustrative only and are not exclusive or exhaustive methods for complying with the rule in 16 C.F.R. Part 682:

1. Implementing and monitoring compliance with policies and procedures that require the burning, pulverizing, or shredding of papers containing consumer information so the information cannot practicably be read or reconstructed;

2. Implementing and monitoring compliance with policies and procedures that require the destruction or erasure of electronic media containing a consumer report so that the information cannot practicably be read or reconstructed; or
3. After due diligence, entering into and monitoring compliance with a contract with another party engaged in the business of record destruction to dispose of material, specifically identified as consumer information, in a manner consistent with this rule.

16 C.F.R. 682.1(b)-(c), .3

COMPENSATION AND BENEFITS
LEAVES AND ABSENCES

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| JURY DUTY (ALL PERSONNEL) | An employee shall be granted, with regular pay, whatever time is required for serving on jury duty. |
| BEREAVEMENT LEAVE | An employee shall be eligible for a maximum of three days of paid bereavement leave arising from a death in the immediate family of the employee or the employee's spouse. For purposes of this provision, "immediate family" shall include the parent, wife, husband, child, brother, sister, grandmother, grandfather, son-in-law, daughter-in-law, or another member of the immediate household. |
| BAD WEATHER DAYS (ALL PERSONNEL) | When severe weather forces the College District to close, employees shall receive regular pay. |
| PERSONAL BUSINESS LEAVE (ALL PERSONNEL) | <p>Regulations regarding personal business leave are as follows:</p> <ol style="list-style-type: none">1. Causes for using personal leave are as follows:<ol style="list-style-type: none">a. For 12-month employees:<p>Cause for leave must be associated with professional, business, or legal activities.</p>b. For less than 12-month employees:<p>Cause for leave must be of significant nature as judged by both employee and employer. Such leave may be used in lieu of normal vacation as provided for 12-month employees.</p>2. Such leave must involve activity that cannot be accomplished outside the normal work schedule. Such determination shall be made in conjunction with the immediate supervisor and supported by the dean or vice president.3. All employees shall be allowed two days per fiscal year for personal leave. Personal leave shall not be cumulative from one fiscal year to the next.4. Arrangements must be made by the employee for the provision of an acceptable replacement to carry out regular job responsibilities without cost to the College District. |
| LEAVE WITHOUT PAY | <p>The College District shall allow a nine-month contract employee who does not accrue vacation to take a leave of absence without pay when the employee requires leave in excess of the two-day personal business allowance. Such leave without pay shall only be granted for a maximum of three days and when an acceptable replacement is provided as a substitute for the employee as approved by the supervisor.</p> <p>Approved leave without pay shall not be granted in successive years. The intent of this policy is to allow an employee necessary leave in the rare instance when nonrecurring significant events oc-</p> |

COMPENSATION AND BENEFITS
LEAVES AND ABSENCES

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cur that require an employee to be absent from regularly assigned duties in excess of leave allowed for personal business. Permission shall be obtained from the College President on a case-by-case basis.

SICK LEAVE

Permanent employees of the College District employed at least half-time shall accrue sick leave at the end of each pay period.

RATE OF ACCRUAL

Full-time employees whose regular workweek is 35 hours per week shall accrue 70 hours of sick leave per year, prorated for each pay period of active employment. Full-time employees whose regular workweek is 40 hours per week shall accrue 80 hours of sick leave per year, prorated for each month of active employment.

ACCRUAL
MAXIMUMS

Full-time instructional personnel shall accrue a maximum of 360 hours. Full-time noninstructional personnel may accrue a maximum of 420 hours for those employees whose regular workweek is 35 hours per week, and 480 hours for those employees whose regular workweek is 40 hours per week. The maximum accrual amount for part-time employees is based on the ratio that the employees' regular workweek bears to full-time employment of the applicable class represented above.

UTILIZATION

An employee may use sick leave when he or she (1) is incapacitated for the performance of duties by physical or mental illness, injury, pregnancy, or childbirth; (2) receives medical, dental, or optical examination or treatment; or (3) would, as determined by the health authorities having jurisdiction or by a health-care provider, jeopardize the health of others by his or her presence on the job because of exposure to a communicable disease.

Sick leave may also be utilized to (1) provide care for a family member who is incapacitated as a result of physical or mental illness, injury, pregnancy, or childbirth; (2) provide care for a family member as a result of medical, dental, or optical examination or treatment; or (3) make arrangements necessitated by the death of a family member or attend the funeral of a family member.

For purposes of this policy, "family member" is defined as spouse, and parents thereof; children, including adopted children, and spouses thereof; parents; brothers and sisters, and spouses thereof; and other members of the immediate household.

An employee's supervisor, or other superordinate personnel, may require a physician's statement before authorizing sick leave.

EFFECT OF
TERMINATION ON
SICK LEAVE

Payment for unutilized sick leave shall not be made upon employee termination or voluntary separation.

COMPENSATION AND BENEFITS
LEAVES AND ABSENCES

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| SERIOUS ILLNESS OR HOSPITALIZATION | If an employee is absent for five or more continuous days due to his or her own serious medical issue or hospitalization, he or she must provide a fitness-for-duty certification before he or she can return to work. |
| DEVELOPMENT LEAVE | A faculty member [see definition at DEC(LEGAL) DEVELOPMENT LEAVES OF ABSENCE] may be granted faculty development leave for study, research, writing, field observations, or other suitable purpose. The leave shall be for one academic year at one-half of the faculty member's regular salary or for one-half academic year at full regular salary, unless the faculty member has held an administrative position at the College District for more than four years. In that case, the Board may grant development leave at the faculty member's full, regular salary for one year. |
| ELIGIBILITY | To qualify for development leave, a faculty member must serve at least three consecutive academic years performing full-time academic duty as an instructor or as an assistant, associate, or full professor, or an equivalent rank. The work need not include teaching. The applicant must also agree to return to the College District following the conclusion of the development leave to serve for a period of time equal to the amount of time the faculty member received for development leave and if not, to repay the College District for any benefits paid to or on behalf of the faculty member during the leave period. |
| APPLICATION | <p>To be granted development leave for the subsequent academic year, a faculty member must apply to the College President by March 1 on a signed and dated form created by the administration. The application shall contain:</p> <ol style="list-style-type: none">1. The requested effective date and duration of leave.2. A description of the specific purpose for which the leave is requested.3. An explanation as to how the leave is consistent with the mission and purpose of the College District and the benefit of the leave to the College District.4. An assurance that the faculty member intends to return to the College District following the completion of the development leave to serve for a period of time equal to the amount of time the faculty member received for development leave, if approved, and that, if the faculty member does not return, the employee shall repay the College District for any benefits paid to or on behalf of the employee during the leave period.5. Any other information deemed appropriate by the College President. |

COMPENSATION AND BENEFITS
LEAVES AND ABSENCES

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| APPROVAL PROCEDURE | <p>A development leave committee shall be elected annually from the general faculty membership on a date determined by the College President to be no later than the application deadline. The committee shall be composed of ten members and shall elect a chair during the first meeting. The chair shall be responsible for scheduling and presiding over each meeting of the committee.</p> <p>After reviewing the applications for development leave, the committee chair shall forward the committee's recommendation to the College President. After review of the committee's recommendation, the College President shall make a recommendation as to which applications should be granted for consideration at a Board meeting to occur before the end of the spring semester. No more than six percent of the College District faculty members may be on development leave at any one time.</p> <p>The College President shall inform the applicants of the final determination by the Board.</p> |
| OUTSIDE EMPLOYMENT | <p>A faculty member granted development leave is prohibited from accepting employment with another employer without permission of the Board.</p> |
| REPORT | <p>Upon returning from development leave, the faculty member must report to the Board in writing regarding whether the purpose of the leave was fulfilled with a description regarding the manner in which it was fulfilled or if it was not fulfilled, the reasons why the leave was not fulfilled.</p> |
| FEDERAL FAMILY AND MEDICAL LEAVE | <p>An employee who qualifies for federal family and medical leave shall be entitled to a total of 12 workweeks of leave during the 12-month period measured forward from the date the employee's family and medical leave begins.</p> |
| TWELVE-MONTH PERIOD | <p>For purposes of an employee's entitlement to Family and Medical Leave Act (FMLA) leave, the 12-month period shall be measured forward from the date an individual employee's first FMLA leave begins.</p> |
| NOTICE | <p>Leave allowed under the FMLA shall be unpaid leave limited to a total of 12 workweeks during a 12-month period. Although FMLA leave need not be paid as a general proposition, both the College District and the eligible employee have the right to substitute paid leave under the College District's personnel policies and benefit plan.</p> |
| COMBINED LEAVE FOR SPOUSES | <p>If both spouses are employed by the College District, the College District shall limit FMLA leave for the birth, adoption, or placement of a child, or to care for a parent with a serious health condition, to a combined total of 12 weeks. The College District shall limit mili-</p> |

COMPENSATION AND BENEFITS
LEAVES AND ABSENCES

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| | <p>tary caregiver leave to a combined total of 26 weeks. [See DECA(LEGAL)]</p> |
| <p>INTERMITTENT OR REDUCED SCHEDULE LEAVE</p> | <p>An employee may take leave intermittently or on a reduced leave schedule when medically necessary to care for a spouse, parent, or child or to receive planned medical treatment for himself or herself.</p> <p>If an employee requests leave to care for a spouse, parent, or child or because of his or her own serious health condition that is foreseeable based on planned medical treatment, the College District may require the employee to transfer temporarily to an available alternative position offered by the College District for which the employee is qualified and that has equivalent pay and benefits and better accommodates recurring periods of leave than the employee's regular employment position.</p> <p>[See DECA(LEGAL) for use of intermittent or reduced schedule leave due to a medical necessity.]</p> |
| <p>CERTIFICATION OF LEAVE</p> | <p>If an employee requests leave, the employee shall provide certification, as required by FMLA regulations, of the need for leave.</p> <p>The College District shall require a certification issued by the health-care provider of the spouse, child, parent, or employee that the employee is needed to care for the spouse, child, or parent or, in case of leave for the employee's condition, that the employee is unable to perform the functions of his or her position. The certification shall include the date on which the serious health condition began, the probable duration of the condition, and the appropriate medical facts within the provider's knowledge regarding the condition. The employee shall, in a timely manner, provide a copy of the certification to the College District.</p> <p>[See DECA(LEGAL)]</p> |
| <p>FITNESS-FOR-DUTY CERTIFICATION</p> | <p>If an employee takes FMLA leave due to the employee's own serious health condition, the employee shall provide, before resuming work, a fitness-for-duty certification. If the College District will require certification of the employee's ability to perform essential job functions, the College District shall provide a list of essential job functions to the employee with the FMLA designation notice.</p> |
| <p>FAILURE TO RETURN</p> | <p>If, at the expiration of FMLA leave, the employee is able to return to work but chooses not to do so, the College District may require reimbursement of premiums paid by the College District during the leave. [See DECA(LEGAL), RECOVERY OF BENEFIT COST]</p> |

COMPENSATION AND BENEFITS
LEAVES AND ABSENCES

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(LOCAL)

VACATION LEAVE
RATE OF ACCRUAL

Permanent, 12-month employees of the College District shall accrue vacation leave annually at the following rates, prorated for each pay period worked:

| Total Years of College District Employment | Regular Workweek | |
|---|------------------|----------|
| | 35 Hours | 40 Hours |
| Less than 15 | 70 | 80 |
| 15 or more | 105 | 120 |

Each employee's vacation leave shall accrue at the end of each pay period in which that individual is employed.

Upon completion of their 15th year of employment with the College District, personnel shall accrue vacation leave at the higher rate indicated above beginning with the first month of their 16th year.

UTILIZATION AND
MAXIMUM ACCRUAL

Earned vacation shall be taken at a time mutually acceptable to the employee and the employee's immediate supervisor, and should be scheduled in consideration of the work requirements of the department. Vacation leave shall require the advance approval of the employee's immediate supervisor and should be scheduled as far in advance as possible.

Vacation leave may not be granted until the employee has had continuous employment with the College District for six months, although credit shall be accrued during this period.

The maximum accrual amount for all full-time employees (TRS definition) shall be three standard workweeks.

EFFECT OF
TERMINATION ON
VACATION LEAVE

Upon voluntary separation, an employee may be paid unutilized vacation leave if adequate notice of termination is provided. Adequate notice for clerical, support, and maintenance staff shall be two weeks; for staff and paraprofessionals, three weeks; and for administrators, four weeks. Payment for unutilized vacation leave shall not be made upon involuntary separation.

COMPENSATION AND BENEFITS
HOLIDAYS

DED
(LOCAL)

Holidays officially observed by the College District shall be designated in the school calendar. Twelve-month employees shall receive paid leave for officially designated holidays. Those employees involved in minimester or special educational or work activities shall utilize an appropriate holiday schedule. Officially designated holidays may not apply to certain employees or positions as stipulated in special provisions to the employment contract or otherwise. Some personnel, because of the nature of their department or work activities, shall have holidays that differ in time and duration from the normal (e.g., police officers).

COMPENSATION AND BENEFITS
EXPENSE REIMBURSEMENT

DEE
(LOCAL)

PRIOR APPROVAL
REQUIRED

An employee shall be reimbursed for reasonable, allowable expenses incurred in carrying out College District business only with the prior approval of the employee's supervisor and in accordance with administrative regulations.

DOCUMENTATION
REQUIRED

For any allowable expense incurred, the employee shall submit a statement, with receipts to the extent feasible, documenting actual expenses.

EXCEPTION

Expenses for meals associated with authorized overnight travel not related to a state or federal grant shall be paid to employees on a per diem basis. No receipts shall be required for expenses paid on a per diem basis.

RETIREMENT PROGRAMS

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(LEGAL)

TEACHER
RETIREMENT SYSTEM

An employer, including a college district, shall not require the retirement of any employee on the basis of age. *29 U.S.C. 623; Education Code 51.922*

Membership in the Teacher Retirement System of Texas (TRS) includes all employees of the public school system, such as college district employees. Membership in the retirement system may only be established through employment with a single employer on at least a half-time basis. *Gov't Code 822.001–.002; Atty. Gen. Op. H-871 (1976)*

Participation in TRS is subject to Government Code Chapters 822-825 and 34 Administrative Code Part 3.

OPTIONAL
RETIREMENT
PROGRAM

The governing board of each institution of higher education, including each college district, shall provide an opportunity to participate in the optional retirement program (ORP) to all faculty members in the component institutions governed by the board. Eligibility to participate in the optional retirement program is subject to rules adopted by the Coordinating Board, 19 Administrative Code 25.1–25.6. *Gov't Code 830.101(a)–(b); 19 TAC 25.4(e)*

“Faculty member” means a person who is employed by an institution of higher education, including a college district, on a full-time basis in any of the following positions:

1. A member of the faculty whose duties include teaching or research.
2. An administrator responsible for teaching and research faculty.
3. An athletic coach, associate athletic coach, or assistant athletic coach whose primary activity is coaching.
4. A professional librarian, a president, a chancellor, a vice president, a vice chancellor, or other professional staff person whose national mobility requirements are similar to those of faculty members and who fills a position that is subject to nationwide searches in the academic community.

Gov't Code 821.001

An employee who meets the eligibility criteria in 19 Administrative Code 25.4(a) shall be provided an ORP election period, as defined in 19 Administrative Code 25.3, during which an election to participate in ORP may be made by signing the TRS 28 ORP election form (or its successor) or, for employees of the board, the ORP election form provided by the board, and submitting the ORP election form to the ORP employer for certification. An employee's ini-

tial ORP eligibility date shall be the first date that the employee meets all four criteria in 19 Administrative Code 25.4(a). The 90-day ORP election period shall begin on an employee's initial ORP eligibility date and shall end on the earlier of the date the employee makes an ORP election by signing the TRS 28 ORP election form (or its successor) or, for employees of the board, the ORP election form provided by the board, and submitting the ORP election form to the ORP employer for certification; or the 90th calendar day after the employee's initial ORP eligibility date, not including the initial ORP eligibility date and including the 90th calendar day. If the 90th calendar day after the initial ORP eligibility date falls on a weekend or holiday, the deadline shall be extended until the first business day after the 90th calendar day.

An employee who is eligible to elect ORP shall have only one opportunity during his or her lifetime, including any future periods of employment in Texas public higher education, to elect ORP in lieu of the applicable retirement system, and the election may never be revoked. Failure to elect ORP during the 90-day ORP election period shall be a default election to continue membership in the applicable retirement system.

19 TAC 25.3(7), (11), .4(f); Atty. Gen. Op. H-1184 (1978)

Each ORP employer shall, within 15 business days of an ORP-eligible employee's initial ORP eligibility date, provide written notification to the ORP-eligible employee that indicates the beginning and ending dates of his or her ORP election period and the local procedures for submitting the election form and additional required paperwork. *19 TAC 25.4(f)(2)*

GOVERNMENTAL
EXCESS BENEFIT
ARRANGEMENT

An institution of higher education, including a college district, may establish a governmental excess benefit arrangement as provided by Section 415(m) of the Internal Revenue Code of 1986 (26 U.S.C. Section 415(m)) for the purpose of providing to participants in the optional retirement program any portion of a participant's benefits that would otherwise be payable under the terms of the program except for the limitation on benefits imposed by Section 415 of the Internal Revenue Code of 1986 (26 U.S.C. Section 415). The governing board of an institution of higher education may take any action necessary to establish and implement a governmental excess benefit arrangement authorized in accordance with Government Code 830.004(c). *Gov't Code 830.004(c)*

EMPLOYEE RIGHTS AND PRIVILEGES

DG
(LEGAL)

EMPLOYEE FREE
SPEECH

College district employees do not shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.

However, neither an employee nor anyone else has an absolute constitutional right to use all parts of a school building or its immediate environs for unlimited expressive purposes. When a public employee makes statements pursuant to his or her official duties, the employee is not speaking as a citizen for First Amendment purposes, and the Constitution does not insulate the communications from employer discipline.

Garcetti v. Ceballos, 547 U.S. 410 (2006); *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503 (1969) [See also GF]

WHISTLEBLOWER
PROTECTION

A state or local governmental entity, including a college district, may not suspend or terminate the employment of, or take other adverse personnel action against, a public employee who in good faith reports a violation of law by the employing governmental entity or another public employee to an appropriate law enforcement authority.

A report is made to an appropriate law enforcement authority if the authority is a part of a state or local governmental entity or the federal government that the employee in good faith believes is authorized to:

1. Regulate under or enforce the law alleged to be violated in the report; or
2. Investigate or prosecute a violation of criminal law.

Gov't Code 554.002

A supervisor who in violation of Government Code Chapter 554 suspends or terminates the employment of a public employee or takes an adverse personnel action against the employee is liable for a civil penalty not to exceed \$15,000. *Gov't Code 554.008*

DEFINITIONS

“Public employee” means an employee or appointed officer other than an independent contractor who is paid to perform services for a state or local governmental entity. *Gov't Code 554.001(4)*

“Law” means a state or federal statute, an ordinance of a local governmental entity, or a rule adopted under a statute or ordinance. *Gov't Code 554.001(1)*

A “good faith belief that a violation of the law occurred” means that:

1. The employee believed that the conduct reported was a violation of law; and

2. The employee's belief was reasonable in light of the employee's training and experience.

Wichita County v. Hart, 917 S.W.2d 779 (Tex. 1996)

A "good faith belief that an entity is an appropriate law enforcement authority" means:

1. The employee believed the governmental entity was authorized to:
 - a. Regulate under or enforce the law alleged to be violated in the report, or
 - b. Investigate or prosecute a violation of criminal law; and
2. The employee's belief was reasonable in light of the employee's training and experience.

Tex. Dept. of Trans. v. Needham, 82 S.W.3d 314 (Tex. 2002)

WHISTLEBLOWER
COMPLAINTS

A public employee whose employment is suspended or terminated or who is subjected to an adverse personnel action in violation of Government Code 554.002 is entitled to sue for injunctive relief, actual damages, court costs, and reasonable attorney fees, as well as other relief specified in Government Code 554.003. A public employee whose employment is suspended or terminated in violation of Government Code Chapter 554 is entitled to reinstatement to the employee's former position or an equivalent position, compensation for wages lost during the period of suspension or termination, and reinstatement of fringe benefits and seniority rights lost because of the suspension or termination. *Gov't Code 554.003*

INITIATE
GRIEVANCE

A public employee must initiate action under the grievance or appeal procedures of the employing state or local governmental entity relating to suspension or termination of employment or adverse personnel action before suing under Chapter 554.

The employee must invoke the applicable grievance or appeal procedures not later than the 90th day after the date on which the alleged violation of Chapter 554 occurred or was discovered by the employee through reasonable diligence.

Gov't Code 554.006(a)–(b)

LEGAL ACTION

If a final decision is not rendered before the 61st day after the date procedures are initiated under Government Code 554.006(a), the employee may elect to:

1. Exhaust the applicable procedures, in which event the employee must sue not later than the 30th day after the date

EMPLOYEE RIGHTS AND PRIVILEGES

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(LEGAL)

those procedures are exhausted to obtain relief under Government Code Chapter 554; or

2. Terminate procedures, in which event the employee must sue within time remaining under Government Code 554.005 to obtain relief under Government Code Chapter 554.

Gov't Code 554.006(c)-(d)

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| BURDEN OF PROOF | A public employee who sues under Chapter 554 has the burden of proof, except that if the suspension or termination of, or adverse personnel action against, a public employee occurs not later than the 90th day after the date on which the employee reports a violation of law, the suspension, termination, or adverse personnel action is presumed, subject to rebuttal, to be because the employee made the report. <i>Gov't Code 554.004(a)</i> |
| AFFIRMATIVE DEFENSE | It is an affirmative defense to a suit under Chapter 554 that the employing state or local governmental entity would have taken the action against the employee that forms the basis of the suit based solely on information, observation, or evidence that is not related to the fact that the employee made a report protected under Chapter 554 of a violation of law. <i>Gov't Code 554.004(b)</i> |
| NOTICE OF RIGHTS | A state or local governmental entity shall inform its employees of their rights under Chapter 554 by posting a sign in a prominent location in the workplace. The attorney general shall prescribe the design and content of the sign. <i>Gov't Code 554.009</i> |
| RIGHT TO EXPRESS BREAST MILK DISCRIMINATION PROHIBITED | An employee of a public employer, including a college district employee, is entitled to express breast milk at the employee's workplace. A public employer may not suspend or terminate the employment of, or otherwise discriminate against, an employee because the employee has asserted the employee's rights under Government Code Chapter 619. <i>Gov't Code 619.002, .005</i> |
| POLICY | A public employer shall develop a written policy on the expression of breast milk by employees under Government Code Chapter 619. The policy developed must state that the public employer shall: <ol style="list-style-type: none">1. Support the practice of expressing breast milk; and2. Make reasonable accommodations for the needs of employees who express breast milk. <i>Gov't Code 619.003</i> |
| EMPLOYER RESPONSIBILITIES | A public employer shall: |

EMPLOYEE RIGHTS AND PRIVILEGES

DG
(LEGAL)

1. Provide a reasonable amount of break time for an employee to express breast milk each time the employee has need to express the milk; and
2. Provide a place, other than a multiple user bathroom, that is shielded from view and free from intrusion from other employees and the public where the employee can express breast milk.

Gov't Code 619.004

BREAKS FOR
NURSING MOTHERS

An employer shall provide a nonexempt employee a reasonable break to express breast milk, each time the employee needs to express breast milk for her nursing child, for one year after the child's birth. An employer shall provide a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, which may be used by an employee to express breast milk.

An employer is not required to compensate the employee receiving reasonable break time for any work time spent for such purpose.

An employer that employs fewer than 50 employees is not subject to these requirements if the requirements would impose an undue hardship by causing the employer significant difficulty or expense when considered in relation to the size, financial resources, nature, or structure of the employer's business.

29 U.S.C. 207(r)

PROHIBITIONS

A state officer or employee, including a college district employee, may not use official authority or influence or permit the use of a program administered by the state agency of which the person is an officer or employee to interfere with or affect the result of an election or nomination of a candidate or to achieve any other political purpose. A state employee may not coerce, attempt to coerce, command, restrict, attempt to restrict, or prevent the payment, loan, or contribution of anything of value to a person or political organization for a political purpose. *Gov't Code 556.004(c)-(d)*

NOTICE BY
ELECTRONIC MEDIA

If a state law requires an institution of higher education, including a college district, to provide written notification to its officers or employees of any requirement, right, duty, or responsibility provided by state law, the institution may provide the notification by use of electronic media.

An institution of higher education may adopt rules and guidelines to ensure that notification provided by electronic media is effective and that any required notification is provided to officers and employees who do not have access to electronic media.

Education Code 51.965

EMPLOYEE RIGHTS AND PRIVILEGES

DG
(LEGAL)

PROTECTION OF
NURSES

A person, including a college district, may not suspend, terminate, or otherwise discipline, discriminate against, or retaliate against a nurse who refuses to engage in an act or omission as provided by Occupations Code 301.352(a-1) or a person who advises a nurse of the nurse's rights under Occupations Code 301.352. *Occupations Code 301.352(a)*

A nurse may refuse to engage in an act or omission relating to patient care that would constitute grounds for reporting the nurse to the Board of Nurse Examiners under Occupations Code Chapter 301, Subchapter I; that constitutes a minor incident, as defined at Occupations Code Section 301.419; or that violates Occupations Code Chapter 301 or a rule of the Board of Nurse Examiners if the nurse notifies the person at the time of the refusal that the reason for refusing is that the act or omission constitutes grounds for reporting the nurse to the Board of Nurse Examiners or is a violation of Occupations Code Chapter 301 or a rule of the Board of Nurse Examiners. *Occupations Code 301.352(a-1)*

IMMUNITY FOR
SHELTER WORKERS

A service member of the Texas military forces ordered into service of this state by proper authority is not personally liable in the person's private capacity for any act performed or for any contract or other obligation entered into or undertaken in an official capacity in good faith and without intent to defraud in connection with the administration, management, or conduct of the department in business, programs, or other related affairs, under the limited waiver of governmental immunity provided by the Texas Tort Claims Act (Civil Practice and Remedies Code Chapter 101). *Gov't Code 437.222*

An officer or employee of a state or local agency, including a college district, is considered for purposes of Government Code 437.222 to be a member of the Texas military forces ordered into active service of the state by proper authority and is considered to be discharging a duty in that capacity if the person is performing an activity related to sheltering or housing individuals in connection with the evacuation of an area stricken or threatened by disaster. *Gov't Code 418.006*

Note: For information regarding when the carry of weapons is permitted on campus, see CHF.

EMPLOYEE RIGHTS AND PRIVILEGES
EMPLOYEE USE OF COLLEGE DISTRICT FACILITIES

DGD
(LOCAL)

The grounds and facilities of the College District shall be made available to employees or employee organizations, when such use does not conflict with use by, or any of the policies and procedures of, the College District. The requesting employees or employee organization shall pay all expenses incurred by their use of the facilities in accordance with a fee schedule developed by the Board.

An "employee organization" is an organization composed only of College District faculty and staff or an employee professional organization.

REQUESTS

To request permission to meet on College District premises, interested employees or employee organizations shall file a written request with the executive administrator in accordance with administrative procedures.

The employees or the employee organization making the request shall indicate that they have read and understand the policies and rules governing use of College District facilities and that they will abide by those rules.

APPROVAL

The executive administrator shall approve or reject the request in accordance with provisions and deadlines set out in this policy and administrative procedures, without regard to the religious, political, philosophical, or other content of the speech likely to be associated with the employees' or employee organization's use of the facility.

Approval shall not be granted when the official has reasonable grounds to believe that:

1. The College District facility requested is unavailable, inadequate, or inappropriate to accommodate the proposed use at the time requested;
2. The applicant is under a disciplinary penalty or sanction prohibiting the use of the facility;
3. The proposed use includes nonpermissible solicitation;
4. The proposed use would constitute an immediate and actual danger to the peace or security of the College District that available law enforcement officials could not control with reasonable efforts;
5. The applicant owes a monetary debt to the College District and the debt is considered delinquent;
6. The proposed activity would disrupt or disturb the regular academic program;

EMPLOYEE RIGHTS AND PRIVILEGES
EMPLOYEE USE OF COLLEGE DISTRICT FACILITIES

DGD
(LOCAL)

7. The proposed use would result in damage to or defacement of property or the applicant has previously damaged College District property; or
8. The proposed activity would constitute an unauthorized joint sponsorship with an outside group.

The executive administrator shall provide the applicant a written statement of the grounds for rejection if a request is denied.

ANNOUNCEMENTS
AND PUBLICITY

In accordance with administrative procedures, all employees and employee organizations shall be given access on the same basis for making announcements and publicizing their meetings and activities.

IDENTIFICATION

Employees and employee organizations using College District facilities must provide identification when requested to do so by a College District representative.

VIOLATIONS

Failure to comply with the policy and procedures regarding employee use of College District facilities shall result in appropriate administrative action, including but not limited to, suspension of an employee's or employee organization's use of College District facilities, and/or other disciplinary action in accordance with the College District's policies and procedures and the employee handbook.

APPEALS

Decisions made by the administration under this policy may be appealed in accordance with DGBA(LOCAL).

EMPLOYEE WELFARE

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(LEGAL)

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| WELLNESS PROGRAMS | A covered entity, including a college district, may conduct voluntary medical examinations and activities, including voluntary medical histories, which are part of an employee health program available to employees at the work site in accordance with 29 C.F.R. 1630.14(d). <i>29 C.F.R. 1630.14(d)</i> |
| ADA | |
| GINA | The general prohibition against requesting, requiring, or purchasing genetic information does not apply where a covered entity offers health or genetic services, including such services offered as part of a voluntary wellness program as described by 29 C.F.R 1635.8(b). <i>29 C.F.R 1635.8(b)</i> |
| STATE LAW | |
| DEFINITIONS | |
| "EMPLOYEE" | "Employee" means a person who, for compensation, performs services for an employer under a written or oral contract, whether express or implied. <i>Civ. Prac. Rem. Code 142A.001(1)</i> |
| "EMPLOYEE WELLNESS PROGRAM" | "Employee wellness program" means a program established by an employer that provides an incentive to an employee that promotes wellness or a healthy lifestyle. <i>Civ. Prac. Rem. Code 142A.001(2)</i> |
| LIMITATION ON LIABILITY | A civil action may not be brought against an employer for establishing, maintaining, or requiring participation in an employee wellness program unless: <ol style="list-style-type: none">1. The program discriminates on the basis of a prior medical condition, gender, age, or income level; or2. The cause of action is based on intentional or reckless conduct. <i>Civ. Prac. Rem. Code 142A.002(a)</i> |
| STATE AGENCY VETERAN'S LIAISON | Each state agency, including each college district, that has at least 500 full-time equivalent positions shall designate an individual from the agency to serve as a veteran's liaison. A state agency that has fewer than 500 full-time equivalent positions may designate an individual from the agency to serve as a veteran's liaison. Each state agency that designates a veteran's liaison shall make available on the agency's Internet website the liaison's individual work contact information. <i>Gov't Code 657.0046</i> |
| HAZARD COMMUNICATION ACT NOTICE | An employer, including a college district, shall post and maintain adequate notice, at locations where notices are normally posted, informing employees of their rights under this chapter. If the Texas Department of State Health Services (DSHS) does not prepare the notice under Health and Safety Code 502.008, the employer shall |

EMPLOYEE WELFARE

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(LEGAL)

prepare the notice promulgated by DSHS in the workplace. *Health and Safety Code 502.017(a)*

EDUCATION AND
TRAINING

An employer shall provide an education and training program for employees who use or handle hazardous chemicals. "Employee" means a person who may be or may have been exposed to hazardous chemicals in the person's workplace under normal operating conditions or foreseeable emergencies, and includes a person working for a political subdivision of this state. Workers such as office workers or accountants who encounter hazardous chemicals only in nonroutine, isolated instances are not employees for purposes of these requirements. *Health and Safety Code 502.003(10), .009(a)*

An employer shall develop, implement, and maintain at the workplace a written hazard communication program for the workplace in accordance with Health and Safety Code 502.009. An employer shall keep the written hazard communication program and a record of each training session given to employees, including the date, a roster of the employees who attended, the subjects covered in the training session, and the names of the instructors. Those records shall be maintained for at least five years by the employer. The department shall have access to those records and may interview employees during inspections. *Health and Safety Code 502.009(g)*

WORKPLACE
CHEMICAL LIST

For the purpose of worker right-to-know, an employer shall compile and maintain a workplace chemical list that contains the information described by Health and Safety Code 502.005 for each hazardous chemical normally present in the workplace or temporary workplace in excess of 55 gallons or 500 pounds or in excess of an amount that the HHSC executive commissioner determines by rule for certain highly toxic or dangerous hazardous chemicals. The workplace chemical list may be prepared for the workplace as a whole or for each work area or temporary workplace and must be readily available to employees and their representatives. All employees shall be made aware of the workplace chemical list before working with or in a work area containing hazardous chemicals. *Health and Safety Code 502.005(a), (c)*

The employer shall update the workplace chemical list as necessary but at least by December 31 each year. Each workplace chemical list shall be dated and signed by the person responsible for compiling the information. An employer shall maintain a workplace chemical list for at least 30 years. *Health and Safety Code 502.005(b), (d)*

LABELING

A label on an existing container of a hazardous chemical may not be removed or defaced unless it is illegible, inaccurate, or does not conform to the OSHA standard or other applicable labeling re-

quirement. Primary containers must be relabeled with at least the identity appearing on the safety data sheets (SDS), the pertinent physical and health hazards, including the organs that would be affected, and the manufacturer's name and address. Except as provided by Subsection (b), secondary containers must be relabeled with at least the identity appearing on the SDS and appropriate hazard warnings.

An employee may not be required to work with a hazardous chemical from an unlabeled container except for a portable container intended for the immediate use of the employee who performs the transfer.

Health and Safety Code 502.007

SAFETY DATA
SHEETS

An employer shall maintain a legible copy of a current manufacturer's SDS for each hazardous chemical purchased. If the employer does not have a current SDS for a hazardous chemical when the chemical is received at the workplace, the employer shall request an SDS in writing from the manufacturer or distributor in a timely manner or shall otherwise obtain a current SDS. Safety data sheets shall be readily available, on request, for review by employees or their designated representatives at each workplace. *Health and Safety Code 502.006(b)-(c)*

PROTECTIVE
EQUIPMENT

Employees shall be provided with appropriate personal protective equipment. *Health and Safety Code 502.017(b)*

The following pages include an exhibit, in compliance with the Drug-Free Workplace Act, that is required for distribution to all college district employees, and an exhibit pointing to useful federal and state websites containing information on commonly abused drugs and the legal penalties for possession and use.

Exhibit A: Drug-Free Workplace Notice — 1 page

Exhibit B: Sources for Information on Illegal Drugs — 1 page

EXHIBIT A

DRUG-FREE WORKPLACE NOTICE

The college district prohibits the unlawful manufacture, distribution, dispensation, possession, or use of controlled substances, illegal drugs, inhalants, and alcohol in the workplace.

Employees who violate this prohibition will be subject to disciplinary sanctions. Sanctions may include:

- Referral to drug and alcohol counseling or rehabilitation programs;
- Referral to employee assistance programs;
- Termination from employment with the college district; and
- Referral to appropriate law enforcement officials for prosecution.

As a condition of employment, an employee must:

- Abide by the terms of this notice; and
- Notify the college president, in writing, if the employee is convicted for a violation of a criminal drug statute occurring in the workplace. The employee must provide the notice in accordance with college district policy.

This notice complies with the requirements of the federal Drug-Free Workplace Act (41 U.S.C. 702).

EXHIBIT B

SOURCES FOR INFORMATION ON ILLEGAL DRUGS

- Commonly Abused Drugs
<http://www.nida.nih.gov/drugsofabuse.html>
- Federal Trafficking Penalties
<https://www.dea.gov/druginfo/ftp3.shtml>

TERMINATION OF EMPLOYMENT

DM
(LOCAL)

AT-WILL EMPLOYEES

At-will employees may be dismissed at any time for any reason not prohibited by law or for no reason, as determined by the needs of the College District. At-will employees who are dismissed may request review of that decision through DGBA(LOCAL) and shall receive pay through the end of the last day worked.

TERM CONTRACTS
TERMINATION MID-CONTRACT

DMAA
(LOCAL)

An employee may be terminated mid-contract for good cause as determined by the Board following a hearing held for that purpose in accordance with law.

GROUNDS FOR
DISMISSAL

Good cause includes, but is not limited to, the following reasons:

1. Inefficiency or incompetence in performance of duty.
2. Failure to comply with such reasonable requirements as the College District may prescribe for achieving professional improvement and growth.
3. Failure to comply with official directives, administrative assignments, and established Board policy. This includes, but is not limited to, the standards of employee conduct articulated in policy DH.
4. Physical and/or mental incapacity, preventing performance of the contract.
5. Falsification of pertinent information regarding employee's application for employment, regardless of when the falsification is discovered.
6. Excessive absence, tardiness, or premature dismissal of class or departure from work assignment.
7. Theft, physical violence, and disruption of working conditions.
8. Any act or habit rendering the employee ineffective.
9. Commission of an offense involving moral turpitude. This includes, but is not limited to, conviction of a felony or abusive use of alcohol and/or illegal drugs.
10. Reduction in force resulting from financial exigency or program change. [See DMC]

SUSPENSION WITH
PAY

A term contract employee may be suspended with pay and placed on administrative leave by the College President during an investigation of alleged misconduct by the employee or at any time the College President determines that the College District's best interest will be served by the suspension.

GRIEVANCE FILED
UNDER EDUCATION
CODE 51.960

The Board designates the College President as the person to whom a faculty member may present a grievance under Education Code 51.960 on an issue related to his or her dismissal. It is recommended that the faculty member file a request to present the grievance within ten business days after final action on the dismissal proceeding.

TERM CONTRACTS
TERMINATION MID-CONTRACT

DMAA
(LOCAL)

Once a request to present a grievance has been filed, the conference shall be scheduled within seven business days.

The faculty member may appeal the decision of the College President under DGBA beginning at the appropriate level.

QUITTING

A contractual employee who simply quits or walks off his or her job releases the College District from its contractual obligations by reason of the breach of contract by the employee.

COMPENSATION

Remuneration for a contractual employee terminated voluntarily or involuntarily shall be restricted to the original contract amount reduced by the amount due under the contract prior to the employee's termination.

SOME POLICY TITLES ARE INCLUDED FOR FUTURE EXPANSION

SECTION E: INSTRUCTION

| | |
|------|---|
| EA | SCHOOL YEAR AND CALENDAR |
| EB | ALTERNATE METHODS OF INSTRUCTION |
| EBA | Distance Education |
| EBB | Off Campus Instruction |
| EC | INSTRUCTIONAL ARRANGEMENTS |
| ECA | Instructional Departments |
| ECB | Class Size |
| ECC | Course Load and Schedules |
| ED | INSTRUCTIONAL RESOURCES |
| EDA | Instructional Materials |
| EDAA | Libraries and Laboratories |
| EDB | Instructional Services |
| EDC | Community Instructional Resources |
| EE | CURRICULUM DEVELOPMENT |
| EF | CURRICULUM DESIGN |
| EFA | Instructional Programs and Courses |
| EFAA | Academic Courses |
| EFAB | Career Technical/Workforce Courses |
| EFAC | Developmental Education |
| EFB | Degrees and Certificates |
| EFBA | Degree Plans |
| EFC | Special Programs |
| EFCA | Students with Disabilities |
| EFCB | Adult Education and Literacy |
| EFCC | Elementary and Secondary Students |
| EFCD | High School Equivalency Testing Centers |
| EFCE | Community Education Programs |
| EFCF | Driver Education |
| EFD | Extended Instructional Programs |
| EFDA | Summer School |
| EFDB | Honors Program |
| EG | ACADEMIC ACHIEVEMENT |
| EGA | Grading and Credit |
| EGAA | Credit by Examination |
| EGAB | Examinations |
| EGB | Class Rankings |
| EGC | Graduation |
| EGCA | Honorary Degrees |

SOME POLICY TITLES ARE INCLUDED FOR FUTURE EXPANSION

SECTION E: INSTRUCTION

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|-----|--------------------------------------|
| EH | GUIDANCE PROGRAMS AND SERVICES |
| EHA | Placement Office |
| EHB | Counseling |
| EHC | Tutorial Services |
| EI | TESTING PROGRAMS |
| EJ | MISCELLANEOUS INSTRUCTIONAL POLICIES |
| EJA | Other Instructional Initiatives |
| EJB | Religion in Instruction |

ALTERNATE METHODS OF INSTRUCTION
DISTANCE EDUCATION

EBA
(LOCAL)

The College District shall offer distance education courses and programs in accordance with:

- Applicable law;
- Coordinating Board regulations and guidelines, including the Principles of Good Practice for Academic Degree and Certificate Programs and Credit Courses Offered Electronically;
- Policies and guidelines of the Southern Association of Colleges and Schools Commission on Colleges (SACSCOC); and
- College District policies and procedures.

The College President shall develop procedures to implement this policy.

ALTERNATE METHODS OF INSTRUCTION
OFF CAMPUS INSTRUCTION

EBB
(LEGAL)

An institution of higher education, including a college district, may offer off-campus courses for credit within the state or distance learning courses only with specific prior approval of the Coordinating Board. An institution must certify to the Coordinating Board that a course offered for credit outside the state meets the Coordinating Board's academic criteria. An institution shall include the certification in submitting any other reports required by the Coordinating Board. *Education Code 61.0512(g)*

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| DEFINITIONS | |
| “CLINICAL COURSE” | A “clinical course” is an academic credit course that is a health-related, work-based learning experience that enables the student to apply specialized occupational theory, skills, and concepts. <i>19 TAC 4.272(4)</i> |
| “CLINICAL FACILITY” | A “clinical facility” is a health-care facility that provides learning experiences for students. <i>19 TAC 4.272(5)</i> |
| “CONTINUING EDUCATION COURSE” | A “continuing education course” is a non-credit higher education technical course offered for continuing education units (CEUs), has specific occupational and/or apprenticeship training objectives, and provides a quick and flexible response to business, industry, and student needs for intensive preparatory, supplemental, or upgrade training and education. <i>19 TAC 4.272(8)</i> |
| “NON-CREDIT COURSE” | A “non-credit course” is a course that results in the award of CEUs as specified by International Association for Continuing Education and Training (IACET) criteria. Only courses that result in the award of CEUs may be submitted for state funding. <i>19 TAC 4.272(17)</i> |
| “OFF-CAMPUS COURSE” | An “off-campus course” means a course in which a majority (more than 50 percent) of the instruction occurs when the students and instructor(s) are in the same physical location and off-campus locations are outside the service area. <i>19 TAC 4.272(18)</i> |
| “OFF-CAMPUS DEGREE OR CERTIFICATE PROGRAM” | An “off-campus degree or certificate program” is a program in which a student may complete a majority (more than 50 percent) of the credit hours required for the program through off-campus courses. <i>19 TAC 4.272(19)</i> |
| “OFF-CAMPUS INSTRUCTION” | “Off-campus instruction” is the formal educational process in which a majority (more than 50 percent) of the instruction occurs when the students and instructor(s) are in the same physical location and off-campus locations are sites outside of the service area. <i>19 TAC 4.272(20)</i> |
| “OUT-OF-STATE / OUT-OF-COUNTRY COURSES AND PROGRAMS” | “Out-of-state/out-of-country courses and programs” are academic credit courses and programs delivered outside Texas/United States to individuals or groups who are not regularly enrolled on-campus students. Out-of-state and out-of-country courses do not receive formula funding. <i>19 TAC 4.272(21)</i> |

ALTERNATE METHODS OF INSTRUCTION
OFF CAMPUS INSTRUCTION

EBB
(LEGAL)

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| "REGULAR ON-CAMPUS STUDENT" | A "regular on-campus student" is a student who is admitted to an institution, the majority of whose semester credit hours are reported for formula funding and more than 50 percent of coursework is primarily taken at an institution's main campus or on one or more of the campuses within a multi-campus community college system. <i>19 TAC 4.272(26)</i> |
| "SELF-SUPPORTING COURSES AND PROGRAMS" | "Self-supporting courses and programs" are academic credit courses and programs whose semester credit hours are not submitted for formula funding. <i>19 TAC 4.272(27)</i> |
| "STUDY-IN-AMERICA COURSES" | "Study-in-America courses" are off-campus, academic credit instruction, which is delivered outside Texas but in the United States primarily to regular on-campus students. <i>19 TAC 4.272(30)</i> |
| "STUDY-ABROAD COURSES" | "Study-abroad courses" are off-campus, academic credit instruction, which is delivered outside the United States primarily to regular on-campus students. <i>19 TAC 4.272(31)</i> |
| "WORKFORCE CONTINUING EDUCATION COURSE" | "Workforce continuing education course" is a course offered for CEUs with an occupationally specific objective and supported by state funding. A career technical/workforce continuing education course differs from a community service course offered for recreational or avocational purposes which is not supported by state funding. <i>19 TAC 4.272(32)</i> |
| APPLICABILITY OF SUBCHAPTER Q | Administrative Code Title 19, Chapter 4, Subchapter Q governs the following types of instruction offered by institutions of higher education: academic credit courses, clinical courses, degree and certificate programs, and formula-funded workforce continuing education provided by a community college outside the boundaries of its service area through off-campus instruction; academic credit courses and programs offered by any public institution of higher education outside of Texas, including Study-Abroad, Study-in-America, out-of-state, and out-of-country courses; and self-supporting courses and programs that are offered through off-campus instruction. Administrative Code Title 19, Chapter 4, Subchapter Q does not apply to continuing education, except for formula-funded workforce continuing education, provided by public two-year colleges. <i>19 TAC 4.273</i> |
| STANDARDS AND CRITERIA | The following provisions apply to all institutions, including college districts, covered under 19 Administrative Code Chapter 4, Subchapter Q, unless otherwise specified: |
| GENERALLY | <ol style="list-style-type: none"><li data-bbox="558 1709 1435 1814">1. Institutions shall comply with the standards and criteria of the Southern Association of Colleges and Schools Commission on Colleges (SACSCOC).<li data-bbox="558 1835 1435 1900">2. For off-campus programs and self-supporting programs, the parent institution shall notify all potentially affected area insti- |

ALTERNATE METHODS OF INSTRUCTION
OFF CAMPUS INSTRUCTION

EBB
(LEGAL)

tutions in accordance with Coordinating Board policy and procedures.

3. Institutions shall report enrollments, courses, and graduates associated with self-supporting offerings as required by the commissioner.
4. Institutions shall report fees received for self-supporting and out-of-state/country courses in accordance with general institutional accounting practices.
5. Students shall be provided academic support services appropriate for off-campus instruction such as academic advising, career counseling, library, and other learning resources.
6. Off-campus instruction sites shall be of sufficient quality for the delivery methods and courses offered.

19 TAC 4.274

OFF-CAMPUS
PROGRAMS

The following standards and criteria apply to programs offered under the provisions of 19 Administrative Code, Chapter 4, Subchapter Q:

1. Each program shall be within the role and mission of the institution responsible for offering the instruction and shall be on the inventory of approved programs.
2. Prior Coordinating Board approval may be required before an institution may offer programs in certain subject area disciplines or under other conditions specified by the Coordinating Board or the commissioner.
3. An institution offering an off-campus degree or certificate program shall comply with the standards and criteria of any specialized accrediting agency or professional certification board.
4. Each degree program offered off-campus shall be approved by the institution's governing board or the board's institutional designee. Certification of approval shall be submitted to the Coordinating Board upon request.
5. Institutions shall require that students (except for students in out-of-country programs) enrolled in a distance education degree program satisfy the same requirements for admission to the institution and the program as required of regular on-campus students. Students in degree programs to be offered collaboratively shall meet the admission standards of their home institution. Out-of-country students shall meet equivalent standards for admission into programs.

19 TAC 4.275

ALTERNATE METHODS OF INSTRUCTION
OFF CAMPUS INSTRUCTION

EBB
(LEGAL)

OFF-CAMPUS
COURSES

The following standards and criteria apply to programs offered under the provisions of 19 Administrative Code, Chapter 4, Subchapter Q, unless otherwise specified:

1. Each course shall be within the role and mission of the institution responsible for offering the instruction and shall be on its inventory of approved courses.
2. Prior Coordinating Board approval may be required before an institution may offer courses in certain subject area disciplines or under other conditions specified by the Coordinating Board or the commissioner.
3. Study-in-America and Study-Abroad courses offered by institutions of higher education, or by an approved consortium composed of Texas public institutions, must be reported to the Coordinating Board in the manner prescribed by the commissioner in order for the semester credit hours or contact hours generated in those courses to receive formula funding.
4. All courses shall meet the quality standards applicable to on-campus courses.
5. Institutions shall report to the Coordinating Board and shall notify all potentially affected area institutions of all off-campus courses and programs in accordance with Coordinating Board policy and procedures.
6. Except for students in out-of-country courses, students shall satisfy the same requirements for enrollment in an academic credit course as required of on-campus students. Out-of-country students shall be assessed for academic guidance purposes.
7. The instructor of record shall bear responsibility for the delivery of instruction and for evaluation of student progress.

19 TAC 4.276

OFF-CAMPUS PRO-
GRAM AND COURSE
FACULTY

The following standards and criteria apply to faculty teaching in programs offered under the provisions of 19 Administrative Code, Chapter 4, Subchapter Q:

1. Faculty shall be selected and evaluated by equivalent standards, review, and approval procedures used by the institution to select and evaluate faculty responsible for on-campus courses.
2. Institutions shall provide training and support to enhance the added skills required of the faculty teaching off-campus or self-supporting courses.

3. The supervising, monitoring, and evaluating processes for faculty shall be equivalent to those for on-campus courses.

19 TAC 4.277

REGIONAL COUNCILS

Public community colleges shall submit for the appropriate regional council's review all off-campus lower-division courses proposed for delivery to sites outside their service areas. All institutions of higher education, including community colleges, shall provide notice to the Higher Education Regional Councils when planning to offer requested off-campus and/or electronic to groups dual credit courses in the council's service area. *19 TAC 4.278(f), (j)*

With the exception of 19 Administrative Code 4.278(e), (i), and (j), regional councils in each of the ten uniform state service regions shall make recommendations to the commissioner and shall resolve disputes regarding plans for lower-division courses and programs proposed by public institutions. *19 TAC 4.278(b)*

Each regional council shall make recommendations to the commissioner regarding off-campus courses and programs proposed for delivery within its uniform state service region in accordance with the consensus views of council members, except for courses and programs proposed to be offered by public community colleges in their designated service areas and courses and programs governed by the provisions of 19 Administrative Code 4.278(e), (i), and (j). *19 TAC 4.278(d)*

A public community college may enter into an agreement to offer dual credit courses with a high school located in the service area of another public community college without additional regional council approval. [For more information on dual credit, see GH]
19 TAC 4.278(e)

CLINICAL COURSES

Universities, health-related institutions, public community and technical colleges, and Lamar state colleges may offer clinical courses at clinical facilities without regional council approval if each of the following criteria is met:

1. The student(s) enrolled in the clinical course is already employed by the clinical facility;
2. The institution receives written verification from the clinical facility that there will be no reduction in the number of clinical opportunities available for use by area institutions; and
3. The institution of higher education notifies the appropriate regional council(s) of the clinical course and provides the regional council(s) with written verification from the clinical facili-

ALTERNATE METHODS OF INSTRUCTION
OFF CAMPUS INSTRUCTION

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(LEGAL)

ty that the course will not reduce the number of clinical opportunities available for use by area institutions.

19 TAC 4.278(h)

FORMULA FUNDING

Institutions, including college districts, shall report off-campus courses submitted for formula funding in accordance with the Coordinating Board's uniform reporting system and the provision of 19 Administrative Code Chapter 4, Subchapter Q.

Institutions shall not submit for formula-funding courses in out-of-state or out-of-country programs, nor shall they submit self-supporting courses for formula funding.

Institutions shall not submit non-state-funded, lower-division credit courses to regional councils.

Institutions shall not jeopardize or diminish the status of formula-funded, on-campus courses and programs in order to offer self-supporting courses. Self-supporting courses shall not be a substitute for offering a sufficient number of formula-funded on-campus courses.

For courses not submitted for formula funding, institutions shall charge fees that are equal to or greater than Texas resident tuition and applicable fees and that are sufficient to cover the total cost of instruction and overhead, including administrative costs, benefits, computers and equipment, and other related costs.

FEE REPORTS

Institutions shall report fees received for self-supporting and out-of-state/country courses in accordance with general institutional accounting practices.

19 TAC 4.279

INSTRUCTIONAL ARRANGEMENTS
COURSE LOAD AND SCHEDULES

ECC
(LEGAL)

LIMIT ON
ENROLLMENT

To ensure the quality of student learning, institutions, including college districts, should not allow students to carry more courses in any term (that is, regular or shortened semester), that would allow them to earn more than one semester credit hour per week over the course of the term. Institutions should have a formal written policy for addressing any exceptions to this paragraph. *19 TAC 4.6 (b)–(c)*

ADDING / DROPPING
COURSES

Courses at public community colleges may be added by students up to and including the official census date. A student may not enroll in a course after that date.

Courses at public community colleges may be dropped and a student entitled to a refund of tuition and fees as outlined under 19 Administrative Code 21.5 [see FD].

Education Code 130.009; 19 TAC 9.31

LIMITATION ON
NUMBER OF
DROPPED COURSES

This section applies only to an undergraduate student who drops a course at an institution of higher education, including a college district, and only if:

1. The student was able to drop the course without receiving a grade or incurring an academic penalty;
2. The student's transcript indicates or will indicate that the student was enrolled in the course; and
3. The student is not dropping the course in order to withdraw from the institution.

An institution of higher education may not permit a student to drop more than six courses, including any course a transfer student has dropped at another institution of higher education, under the circumstances described above.

The governing board of an institution of higher education may adopt a policy under which the maximum number of courses a student is permitted to drop under circumstances described above is less than six courses.

Education Code 51.907(b)–(d), 19 TAC 4.3(11)

GOOD CAUSE
EXCEPTION

An institution of higher education shall permit an undergraduate student to drop more courses than the six courses permitted to be dropped under Education Code 51.907(c) or the courses permitted to be dropped under a board policy adopted under Education Code 51.907(d) if the student shows good cause for dropping more than that number, including but not limited to a showing of:

INSTRUCTIONAL ARRANGEMENTS
COURSE LOAD AND SCHEDULES

ECC
(LEGAL)

1. A severe illness or other debilitating condition that affects the student's ability to satisfactorily complete a course;
2. The student's responsibility for the care of a sick, injured, or needy person if the provision of care affects the student's ability to satisfactorily complete a course;
3. The death of a person who is either considered to be a member of the student's family or is otherwise considered to have a sufficiently close relationship to the student, as defined below, that the person's death is considered to be a showing of good cause;
4. The active duty service as a member of the Texas National Guard or the Armed Forces of the United States of either the student or a person who is considered to be a member of the student's family or a person who is otherwise considered to have a sufficiently close relationship to the student, as described below;
5. The change of the student's work schedule that is beyond the control of the student, and that affects the student's ability to satisfactorily complete the course; or
6. Other good cause as determined by the institution of higher education.

Education Code 51.907(e); 19 TAC 4.10(a)

DEFINITIONS

For purposes of this exception, a "member of the student's family" is defined to be the student's spouse, child, grandchild, father, mother, brother, sister, grandmother, grandfather, aunt, uncle, nephew, niece, first cousin, step-parent, or step-sibling.

A "person who is otherwise considered to have a sufficiently close relationship to the student" is defined to include any other relative within the third degree of consanguinity, plus close friends, including but not limited to roommates, housemates, classmates, or other persons identified by the student for approval by the institution, on a case-by-case basis.

19 TAC 4.10(b)

POLICY FOR
DETERMINING
GOOD CAUSE
REQUIRED

Each institution of higher education shall adopt a policy and procedure for determining a showing of good cause as described above and provide a copy of the policy to the Coordinating Board.

Each institution of higher education shall publish the policy adopted in its catalogue and other print and Internet-based publications as appropriate for timely notification of students.

19 TAC 4.10(d)-(e)

INSTRUCTIONAL ARRANGEMENTS
COURSE LOAD AND SCHEDULES

ECC
(LEGAL)

DETERMINING
NUMBER OF
COURSES
DROPPED

In determining the number of courses dropped by a student for purposes of this section, a course, such as a laboratory or discussion course, in which a student is enrolled concurrently with a lecture course is not considered to be a course separate from the lecture course if:

1. Concurrent enrollment in both courses is required; and
2. In dropping the lecture course, the student would be required to drop the laboratory, discussion, or other course in which the student is concurrently enrolled.

Education Code 51.907(f)

BLOCK SCHEDULING

DEFINITIONS

“BLOCK
SCHEDULED
PROGRAM”

“Block scheduled program” is a Coordinating Board-approved associate of applied science degree or credit-bearing certificate program in the fields of allied health, nursing, or career education and technology utilizing block scheduling. *19 TAC 9.662(4)*

“BLOCK
SCHEDULING”

“Block scheduling” is co-registration in a group of courses equal to a full-time load related to a specific program of study or major to facilitate schedule predictability from semester to semester and encourage timely degree completion. *19 TAC 9.662(1)*

“FULL-TIME
LOAD”

“Full-time load” is the number of semester credit hours a student is required to complete per semester to complete the program in the amount of time the degree or certificate represents. As examples, a Level I certificate should be completed in one year or less; a Level II certificate should be completed in less than two years; and an associate degree should be completed in two years. *19 TAC 9.662(3)*

REQUIRED TO
OFFER

To facilitate timely degree completion by students at public junior colleges, from among the allied health, nursing, and career and technology associate degree or certificate programs offered by a public junior college, the college shall establish, for at least five of those programs not previously offered as a block schedule curriculum, a block schedule curriculum under which:

1. Courses required for a student's enrollment in the program as a full-time student are offered each semester in scheduled blocks, such as a morning, full-day, afternoon, evening, or weekend block schedule, designed to provide scheduling predictability from semester to semester to students enrolled in the program; and

2. Students may enroll in an entire block schedule curriculum offered under the program in a semester, rather than enrolling in individual courses leading toward the degree or certificate.

Clinical, practicum, and other externships may deviate from the block schedule.

Each public junior college shall publish in advance of each semester the available block schedule curricula for each associate degree or certificate program described above offered by the college for that semester.

Education Code 130.0095; 19 TAC 9.663-.665

HARDSHIP
EXCEPTION

If a public junior college does not offer the minimum number of block scheduled programs as described by 19 Administrative Code Chapter 9, Subchapter M, the institution must provide detailed written documentation to the Coordinating Board describing the reason why offering the required number of programs creates a hardship for the institution and how students would be impacted by offering additional block scheduled programs. Factors creating an institutional hardship may include, but are not limited to, programmatic accreditation requirements; statutory requirements; number of students enrolled in the program; availability of faculty; or availability of classroom, laboratory, or other types of instructional/experiential spaces. The Coordinating Board will review the documentation provided and make a determination to approve or deny a request to not offer the minimum number of block scheduled programs as defined by Subchapter M. *19 TAC 9.666*

INSTRUCTIONAL ARRANGEMENTS
COURSE LOAD AND SCHEDULES

ECC
(LOCAL)

COURSE LOAD

The normal course load for the fall or spring semester shall be 15 semester hours. Course loads in excess of 16 semester hours shall require approval by the vice president of student affairs. The maximum course load shall be no more than 21 semester hours.

The normal course load for the summer session shall be six semester hours for each six-week term or 12 semester hours for a full summer semester. Course loads in excess of six semester hours per term or 12 semester hours per summer semester shall require approval by the vice president of student affairs. The maximum summer credit hours earned shall be eight semester hours for one term or 16 semester hours for a full summer semester.

LIMITATION ON
NUMBER OF
DROPPED COURSES

A College District student shall not be permitted to drop more than six courses taken while enrolled at the College District or another public institution of higher education. For the limit to apply:

1. The student must be permitted to drop the course without receiving a grade or being penalized academically;
2. The student's transcript must indicate or will indicate the student was enrolled in the course; and
3. The student must not have dropped the course to withdraw from the College District.

EXCEPTIONS FOR
GOOD CAUSE

A student shall be permitted to exceed the limit on the number of dropped courses for any of the following reasons:

1. A severe illness or other debilitating condition that affects the student's ability to satisfactorily complete a course;
2. The care of a sick, injured, or needy person if providing that care affects the student's ability to satisfactorily complete a course;
3. The death of a member of the student's family as defined by law;
4. The death of a person who has a sufficiently close relationship to the student as defined by law;
5. The student's active military duty service;
6. The active military service of a member of the student's family or a person who has a sufficiently close relationship to the student; or
7. A change in the student's work schedule that is beyond the student's control and affects the student's ability to satisfactorily complete the course.

INSTRUCTIONAL ARRANGEMENTS
COURSE LOAD AND SCHEDULES

ECC
(LOCAL)

PROCEDURES The College President shall develop procedures to implement this policy and shall publish the procedures in the College District catalog.

SPECIAL PROGRAMS
STUDENTS WITH DISABILITIES

EFCA
(LEGAL)

No qualified student shall, on the basis of a disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any academic, research, occupational training, counseling, or any other extracurricular or other postsecondary education aid, benefits, or services to which the federal Rehabilitation Act and 34 C.F.R. Part 104, Subpart E applies. *34 C.F.R. 104.43(a)-(b)*

APPLICATION OF 34
C.F.R. PART 104,
SUBPART E

Title 34 C.F.R. Part 104, Subpart E applies to postsecondary education programs or activities, including postsecondary vocational education programs or activities, that receive federal financial assistance and to recipients that operate, or that receive federal financial assistance for the operation of, such programs or activities. *34 C.F.R. 104.41*

RELATED PROGRAMS

A recipient to which Subpart E applies that considers participation by students in education programs or activities not operated wholly by the recipient as part of, or equivalent to, an education program or activity operated by the recipient shall assure itself that the other education program or activity, as a whole, provides an equal opportunity for the participation of qualified persons with disabilities. *34 C.F.R. 104.43(b)*

ACADEMIC
ADJUSTMENTS
GENERALLY

A recipient to which Subpart E applies shall make modifications to its academic requirements that are necessary to ensure that such requirements do not discriminate or have the effect of discriminating, on the basis of disability, against a qualified applicant or student with disabilities. Academic requirements that the recipient can demonstrate are essential to the program of instruction being pursued by the student or to any directly related licensing requirement will not be regarded as discriminatory within the meaning of this section. Modifications may include changes in the length of time permitted for the completion of degree requirements, substitution of specific courses required for the completion of degree requirements, and adaptation of the manner in which specific courses are conducted. *34 C.F.R. 104.44(a)*

A recipient to which Subpart E applies may not impose upon students with disabilities other rules, such as the prohibition of tape recorders in classrooms, that have the effect of limiting the participation of students with disabilities in the institution's education program or activity. *34 C.F.R. 104.44(b)*

COURSE
EXAMINATIONS

In its course examinations or other procedures for evaluating students' academic achievement, a postsecondary education program or activity to which Subpart E applies shall provide such methods for evaluating the achievement of students who have a disability that impairs sensory, manual, or speaking skills as will best ensure that the results of the evaluation represents the students' achieve-

ment in the course, rather than reflecting the students' impaired sensory, manual, or speaking skills (except where such skills are the factors that the test purports to measure). *34 C.F.R. 104.44(c)*

AUXILIARY AIDS

A recipient to which Subpart E applies shall take such steps as are necessary to ensure that no student with disabilities is denied the benefits of, excluded from participation in, or otherwise subjected to discrimination because of the absence of educational auxiliary aids for students with impaired sensory, manual, or speaking skills. Auxiliary aids may include taped texts, interpreters or other effective methods of making orally delivered materials available to students with hearing impairments, readers in libraries for students with visual impairments, classroom equipment adapted for use by students with manual impairments, and other similar services and actions. Institutions need not provide attendants, individually prescribed devices, readers for personal use or study, or other devices or services of a personal nature. *34 C.F.R. 104.44(d)*

ACCOMMODATIONS
TO CORE
CURRICULUM

An institution of higher education may, on a case-by-case basis, approve an accommodation of a specific core curriculum foundational area requirement for a student with a medically documented learning disability, including but not limited to dyslexia, dysgraphia, or Asperger's Syndrome.

Accommodation shall not include a waiver or exemption of any core curriculum requirement.

An institution may approve for core curriculum applicability a course the institution offers but that is not approved as part of the core curriculum, if the institution demonstrates that the course has been approved to fulfill the same specific foundational component area requirement at five or more other Texas public colleges or universities. The Texas Common Course Numbering System course number may be used as evidence of the suitability of the course under 19 Administrative Code 4.28(k).

19 TAC 4.28(k)

COUNSELING,
GUIDANCE, AND
PLACEMENT
SERVICES

A recipient to which Subpart E applies shall provide personal academic or vocational counseling, guidance, or placement services to its students without discrimination on the basis of disability. The institution shall ensure that qualified students with disabilities are not counseled toward more restrictive career objectives than are students without disabilities and with similar interests and ability. This requirement does not preclude an institution from providing factual information about licensing and certification requirements that may present obstacles to persons with disabilities in their pursuit of particular careers. *34 C.F.R. 104.47(b)*

SPECIAL PROGRAMS
STUDENTS WITH DISABILITIES

EFCA
(LEGAL)

STUDENTS WITH
DYSLEXIA

Unless otherwise provided by law, an institution of higher education, including a college district, may not reassess a student determined to have dyslexia for the purpose of assessing the student's need for accommodations until the institution of higher education reevaluates the information obtained from previous assessments of the student. *Education Code 51.9701*

STUDENTS WITH
INTELLECTUAL AND
DEVELOPMENTAL
DISABILITIES

"Intellectual and Developmental Disability" (IDD) is defined as a neurodevelopmental disorder that must meet the following criteria:

1. Deficits in intellectual functions, such as reasoning, problem solving, planning, abstract thinking, judgement, academic learning, and learning from experience.
2. Deficits in adaptive functioning that result in failure to meet developmental and sociocultural standards for personal independence and social responsibility. Without ongoing support, the adaptive deficits limit functioning in one or more activities of daily life, such as communication, social participation, and independent living, across multiple environments, such as home, school, work, and community.
3. Items 1 and 2 of this subsection may occur after the developmental period, such as in the case of a traumatic brain injury.
4. Students with IDD may include those diagnosed with an Autism Spectrum Disorder.

"Postsecondary transitional program or postsecondary program for students with IDD" is defined as a degree, certificate, or non-degree program for students with IDD that is offered by an institution of higher education. These programs are designed to support students with IDD who want to continue academic, career, and independent living instruction following completion of secondary education.

The Coordinating Board may collect, as part of its ongoing regular data collection process, information about students with IDD for the purpose of analyzing factors affecting the college participation and outcomes of persons with IDD at public institutions of higher education. Institutions may only report students who have been identified through self-identification and/or documented receipt of special services. Students who do not self-identify will not be reflected in the data.

Institutions may, but are not required to, collect consent forms regarding reporting of the data outlined below from students who have self-identified with an IDD. In the case where a student has

an appointed legal guardian, the guardian will act on behalf of the student for the purposes of this rule.

All public institutions of higher education shall provide to the Coordinating Board data as specified in 19 Administrative Code 4.12(e) regarding the enrollment of individuals with IDD in their undergraduate, graduate, and technical continuing education programs. Data about these students' participation in postsecondary transitional programs or postsecondary programs for students with IDD will also be collected, but student-level data will not be collected for students enrolled in these programs unless they are also enrolled in credit-bearing college-level coursework or technical continuing education. Institutions of higher education and the Coordinating Board shall follow all federal privacy requirements under the Family Educational Rights and Privacy Act (FERPA) and the Health Insurance Portability and Accountability Act (HIPAA) when collecting and reporting the data.

Access to the identifiers in the Coordinating Board Management (CBM) Student Report, which indicate if an enrolled student has an IDD, will not be made available to the Education Research Centers as part of regular data requests unless this information is specified and approved by the advisory board established under Education Code 1.006 as relating to the research study proposed.

19 TAC 4.12

Note: For related provisions regarding students with disabilities, see FB(Admissions), FEA(Financial Aid and Scholarships), and FG(Student Housing).

DEFINITIONS

“ADULT EDUCATION
AND LITERACY”

“Adult Education and Literacy” (AEL) means services designed to provide adults with sufficient basic education that enables them to effectively:

1. Acquire the basic educational skills necessary for literate functioning;
2. Participate in job training and retraining programs;
3. Obtain and retain employment; and
4. Continue their education to at least the level of completion of secondary school and preparation for postsecondary education.

40 TAC 800.2(1)

“ADULT BASIC
EDUCATION”

“Adult basic education” (ABE) is instruction in reading, writing, and speaking and comprehending English, and solving quantitative problems, including functional context, designed for adults who:

1. Have minimal competence in reading, writing, and solving quantitative problems;
2. Are not sufficiently competent to speak, read, or write the English language; or
3. Are not sufficiently competent to meet the requirements of adult life in the United States, including employment commensurate with the adult's real ability.

40 TAC 805.2(1)(A)

“ADULT
SECONDARY
EDUCATION”

“Adult secondary education” (ASE) is comprehensive secondary instruction below the college credit level in reading, writing and literature, mathematics, science, and social studies, including functional context, and instruction for adults who do not have a high school diploma or its equivalent. *40 TAC 805.2(1)(B)*

“ENGLISH LITERACY
EDUCATION”

“English literacy education” (EL) is instruction designed to help adults with limited English proficiency achieve competence in the English language. *40 TAC 805.2(1)(C)*

ADULT EDUCATION
PROGRAMS

Adult education programs must be provided by public school districts, public junior colleges, regional education service centers, nonprofit agencies, and community-based organizations approved in accordance with state statutes and the regulations and rules adopted by the Texas Workforce Commission. The programs must be designed to meet the education and training needs of adults to the extent possible using available public and private resources. Bilingual education may be used to instruct students who do not function satisfactorily in English whenever it is appropriate for

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SPECIAL PROGRAMS
ADULT EDUCATION AND LITERACY

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those students' optimum development. *Labor Code 315.003; 40
TAC 805*

SPECIAL PROGRAMS
HIGH SCHOOL EQUIVALENCY TESTING CENTERS

EFCD
(LEGAL)

Tests shall be administered by authorized contracted testing centers under applicable state law and rules of the State Board of Education.

Entities eligible to serve as official computer-based testing centers include: an accredited school district; an institution of higher education; an education service center; a local workforce development board; a U.S. Department of Labor One-Stop Career Center; a U.S. Department of Labor Job Corps Center; a public or private correctional institution; a public or private technical institution or career preparation school; any other public or private postsecondary institution offering academic or technical education or vocational training under a certificate program or an associate degree program; and an independent, stand-alone testing center.

Entities eligible to serve as official paper-based testing centers include an accredited school district, an institution of higher education, and an education service center.

The appropriate official of an eligible entity desiring to provide the testing service to residents in the community must request approval from the Texas Education Agency (TEA) to apply for authorization from the authorized testing organization. If the need for a testing center in the location exists, the appropriate entity official, in writing, shall inform the state administrator appointed by the commissioner of education that the establishment of an official testing center is requested at that particular entity. The contract to operate a center shall be between the applicant entity and the authorized testing organization and its partners.

19 TAC 89.41, .42(a)–(c)

TEST MATERIALS

A testing center may administer the test by paper, computer, or both, as approved by the TEA, to eligible candidates. *19 TAC 89.42(d)*

EXAMINEES
ELIGIBILITY

Verification that any person being tested meets the eligibility requirements in 19 Administrative Code 89.43 will be provided according to procedures established by the TEA. *19 TAC 89.43(b)*

IDENTIFICATION

Test centers shall require each examinee to present a driver's license or Texas Department of Public Safety identification card, or a government-issued identification card (both national and foreign), provided that the identification includes date of birth, photograph, address, and signature. The examinee must also meet the age, residency, and other requirements of 19 Administrative Code Chapter 89, Subchapter C. *19 TAC 89.44*

SPECIAL PROGRAMS
HIGH SCHOOL EQUIVALENCY TESTING CENTERS

EFCD
(LEGAL)

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|--------------------------------|--|
| EXAMINEES WITH DISABILITIES | <p>Reasonable and appropriate accommodations shall be provided to applicants with documented disabilities that prevent fair access to the high school equivalency examinations.</p> <p>Requests for accommodations must be submitted in writing for approval from the examination provider and include appropriate documentation of disability and rationale for each modification requested.</p> <p>No fees or prepayments may be charged to the applicant to evaluate an accommodation request. No additional fees may be charged to the applicant for the administration of the examinations with approved accommodations.</p> <p><i>19 TAC 89.46</i></p> |
| RETESTING | <p>An examinee may retest in accordance with retest policies of the examination provider. <i>19 TAC 89.45</i></p> |
| WITHDRAWAL OF AUTHORIZATION | <p>The authorization to function as an official testing center may be withdrawn by the TEA if the testing center is in violation of SBOE rules. Potential violations include neglecting to follow test, vendor, or jurisdictional policies and procedures; unauthorized use or sale of test candidate information; or misrepresentation of the testing center's authority to issue transcripts or credentials on behalf of the TEA. <i>19 TAC 89.42(d)</i></p> |

SPECIAL PROGRAMS
HIGH SCHOOL EQUIVALENCY TESTING CENTERS

EFCD
(LOCAL)

| | |
|------------------|---|
| | <p>An official high school equivalency testing center shall be located at one or more College District facilities designated by the Board.</p> |
| PROCEDURES | <p>The College President or designee shall develop written procedures concerning the operation of the center. The procedures shall:</p> <ol style="list-style-type: none">1. Address the selection, requisition, and permanent storage of restricted test materials;2. Address the provision of a suitable place for administering the test;3. Include a written emergency plan; and4. Address other operational matters as appropriate. |
| TESTING SCHEDULE | <p>The College President or designee shall annually publish a testing schedule in appropriate College District publications.</p> |
| CHIEF EXAMINER | <p>The College President or designee shall designate a qualified chief examiner and shall seek authorization for the designation of that individual, as well as any subsequent changes to the chief examiner, from the Texas Education Agency (TEA). The chief examiner shall attend training annually as required by law.</p> |
| FEES | <p>In accordance with law, the Board shall approve a fee for the administration of the tests, and the College District shall submit the amount and any subsequent changes to TEA for approval.</p> |
| ANNUAL REPORT | <p>The College President or designee shall report to the Board annually concerning the center, including the number of tests administered and the fees received for administering the test.</p> |

Institutions of higher education, including college districts, shall be permitted to offer driver education courses for the purpose of preparing students to obtain a Texas driver's license if approved by the Texas Department of Licensing and Regulation (TDLR). Institutions of higher education shall be subject to the rules and regulations regarding driver education of the TDLR. *Education Code 51.308; 16 TAC Ch. 84, Subch. G; 19 TAC 9.26*

TESTING PROGRAMS

EI
(LEGAL)

TEXAS SUCCESS
INITIATIVE (TSI)

An institution of higher education, including a college district, shall assess, by an instrument approved in 19 Administrative Code 4.56, the academic skills of each entering undergraduate student to determine the student's readiness to enroll in freshman-level academic coursework prior to enrollment of the student. An institution may not use the assessment or the results of the assessment as a condition of admission to the institution.

An institution offering collegiate-level credit to students via a Multi-Institution Teaching Center (MITC) or a university system center, or to in-state students by distance learning delivery systems shall ensure that students are assessed as required by this policy.

Education Code 51.3062(b); 19 TAC 4.55(a), (d)–(e)

DEFINITIONS

"BASIC
ACADEMIC
SKILLS
EDUCATION"

"Basic academic skills education" means non-course competency-based developmental education programs and interventions designed for students whose performance falls significantly below college readiness standards. *Education Code 51.3062(a-1)(1)*

"CO-REQUISITE"

"Co-requisite," also known as mainstreaming, is an instructional strategy whereby students are co-enrolled in a developmental education course or NCBO, as defined in 19 Administrative Code 4.53(18), below, and the entry-level freshman course of the same subject matter within the same semester. The developmental component provides support aligned directly with the learning outcomes, instruction, and assessment of the entry-level freshman course, and makes necessary adjustments as needed in order to advance students' success in the entry-level freshman course. *19 TAC 4.53(7)*

"COURSE
PAIRING"

"Course pairing" is an instructional strategy whereby students are co-enrolled in a developmental education course and the entry-level freshman course of the same subject matter within the same semester. The developmental component provides support aligned directly with the learning outcomes, instruction, and assessment of the entry-level freshman course, and makes necessary adjustments as needed in order to advance students' success in the entry-level freshman course. *19 TAC 4.53(8)*

"DEVELOPMENTAL
COURSEWORK
AND / OR
INTERVENTION"

"Developmental coursework and/or intervention" means non-degree-credit coursework and/or activity designed to address a student's strengths and needs in the areas of reading, writing, integrated reading and writing (IRW), mathematics, and student success. *19 TAC 4.53(9)*

"ENTRY-LEVEL
COURSE"

"Entry-level course" (sometimes referred to as entry-level freshman coursework) means any course for academic credit in which a freshman student typically enrolls. The course shall not have pre-

TESTING PROGRAMS

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(LEGAL)

requisites and is open to any student meeting TSI standards as defined in 19 Administrative Code 4.57, below, and/or meeting at least one of the exemptions or waivers as defined in 19 Administrative Code 4.54, below. These courses (or their local equivalent in the Texas Common Core Numbering System) include, but are not limited to: ENGL 1301, HIST 1301, PSYC 2301, GOVT 2305/2306, MATH 1314/1414/1324/1332/1342, SOCI 1301, PHIL 1301, SPCH 1311/1315, COSC 1401, HUMA 1301, ARTS 1301, and BIOL 1306/1406. *19 TAC 4.53(13)*

“MATHEMATICS
PATHWAY
MODELS”

“Mathematics Pathway Models” are developmental and basic academic skills coursework/interventions that prepare students for academic/workforce training programs and careers. *19 TAC 4.53(15)*

“NON-COURSE-
COMPETENCY-
BASED
DEVELOPMENTAL
EDUCATION
INTERVENTIONS”

“Non-course-competency-based developmental education interventions,” also known as non-semester-length interventions or NCBO, are interventions that use learning approaches designed to address a student’s identified weaknesses and effectively and efficiently prepare the student for college-level work. These interventions must be overseen by an instructor of record, must not fit traditional course frameworks, and cannot include advising or learning support activities already connected to a traditional course; interventions may include, but are not limited to, tutoring, supplemental instruction, or labs. *19 TAC 4.53(18)*

EXCEPTIONAL
CIRCUMSTANCES

Under exceptional circumstances, an institution may permit a student to enroll in freshman-level academic coursework without assessment but shall require the student to be assessed not later than the end of the first semester of enrollment in freshman-level academic coursework. *19 TAC 4.55(a)*

PRE-ASSESSMENT

Prior to the administration of an approved instrument, an institution shall provide to the student a pre-assessment activity(ies) that addresses at a minimum the following components in an effective and efficient manner, such as through workshops, orientations, and/or online modules:

1. Importance of assessment in students’ academic career.
2. Assessment process and components, including practice with feedback of sample test questions in all disciplinary areas.
3. Developmental education options including course-pairing, non-course-based, modular, and other non-conventional interventions.
4. Institutional and/or community student resources (e.g., tutoring, transportation, childcare, and financial aid).

19 TAC 4.55(b)

TESTING PROGRAMS

EI
(LEGAL)

ASSESSMENT
INSTRUMENTS

Beginning with the institution's first class day of the academic year (fall) 2013, an institution of higher education, including a college district, shall use the TSI assessment offered by the College Board as the only Coordinating Board-approved assessment instrument under Administrative Code Title 19. Any previously employed assessments (ACCUPLACER, Compass, THEA, Asset, Compass ESL, ACCUPLACER ESL) can no longer be used for entering students who initially enroll in any course on or after the institution's first class day in fall 2013 or for any students retesting for TSI purposes. Institutions administering the TSI assessment must follow the requirements and processes for test administration as set forth by the Coordinating Board and the test vendor. *Education Code 51.3062(c); 19 TAC 4.56*

MINIMUM
STANDARDS

The following minimum passing standards (also known as "cut scores") for reading and mathematics on the TSI assessment shall be used by an institution to determine a student's readiness to enroll in freshman-level academic coursework:

1. Phase I as defined in 19 Administrative Code 4.53(21) - Reading 351; Mathematics 350;
2. Phase II as defined in 19 Administrative Code 4.53(21) - Reading 355; Mathematics 356; and
3. Final Phase as defined in 19 Administrative Code 4.53(21) - Reading 359; Mathematics 369.

The following standards on the TSI assessment may be used by an institution for consideration of courses and/or interventions addressing the educational and training needs of students at the Adult Basic Education (ABE) levels (below the following cut scores, with no phase-in period):

1. Reading 342;
2. Writing 350; and
3. Mathematics 336.

The Phase I, II, and Final Phase college readiness passing standard for the writing portion of the TSI assessment is a placement score of at least 350, and an essay score of at least a 5. Other demonstrations of writing college readiness include a placement score of at least 363, and an essay score of 4; or a placement score of less than 350, and an ABE Diagnostic level of at least a 4, and an essay score of at least a 5.

An institution shall not require higher Phase I, II, and Final Phase college readiness standards on any or all portions of the TSI as-

assessment to determine a student's readiness to enroll in any entry-level freshman course.

Determination of applicable Phase I, II, and Final Phase standards as defined above is based on the student's initial TSI assessment testing date in any subject area. TSI assessment results are valid for five years from the date of testing.

Education Code 51.3062(f)-(f-1); 19 TAC 4.57

TSI ASSESSMENT
TIME PERIODS

For phase-in of TSI assessment college-ready standards, the following time periods shall be applicable:

1. Phase I--Start date: institution's first class day of fall 2013; expiration: the day immediately before the first class day of fall 2017;
2. Phase II--Start date: institution's first class day of fall 2017; expiration: the day immediately before the first class day of fall 2019; and
3. Final Phase--Start date: institution's first class day of fall 2019; no expiration.

19 TAC 4.53(22)

ADVISING
PROGRAM

Each institution of higher education shall establish a program to advise students regarding coursework and other means by which students can develop the academic skills required to successfully complete college-level work. *Education Code 51.3062(g)*

FAILURE TO MEET
MINIMUM
STANDARDS

For holistic placement of non-exempt students not meeting standards as defined in 19 Administrative Code 4.57(a) and (b) (relating to College Ready and ABE Standards), above, institutions shall use for determination of appropriate courses and/or interventions the TSI assessment results and accompanying Diagnostic Profile, along with consideration of one or more of the following:

1. High school grade point average/class ranking;
2. Prior academic coursework and/or workplace experiences;
3. Non-cognitive factors (e.g., motivation, self-efficacy); and
4. Family-life issues (e.g., job, childcare, transportation, finances).

19 TAC 4.55(c)

For each student who fails to meet the minimum passing standards described in 19 Administrative Code 4.57, above, an institution shall establish a program to advise the student regarding develop-

mental education necessary to ensure the readiness of that student in performing freshman-level academic coursework. *19 TAC 4.58(a)*

Students enrolled in a mathematics pathway model (e.g., New Mathways Project, modular/Emporium models, etc.) must be clearly informed of the consequences of successful completion of this model which will result in meeting the mathematics college readiness standard only for specific college credit courses and that changing degree plans may require additional developmental education coursework/interventions. *19 TAC 4.58(d)*

READINESS
EDUCATION PLAN

If a student fails to meet the assessment standards described above, the institution of higher education shall work with the student to develop a plan to assist the student in becoming ready to perform freshman-level academic coursework. The plan must be designed on an individual basis to provide the best opportunity for each student to attain that readiness.

The institution of higher education may refer a student to developmental coursework as considered necessary by the institution to address a student's deficiencies in the student's readiness to perform freshman-level academic coursework [see EFAC].

The commissioner may by rule require a college district to adopt uniform standards for the placement of a student under Education Code 51.3062.

Each plan for academic success shall:

1. Be designed on an individual basis to provide the best opportunity for each student to succeed in obtaining his or her career and/or academic goals. At a minimum, the individual plan shall address:
 - a. Career advising;
 - b. Course-based and/or non-course-based developmental education options;
 - c. Campus and/or community student-support services/resources;
 - d. Degree plan or plan of study;
 - e. Regular interactions between student and designated point of contact (e.g., adviser, faculty member, peer and/or community mentor, and the like);
 - f. Registration for next semester/next steps; and
 - g. Differentiated placement.

2. Provide to the student a description of the appropriate developmental education considered necessary to ensure the readiness of that student to perform freshman-level academic coursework.
3. Provide to the student an appropriate measure for determining readiness to perform freshman-level academic coursework, as described in 19 Administrative Code 4.59, below.

Education Code 51.3062(h)-(i-1); 19 TAC 4.58(b)

DETERMINATION OF
READINESS

An institution shall determine when a student is ready to perform entry-level freshman coursework using:

1. Developmental education coursework and/or intervention learning outcomes developed by the Coordinating Board based on the Texas College and Career Readiness Standards;
2. Student performance on one or more appropriate assessments, including scores resulting from a student's retaking of the TSI assessment; and
3. Student qualification for one or more TSI exemptions as outlined in 19 Administrative Code 4.54.

As indicators of readiness, institutions shall consider, as appropriate:

1. Performance in developmental education.
2. Performance in appropriate nondevelopmental coursework.

An institution may enroll a student who has not met the college readiness standard on the TSI assessment and is not otherwise exempt in an entry-level freshman course if the student is co-enrolled in developmental education, as defined in 19 Administrative Code 4.53(7) or 4.53(8). Successful completion of the entry-level freshman course is demonstration of the student's college readiness, independent of his/her performance in co-enrolled developmental education.

A student may retake an assessment instrument, subject to availability, at any time to determine readiness to perform entry-level freshman coursework.

An institution shall, as soon as practicable and feasible, indicate a student's readiness in reading, mathematics, and writing on the transcript of each student. Student readiness in mathematics is indicated as either:

TESTING PROGRAMS

EI
(LEGAL)

1. Ready for any entry-level freshman mathematics coursework;
or
2. Ready only for non-Algebra intensive courses, including
MATH 1332/1342/1442 or their local equivalent.

Education Code 51.3062(j)–(k); 19 TAC 4.59

REPORTING

At the end of each semester, the institution shall report to the Coordinating Board the following information for undergraduate students: social security number, semester credit hours, grade points earned, ethnicity, gender, date of birth, TSI status, initial assessment instrument, score on initial assessment, type of developmental education received for each area (reading, mathematics, writing), grade in first related nondevelopmental course, and the results of any subsequent assessment. *19 TAC 4.60(b)*

Institutions shall analyze and report to the Coordinating Board, on a schedule to be determined by the commissioner, the fiscal and/or instructional impacts of the following on student outcomes:

1. Technological delivery of developmental education courses that allows students to complete coursework;
2. Diagnostic assessments to determine a student's specific educational needs to allow for appropriate developmental instruction;
3. Modular developmental education course materials;
4. Use of tutors and instructional aides to supplement developmental education course instruction as needed for particular students;
5. Internal monitoring mechanisms used to identify a student's area(s) of academic difficulty;
6. Periodic updates of developmental education course materials; and
7. Assessments after completion of a developmental education intervention to determine a student's readiness for entry-level academic coursework.

19 TAC 4.60(a)

An institution of higher education that administers an assessment instrument to students under Education Code 51.3062 shall report to each school district from which assessed students graduated high school all available information regarding student scores and performance on the assessment instrument and student demographics. The Coordinating Board shall adopt rules as neces-

sary to implement this requirement, including rules for implementing this requirement in a manner that complies with federal law regarding confidentiality of student medical or educational information, including the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d et seq.) and the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g), and any state law relating to the privacy of student information.
Education Code 51.3062(u)

EXEMPTIONS FOR
CERTAIN
STUDENTS

Any student who has been determined to be exempt in mathematics, reading, and/or writing shall not be required to enroll in developmental coursework and/or interventions in the corresponding area of exemption. The following students shall be exempt from the requirements of Administrative Code Title 19, including the TSI, whereby exempt students shall not be required to provide any additional demonstration of college readiness and shall be allowed to enroll in any entry-level freshman course as defined in 19 Administrative Code 4.53(12):

SAT OR ACT
SCORES

1. For a period of five years from the date of testing, a student who is tested and performs at or above the following standards that cannot be raised by institutions:
 - a. ACT: composite score of 23 with a minimum of 19 on the English test shall be exempt for both the reading and writing sections of the TSI assessment, and/or 19 on the mathematics test shall be exempt for the mathematics section of the TSI assessment; or
 - b. SAT
 - (1) SAT administered prior to March 5, 2016: a combined critical reading (formerly "verbal") and mathematics score of 1070 with a minimum of 500 on the critical reading test shall be exempt for both reading and writing sections of the TSI assessment; a combined critical reading (formerly "verbal") and mathematics score of 1070 with a minimum of 500 on the mathematics test shall be exempt for the mathematics section of the TSI assessment.
 - (2) SAT administered on or after March 5, 2016: a minimum score of 480 on the Evidenced-Based Reading and Writing (EBRW) test shall be exempt for both reading and writing sections of the TSI Assessment; a minimum score of 530 on the mathematics test shall be exempt for the mathematics section of the TSI Assessment. There is no combined score.

- (3) Mixing or combining scores from the SAT administered prior to March 5, 2016, and the SAT administered on or after March 5, 2016, is not allowable.

Education Code 51.3062(p); 19 TAC 4.54(a), (d)

STATE
ASSESSMENTS

2. For a period of five years from the date of testing, a student who is tested and performs at or above the following standards that cannot be raised by institutions:

TAKS

- a. On the eleventh grade exit-level Texas Assessment of Knowledge and Skills (TAKS) with a minimum scale score of 2200 on the mathematics section and/or a minimum scale score of 2200 on the English language arts section with a writing subsection score of at least 3, shall be exempt from the TSI assessment required under Title 19 for those corresponding sections; or

END-OF-COURSE
ASSESSMENTS

- b. STAAR end-of-course (EOC) with a minimum score of Level 2 on the English III shall be exempt from the TSI assessment required under this title for both reading and writing, and a minimum score of Level 2 on the Algebra II EOC shall be exempt from the TSI assessment required under this title for the mathematics section.

Education Code 51.3062(q)-(q-1); 19 TAC 4.54(a)(3)

COLLEGE-LEVEL
EXPERIENCE

3. A student who has graduated with an associate or baccalaureate degree from an institution of higher education.
4. A student who transfers to an institution from a private or independent institution of higher education or an accredited out-of-state institution of higher education and who has satisfactorily completed college-level coursework as determined by the receiving institution.
5. A student who has previously attended any institution and has been determined to have met readiness standards by that institution. For students meeting non-Algebra intensive readiness standards in mathematics as defined in 19 Administrative Code 4.59(d)(1)(B) (relating to determination of readiness to perform entry-level freshman coursework), institutions may choose to require additional preparatory coursework/interventions for Algebra intensive courses, including MATH 1314/1324/1414 or their local equivalent. It is the institution's responsibility to ensure that students are clearly informed of the consequences of successful completion of a mathematics pathways model which results in meeting the mathematics college readiness standard only for specific courses.

TESTING PROGRAMS

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6. A student who is enrolled in a certificate program of one year or less (Level-One certificates, 42 or fewer semester credit hours or the equivalent) at a public junior college, a public technical institute, or a public state college.

Education Code 51.3062(r); 19 TAC 4.54(a)

COLLEGE PREP
COURSES

7. A student who successfully completes a college preparatory course under Education Code 28.014 is exempt for a period of 24 months from the date of high school graduation with respect to the content area of the course. The student must enroll in the student's first college-level course in the exempted content area in the student's first year of enrollment in an institution of higher education. This exemption applies only at the institution of higher education that partners with the school district in which the student is enrolled to provide the course. Additionally, an institution of higher education may enter into a Memorandum of Understanding with a partnering institution of higher education to accept the exemption for the college preparatory course.

Students with a TSI exemption for a college preparatory course who earn less than a C in the students' first college-level course in the exempted content area must be advised of non-course-based options for becoming college ready, such as tutoring or accelerated learning.

Education Code 51.3062(q-2); 19 TAC 4.54(a), .58(e)

MILITARY
EXPERIENCE

8. A student who is serving on active duty as a member of the armed forces of the United States, the Texas National Guard, or for at least the three-year period preceding enrollment, as a member of a reserve component of the armed forces of the United States; or
9. A student who on or after August 1, 1990, was honorably discharged, retired, or released from active duty as a member of the armed forces of the United States or the Texas National Guard or service as a member of a reserve component of the armed forces of the United States.

Education Code 51.3062(r); 19 TAC 4.54(a)

NOT SEEKING A
CREDENTIAL

An institution of higher education may exempt a non-degree-seeking or non-certificate-seeking student. *Education Code 51.3062(s); 19 TAC 4.54(b)*

ESOL WAIVER

An institution may grant a temporary waiver from the required assessment for students with demonstrated limited English proficiency in order to provide appropriate English Speakers of Other Lan-

guages/English as a Second Language (ESOL/ESL) coursework and interventions. The waiver must be removed after the student attempts 15 credit hours of developmental ESOL coursework or prior to enrolling in entry-level freshman coursework, whichever comes first, at which time the student would be administered the TSI assessment. Funding limits as defined in Education Code 51.3062(l)(1) and (2) for developmental education still apply. 19 TAC 4.54(c)

SOME POLICY TITLES ARE INCLUDED FOR FUTURE EXPANSION

SECTION F: STUDENTS

| | |
|------|--|
| FA | EQUAL EDUCATIONAL OPPORTUNITY |
| FAA | Service Animals |
| FB | ADMISSIONS |
| FBA | Transfers |
| FC | ATTENDANCE |
| FCA | Withdrawal |
| FD | TUITION AND FEES |
| FDA | Residency |
| FE | FINANCING EDUCATION |
| FEA | Financial Aid and Scholarships |
| FEB | Work Study |
| FF | STUDENT WELFARE |
| FFA | Wellness and Health Services |
| FFAA | Immunizations |
| FFAB | Medical Treatment |
| FFAC | Communicable Diseases |
| FFB | Student Insurance |
| FFC | Student-Support Services |
| FFCA | Student Assistance Programs/Counseling |
| FFD | Freedom from Discrimination, Harassment, and Retaliation |
| FFDA | Sex and Sexual Violence |
| FFDB | Other Protected Characteristics |
| FFE | Freedom from Bullying |
| FG | STUDENT HOUSING |
| FH | STUDENT AWARDS |
| FI | SOLICITATIONS |
| FJ | STUDENT RECORDS |
| FK | STUDENT ACTIVITIES |
| FKA | College-Sponsored Publications |
| FKB | Activity Funds Management |
| FKC | Registered Student Organizations |
| FKD | Commencement |
| FL | STUDENT RIGHTS AND RESPONSIBILITIES |
| FLA | Student Expression |

SOME POLICY TITLES ARE INCLUDED FOR FUTURE EXPANSION

SECTION F: STUDENTS

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| FLAA | Student Use of College District Facilities |
| FLB | Student Conduct |
| FLBA | Student Dress |
| FLBC | Prohibited Organizations and Hazing |
| FLBD | Tobacco Use |
| FLBE | Alcohol and Drug Use |
| FLC | Interrogations and Searches |
| FLD | Student Complaints |
| FLDB | Course Grade Complaints |
| FLE | Involvement in Decision Making |
| FM | DISCIPLINE AND PENALTIES |
| FMA | Discipline Procedure |

Note: For complaints of discrimination, harassment, and retaliation on the basis of a protected characteristic, see FFDA and FFDB.

This introductory page outlines the contents of the equal educational opportunity policy. See the following sections for statutory provisions on:

1. Generally page 2
2. Religious Freedom page 2
3. Discrimination on the Basis of Sex page 2
Clery Act—Campus Sexual Assault Programs page 3
4. Discrimination on the Basis of Race, Color, or National Origin page 10
5. Discrimination on the Basis of Age page 12
6. Discrimination on the Basis of Disability page 13
7. Retaliation page 18
8. Handgun License as Proof of Identification page 19

EQUAL EDUCATIONAL OPPORTUNITY

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GENERALLY

No governmental entity, including a college district, shall deny to any person within its jurisdiction the equal protection of the laws. *U.S. Const. Amend. XIV*

An officer or employee of a political subdivision, including a college district, who is acting or purporting to act in an official capacity may not, because of the student's race, religion, color, sex, or national origin, refuse to permit the person to participate in a program owned, operated, or managed by or on behalf of the political subdivision; refuse to grant a benefit to the person; or impose an unreasonable burden on the person. *Civ. Prac. and Rem. Code 106.001(a)*

RELIGIOUS FREEDOM

A governmental entity, including a college district, shall make no law prohibiting the free exercise of religion. *U.S. Const. Amends. I, XIV*

A government agency, including a college district, may not substantially burden a student's free exercise of religion, unless the government agency demonstrates that the application of the burden to the person is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that interest. *Civ. Prac. and Rem. Code 110.003*

DISCRIMINATION ON
THE BASIS OF SEX

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance. *20 U.S.C. 1681; 34 C.F.R. 106.31*

Educational programs and activities include:

1. Housing. *34 C.F.R. 106.32*
2. Comparable facilities. *34 C.F.R. 106.33*
3. Access to course offerings. *34 C.F.R. 106.34*
4. Counseling. *34 C.F.R. 106.36*
5. Financial assistance. *34 C.F.R. 106.37*
6. Employment assistance to students. *34 C.F.R. 106.38*
7. Health and insurance benefits and services. *34 C.F.R. 106.39*
8. Athletics. *34 C.F.R. 106.41*

PREGNANCY AND
MARITAL STATUS

A recipient shall not apply any rule concerning a student's actual or potential parental, family, or marital status that treats students differently on the basis of sex. *34 C.F.R. 106.40(a)*

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| SEXUAL HARASSMENT | Sexual harassment of students is discrimination on the basis of sex under Title IX. <u>Franklin v. Gwinnett County Schools</u> , 503 U.S. 60 (1992) [See also FFDA] |
| DEFINITION OF SEXUAL HARASSMENT | Sexual harassment of students is conduct that is so severe, pervasive, and objectively offensive that it can be said to deprive the victim of access to the educational opportunities or benefits provided by the school. Sexual harassment does not include simple acts of teasing and name-calling, however, even when the comments target differences in gender. <u>Davis v. Monroe County Bd. of Educ.</u> , 526 U.S. 629 (1999) |
| EMPLOYEE-STUDENT SEXUAL HARASSMENT | An official of an educational entity who has authority to address alleged harassment by employees on the entity's behalf shall take corrective measures to address the harassment or abuse. <u>Gebser v. Lago Vista Indep. Sch. Dist.</u> , 524 U.S. 274 (1998) |
| STUDENT-STUDENT SEXUAL HARASSMENT | An educational entity must reasonably respond to known student-on-student harassment where the harasser is under the entity's disciplinary authority. <u>Davis v. Monroe County Bd. of Educ.</u> , 526 U.S. 629 (1999) |
| CLERY ACT—CAMPUS SEXUAL ASSAULT PROGRAMS | <p>An institution's Clery Act annual security report [see GAC] must include a statement of policy regarding the institution's programs to prevent dating violence, domestic violence, sexual assault, and stalking and of procedures that the institution will follow when one of these crimes is reported. The statement must include:</p> <ol style="list-style-type: none">1. A description of the institution's educational programs and campaigns to promote the awareness of dating violence, domestic violence, sexual assault, and stalking, as described below at PROGRAMS TO PREVENT DATING VIOLENCE, DOMESTIC VIOLENCE, SEXUAL ASSAULT, AND STALKING;2. Procedures victims should follow if a crime of dating violence, domestic violence, sexual assault, or stalking has occurred, including written information about:<ol style="list-style-type: none">a. The importance of preserving evidence that may assist in proving that the alleged criminal offense occurred or may be helpful in obtaining a protection order;b. How and to whom the alleged offense should be reported;c. Options about the involvement of law enforcement and campus authorities, including notification of the victim's option to: |

- (1) Notify proper law enforcement authorities, including on-campus and local police;
 - (2) Be assisted by campus authorities in notifying law enforcement authorities if the victim so chooses; and
 - (3) Decline to notify such authorities; and
 - d. Where applicable, the rights of victims and the institution's responsibilities for orders of protection, "no-contact" orders, restraining orders, or similar lawful orders issued by a criminal, civil, or tribal court or by the institution;
3. Information about how the institution will protect the confidentiality of victims and other necessary parties, including how the institution will:
- a. Complete publicly available recordkeeping, including Clery Act reporting and disclosures, without the inclusion of personally identifying information about the victim, as defined in the Violence Against Women Act of 1994, 42 U.S.C. 13925(a)(20); and
 - b. Maintain as confidential any accommodations or protective measures provided to the victim, to the extent that maintaining such confidentiality would not impair the ability of the institution to provide the accommodations or protective measures;
4. A statement that the institution will provide written notification to students and employees about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for victims, both within the institution and in the community;
5. A statement that the institution will provide written notification to victims about options for, available assistance in, and how to request changes to academic, living, transportation, and working situations or protective measures. The institution must make such accommodations or provide such protective measures if the victim requests them and if they are reasonably available, regardless of whether the victim chooses to report the crime to campus police or local law enforcement;
6. An explanation of the procedures for institutional disciplinary action in cases of alleged dating violence, domestic violence,

sexual assault, or stalking, as described below at PROCEDURES FOR INSTITUTIONAL DISCIPLINARY ACTION; and

7. A statement that, when a student or employee reports to the institution that the student or employee has been a victim of dating violence, domestic violence, sexual assault, or stalking, whether the offense occurred on or off campus, the institution will provide the student or employee a written explanation of the student's or employee's rights and options, as described in items 1 through 6 of this list.

20 U.S.C. 1092(f)(8); 34 C.F.R. 668.46(b)(11)

PROGRAMS TO
PREVENT DATING
VIOLENCE,
DOMESTIC
VIOLENCE,
SEXUAL
ASSAULT, AND
STALKING

An institution must include in its annual security report a statement of policy that addresses the institution's programs to prevent dating violence, domestic violence, sexual assault, and stalking. The statement must include:

1. A description of the institution's primary prevention and awareness programs for all incoming students and new employees, which must include:
 - a. A statement that the institution prohibits the crimes of dating violence, domestic violence, sexual assault, and stalking, as those terms are defined in 34 C.F.R. 668.46(a) [see DEFINITIONS];
 - b. The definition of "dating violence," "domestic violence," "sexual assault," and "stalking" in the applicable jurisdiction;
 - c. The definition of "consent," in reference to sexual activity, in the applicable jurisdiction;
 - d. A description of safe and positive options for bystander intervention;
 - e. Information on risk reduction; and
 - f. The information described in 34 C.F.R. 668.46(b)(11) and 34 C.F.R. 668.46(k)(2); and
2. A description of the institution's ongoing prevention and awareness campaigns for students and employees, including information described at paragraph 1.

An institution's programs to prevent dating violence, domestic violence, sexual assault, and stalking must include, at a minimum, the information required to be included in the statement.

34 C.F.R. 668.46(j)

EQUAL EDUCATIONAL OPPORTUNITY

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| “AWARENESS PROGRAMS” | “Awareness programs” means community-wide or audience-specific programming, initiatives, and strategies that increase audience knowledge and share information and resources to prevent violence, promote safety, and reduce perpetration. <i>34 C.F.R. 668.46(j)(2)(i)</i> |
| “BYSTANDER INTERVENTION” | “Bystander intervention” means safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of dating violence, domestic violence, sexual assault, or stalking. Bystander intervention includes recognizing situations of potential harm, understanding institutional structures and cultural conditions that facilitate violence, overcoming barriers to intervening, identifying safe and effective intervention options, and taking action to intervene. <i>34 C.F.R. 668.46(j)(2)(ii)</i> |
| “ONGOING PREVENTION AND AWARENESS CAMPAIGNS” | “Ongoing prevention and awareness campaigns” means programming, initiatives, and strategies that are sustained over time and focus on increasing understanding of topics relevant to and skills for addressing dating violence, domestic violence, sexual assault, and stalking, using a range of strategies with audiences throughout the institution and including information described in item 1, above. <i>34 C.F.R. 668.46(j)(2)(iii)</i> |
| “PRIMARY PREVENTION PROGRAMS” | “Primary prevention programs” means programming, initiatives, and strategies informed by research or assessed for value, effectiveness, or outcome that are intended to stop dating violence, domestic violence, sexual assault, and stalking before they occur through the promotion of positive and healthy behaviors that foster healthy, mutually respectful relationships and sexuality, encourage safe bystander intervention, and seek to change behavior and social norms in healthy and safe directions. <i>34 C.F.R. 668.46(j)(2)(iv)</i> |
| “RISK REDUCTION” | “Risk reduction” means options designed to decrease perpetration and bystander inaction, and to increase empowerment for victims in order to promote safety and to help individuals and communities address conditions that facilitate violence. <i>34 C.F.R. 668.46(j)(2)(v)</i> |
| PROCEDURES FOR INSTITUTIONAL DISCIPLINARY ACTION | An institution must include in its annual security report a clear statement of policy that addresses the procedures for institutional disciplinary action in cases of alleged dating violence, domestic violence, sexual assault, or stalking, as defined in 34 C.F.R. 668.46(a), and that: <ol style="list-style-type: none"><li data-bbox="561 1692 1425 1858">1. Describes each type of disciplinary proceeding used by the institution; the steps, anticipated timelines, and decision-making process for each type of disciplinary proceeding; how to file a disciplinary complaint; and how the institution determines which type of proceeding to use based on the circum- |

- stances of an allegation of dating violence, domestic violence, sexual assault, or stalking;
2. Describes the standard of evidence that will be used during any institutional disciplinary proceeding arising from an allegation of dating violence, domestic violence, sexual assault, or stalking;
 3. Lists all of the possible sanctions that the institution may impose following the results of any institutional disciplinary proceeding for an allegation of dating violence, domestic violence, sexual assault, or stalking; and
 4. Describes the range of protective measures that the institution may offer to the victim following an allegation of dating violence, domestic violence, sexual assault, or stalking;
 5. Provides that the proceedings will:
 - a. Include a prompt, fair, and impartial process from the initial investigation to the final result;
 - b. Be conducted by officials who, at a minimum, receive annual training on the issues related to dating violence, domestic violence, sexual assault, and stalking and on how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability;
 - c. Provide the accuser and the accused with the same opportunities to have others present during any institutional disciplinary proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice;
 - d. Not limit the choice of adviser or presence for either the accuser or the accused in any meeting or institutional disciplinary proceeding; however, the institution may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties; and
 - e. Require simultaneous notification, in writing, to both the accuser and the accused, of:
 - (1) The result of any institutional disciplinary proceeding that arises from an allegation of dating violence, domestic violence, sexual assault, or stalking;
 - (2) The institution's procedures for the accused and the victim to appeal the result of the institutional

disciplinary proceeding, if such procedures are available;

- (3) Any change to the result; and
- (4) When such results become final.

34 C.F.R. 668.46(k)

Compliance with 34 C.F.R. 668.46(k) does not constitute a violation of Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g. *34 C.F.R. 668.46(l)*

“PROMPT,
FAIR, AND
IMPARTIAL
PROCEEDING”

“Prompt, fair, and impartial proceeding” includes a proceeding that is:

1. Completed within reasonably prompt timeframes designated by an institution's policy, including a process that allows for the extension of timeframes for good cause with written notice to the accuser and the accused of the delay and the reason for the delay;
2. Conducted in a manner that:
 - a. Is consistent with the institution's policies and transparent to the accuser and accused;
 - b. Includes timely notice of meetings at which the accuser or accused, or both, may be present; and
 - c. Provides timely and equal access to the accuser, the accused, and appropriate officials to any information that will be used during informal and formal disciplinary meetings and hearings; and
3. Conducted by officials who do not have a conflict of interest or bias for or against the accuser or the accused.

34 C.F.R. 668.46(k)(3)(i)

“ADVISER”

“Adviser” means any individual who provides the accuser or accused support, guidance, or advice. *34 C.F.R. 668.46(k)(3)(ii)*

“PROCEEDING”

“Proceeding” means all activities related to a non-criminal resolution of an institutional disciplinary complaint, including, but not limited to, fact-finding investigations, formal or informal meetings, and hearings. Proceeding does not include communications and meetings between officials and victims concerning accommodations or protective measures to be provided to a victim. *34 C.F.R. 668.46(k)(3)(iii)*

“RESULT” “Result” means any initial, interim, and final decision by any official or entity authorized to resolve disciplinary matters within the institution. The result must include any sanctions imposed by the institution. Notwithstanding FERPA, the result must also include the rationale for the result and the sanctions. *34 C.F.R. 668.46(k)(3)(iv)*

DEFINITIONS

“DATING
VIOLENCE”

“Dating violence” means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse and dating violence does not include acts covered under the definition of domestic violence.

For the purposes of complying with the requirements of this section and 34 C.F.R. 668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

34 C.F.R. 668.46(a)

“DOMESTIC
VIOLENCE”

“Domestic violence” is a felony or misdemeanor crime of violence committed:

1. By a current or former spouse or intimate partner of the victim;
2. By a person with whom the victim shares a child in common;
3. By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
4. By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or
5. By any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

For the purposes of complying with the requirements of this section and 34 C.F.R. 668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

34 C.F.R. 668.46(a)

“PROGRAMS TO PREVENT DATING VIOLENCE, DOMESTIC VIOLENCE, SEXUAL ASSAULT, AND STALKING”

“Programs to prevent dating violence, domestic violence, sexual assault, and stalking” means comprehensive, intentional, and integrated programming, initiatives, strategies, and campaigns intended to end dating violence, domestic violence, sexual assault, and stalking that:

1. Are culturally relevant, inclusive of diverse communities and identities, sustainable, responsive to community needs, and informed by research or assessed for value, effectiveness, or outcome; and
2. Consider environmental risk and protective factors as they occur on the individual, relationship, institutional, community, and societal levels.

Programs to prevent dating violence, domestic violence, sexual assault, and stalking include both primary prevention and awareness programs directed at incoming students and new employees and ongoing prevention and awareness campaigns directed at students and employees, as defined in 34 C.F.R. 668.46(j)(2).

34 C.F.R. 668.46(a)

“SEXUAL ASSAULT”

“Sexual assault” means an offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI's Uniform Crime Reporting (UCR) program and included in Appendix A of 34 C.F.R. Part 668, Subpart D. *34 C.F.R. 668.46(a)*

“STALKING”

“Stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others, or suffer substantial emotional distress.

For the purposes of this definition:

1. Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
2. Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.

34 C.F.R. 668.46(a)

DISCRIMINATION ON THE BASIS OF RACE, COLOR, OR NATIONAL ORIGIN

No person in the United States shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program to which 34 C.F.R. Part 100 applies.

A recipient under any program to which Part 100 applies may not, directly or through contractual or other arrangements, on the ground of race, color, or national origin:

1. Deny an individual any service, financial aid, or other benefit provided under the program;
2. Provide any service, financial aid, or other benefit to an individual that is different, or is provided in a different manner, from that provided to others under the program;
3. Subject an individual to segregation or separate treatment in any matter related to his receipt of any service, financial aid, or other benefit under the program;
4. Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under the program;
5. Treat an individual differently from others in determining whether he satisfies any admission, enrollment, quota, eligibility, membership, or other requirement or condition that individuals must meet in order to be provided any service, financial aid, or other benefit provided under the program;
6. Deny an individual an opportunity to participate in the program through the provision of services or otherwise or afford him an opportunity to do so that is different from that afforded others under the program (including the opportunity to participate in the program as an employee but only to the extent set forth in 34 C.F.R. 100.3(c)); or
7. Deny a person the opportunity to participate as a member of a planning or advisory body that is an integral part of the program.

A recipient, in determining the types of services, financial aid, or other benefits, or facilities that will be provided under any such program, or the class of individuals to whom, or the situations in which, such services, financial aid, other benefits, or facilities will be provided under any such program, or the class of individuals to be afforded an opportunity to participate in any such program, may not, directly or through contractual or other arrangements, utilize criteria or methods of administration that have the effect of subjecting individuals to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program as respect individuals of a particular race, color, or national origin.

42 U.S.C. 2000d; 34 C.F.R. 100.3(a)-(b)

EQUAL EDUCATIONAL OPPORTUNITY

FA
(LEGAL)

DISCRIMINATION ON
THE BASIS OF AGE

No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving federal financial assistance. *42 U.S.C. 6102; 34 C.F.R. 110.10*

EXCEPTIONS

NORMAL
OPERATION OR
STATUTORY
OBJECTIVE

A recipient is permitted to take an action otherwise prohibited by 34 C.F.R. 110.10 if the action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity. An action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity, if:

1. Age is used as a measure or approximation of one or more other characteristics;
2. The other characteristic or characteristics must be measured or approximated in order for the normal operation of the program or activity to continue, or to achieve any statutory objective of the program or activity;
3. The other characteristic or characteristics can be reasonably measured or approximated by the use of age; and
4. The other characteristic or characteristics are impractical to measure directly on an individual basis.

34 C.F.R. 110.012

REASONABLE
FACTORS OTHER
THAN AGE

A recipient is permitted to take an action otherwise prohibited by 34 C.F.R. 110.10 that is based on a factor other than age, even though that action may have a disproportionate effect on persons of different ages. An action may be based on a factor other than age only if the factor bears a direct and substantial relationship to the normal operation of the program or activity or to the achievement of a statutory objective. *34 C.F.R. 110.13*

SPECIAL
BENEFITS FOR
CHILDREN AND
THE ELDERLY

If a recipient operating a program or activity provides special benefits to the elderly or to children, the use of age distinctions is presumed to be necessary to the normal operation of the program or activity, notwithstanding the provisions of 34 C.F.R. 110.12. *34 C.F.R. 110.16*

AFFIRMATIVE
ACTION

Even in the absence of a finding of discrimination, a recipient may take affirmative action to overcome the effects of conditions that resulted in limited participation in the recipient's program or activity on the basis of age. *34 C.F.R. 110.15*

EQUAL EDUCATIONAL OPPORTUNITY

FA
(LEGAL)

NOTICE A recipient shall notify its beneficiaries, in a continuing manner, of information regarding the provisions of the Act and the associated regulations. *34 C.F.R. 110.25(b)*

DISCRIMINATION ON THE BASIS OF DISABILITY
ADA Under the Americans with Disabilities Act (ADA), no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, including a college district, or be subjected to discrimination by any such entity. A public entity shall not exclude or otherwise deny equal services, programs, or activities to an individual or entity because of the known disability of an individual with whom the individual or entity is known to have a relationship or association. *42 U.S.C. 12132; 28 C.F.R. 35.130*

SECTION 504 Under Section 504 of the Rehabilitation Act, no otherwise qualified individual with a disability shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. *29 U.S.C. 794(a)*

“DISABILITY” “Disability” means, with respect to an individual:

1. A physical or mental impairment that substantially limits one or more major life activities of an individual;
2. A record of having such an impairment; or
3. Being regarded as having such an impairment.

An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability. An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

The term “disability” does not include:

1. Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;
2. Compulsive gambling, kleptomania, or pyromania; or
3. Psychoactive substance use disorders resulting from current illegal use of drugs.

42 U.S.C. 12102(1), (4)(C)–(D); 28 C.F.R. 35.108(a), (d), (g)

“REGARDED AS HAVING SUCH AN IMPAIRMENT” An individual meets the requirement of being “regarded as having such an impairment” if the individual establishes that he or she has been subjected to an action prohibited under the ADA because of an actual or perceived physical or mental impairment whether or

not the impairment limits or is perceived to limit a major life activity. *42 U.S.C. 12102(3)(A); 28 C.F.R. 35.108(f)*

TRANSITORY
AND MINOR

Item 3 in the definition of "Disability," above, ("regarded as having such an impairment") shall not apply to impairments that are transitory or minor. A transitory impairment is an impairment with an actual or expected duration of six months or less. *42 U.S.C. 12102(3)(B); 28 C.F.R. 35.108(d)(1)(ix), (f)(2)*

MITIGATING
MEASURES

The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as medication, medical supplies, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy or supplies; use of assistive technology; reasonable accommodations or auxiliary aids or services; learned behavioral or adaptive neurological modifications; or psychotherapy, behavioral therapy, or physical therapy.

The ameliorative effects of mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity.

"Ordinary eyeglasses and contact lenses" are lenses that are intended to fully correct visual acuity or to eliminate refractive error.

"Low-vision devices" means devices that magnify, enhance, or otherwise augment a visual image.

42 U.S.C. 12102(4)(E); 28 C.F.R. 35.108(d)(1)(viii), (4)

"MAJOR LIFE
ACTIVITIES"

"Major life activities" include, but are not limited to:

1. Caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, and working; and
2. The operation of a major bodily function, such as the functions of the immune system, special sense organs and skin, normal cell growth, and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions. The operation of a major bodily function includes the operation of an individual organ within a body system.

In determining whether an impairment substantially limits a major life activity, the term "major" shall not be interpreted strictly to create a demanding standard. Whether an activity is a major life activity is not determined by reference to whether it is of central importance to daily life.

42 U.S.C. 12102(2); 28 C.F.R. 35.108(c), (d)

"PHYSICAL OR
MENTAL
IMPAIRMENT"

"Physical or mental impairment" means:

1. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems, such as: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic, lymphatic, skin, and endocrine; or
2. Any mental or psychological disorder such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disability.

Physical or mental impairment includes, but is not limited to, contagious and noncontagious diseases and conditions such as the following: orthopedic, visual, speech, and hearing impairments, and cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, intellectual disability, emotional illness, dyslexia and other specific learning disabilities, Attention Deficit Hyperactivity Disorder, Human Immunodeficiency Virus infection (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism.

Physical or mental impairment does not include homosexuality or bisexuality.

28 C.F.R. 35.108(b)

"QUALIFIED
INDIVIDUAL WITH A
DISABILITY"

The term "qualified individual with a disability" means an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by the college district. *42 U.S.C. 12131(2); 28 C.F.R. 35.104*

"INDIVIDUAL
WITH A
DISABILITY"

"Individual with a disability" means a person who has a disability. The term individual with a disability does not include an individual who is currently engaging in the illegal use of drugs, when the public entity acts on the basis of such use. *28 C.F.R. 35.104*

“STUDENT WITH A
DISABILITY”

A “student with a disability” is one who has a physical or mental impairment that substantially limits one or more of the student’s major life activities, has a record of having such an impairment, or is being regarded as having such an impairment.

The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures, such as medication, medical supplies, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics, hearing aids, mobility devices, oxygen therapy, assistive technology, or learned behavioral or adaptive neurological modifications.

An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability. An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

A student meets the requirement of being “regarded as” having an impairment if the student establishes that he or she has been subjected to a prohibited action because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity. This provision does not apply to impairments that are transitory or minor. A transitory impairment is one with an actual or expected duration of six months or less.

29 U.S.C. 705(20)(B); 42 U.S.C. 12102(1), (3)–(4)

REASONABLE
MODIFICATION

A public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.

A public entity is not required to provide a reasonable modification to an individual who meets the definition of “disability” solely under the “regarded as” prong of the definition of “disability” at 28 C.F.R. 35.108(a)(1)(iii).

28 C.F.R. 35.130(b)(7)

COMMUNICATIONS

A public entity shall take appropriate steps to ensure that communications with applicants, participants, and members of the public, and companions with disabilities are as effective as communications with others. A public entity shall furnish appropriate auxiliary aids and services where necessary to afford individuals with disabilities, including applicants, participants, companions, and members of the public, an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity of a public entity. In

determining what types of auxiliary aids or services are necessary, a public entity shall give primary consideration to the requests of the individual with disabilities. In order to be effective, auxiliary aids and services must be provided in accessible formats, in a timely manner, and in such a way as to protect the privacy and independence of the individual with a disability. *28 C.F.R. 35.160*

“AUXILIARY AIDS
AND SERVICES”

“Auxiliary aids and services” includes:

1. Qualified interpreters on-site or through video remote interpreting (VRI) services; notetakers; real-time computer-aided transcription services; written materials; exchange of written notes; telephone handset amplifiers; assistive listening devices; assistive listening systems; telephones compatible with hearing aids; closed caption decoders; open and closed captioning, including real-time captioning; voice, text, and video-based telecommunications products and systems, including text telephones (TTYs), videophones, and captioned telephones, or equally effective telecommunications devices; videotext displays; accessible electronic and information technology; or other effective methods of making aurally delivered information available to individuals who are deaf or hard of hearing;
2. Qualified readers; taped texts; audio recordings; Braille materials and displays; screen reader software; magnification software; optical readers; secondary auditory programs (SAP); large print materials; accessible electronic and information technology; or other effective methods for making visually delivered materials available to individuals who are blind or have low vision;
3. Acquisition or modification of equipment or devices; and
4. Other similar services and actions.

28 C.F.R. 35.104

LIMITS OF
REQUIRED
MODIFICATION

Title 28 C.F.R. Chapter I, Part 35, Subpart E does not require a public entity to take any action that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity or in undue financial and administrative burdens. The decision that compliance would result in such alteration or burdens must be made by the head of the public entity or his or her designee after considering all resources available for use in the funding and operation of the service, program, or activity and must be accompanied by a written statement of the reasons for reaching that conclusion. *28 C.F.R. 35.164*

DIRECT THREAT

The ADA does not require a public entity to permit an individual to participate in or benefit from the services, programs, or activities of the public entity when that individual poses a direct threat to the health or safety of others.

“Direct threat” means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures, or by the provision of auxiliary aids or services as provided below.

28 C.F.R. 35.104

In determining whether an individual poses a direct threat to the health or safety of others, a public entity must make an individualized assessment, based on reasonable judgment that relies on current medical knowledge or on the best available objective evidence, to ascertain:

1. The nature, duration, and severity of the risk;
2. The probability that the potential injury will actually occur; and
3. Whether reasonable modifications of policies, practices, or procedures or the provision of auxiliary aids or services will mitigate the risk.

28 C.F.R. 35.139

SERVICES
INVENTORY

The Coordinating Board shall maintain an inventory of all postsecondary educational programs and services provided for persons with intellectual and developmental disabilities by institutions of higher education. The Coordinating Board shall:

1. Post the inventory on the Coordinating Board's Internet website in an easily identifiable and accessible location;
2. Submit the inventory to TEA for inclusion in the transition and employment guide under Education Code 29.0112; and
3. Update the inventory at least once every two years.

At times prescribed by the Coordinating Board, each institution of higher education, including each college district, shall report to the Coordinating Board all programs and services described above provided by that institution.

Education Code 61.0663

RETALIATION

No recipient of federal financial assistance or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title VI, Title IX, or Section 504 or because he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding or hearing under 34 C.F.R. Parts 100, 104, or

106. 34 C.F.R. 100.7(e) (Title VI), 104.61 (Section 504), 106.71 (Title IX)

HANDGUN LICENSE
AS PROOF OF
IDENTIFICATION

A person may not deny the holder of a concealed handgun license issued under Government Code Chapter 411, Subchapter H access to goods, services, or facilities, except as provided by Transportation Code 521.460 (regarding motor vehicle rentals) or in regard to the operation of a motor vehicle, because the holder has or presents a concealed handgun license rather than a driver's license or other acceptable form of personal identification.

This section does not affect the requirement under Government Code 411.205 that a person present a driver's license or identification certificate in addition to a concealed handgun license.

Business and Commerce Code 506.001

ADMISSIONS

FB
(LEGAL)

COMMON ADMISSION
APPLICATION FORM

APPLY TEXAS
SYSTEM

Public community colleges, public state colleges, and public technical institutes shall accept freshman and undergraduate transfer applications submitted using the electronic common admission application forms. When sending a printed common application form to a student with or without other materials, an institution shall not alter the form in any way and shall include instructions for completing the form, general application information, and instructions for accessing a list of deadlines for all institutions.

Each general academic teaching institution, public community college, public state college, and public technical institute shall collect information regarding gender, race/ethnicity, and date of birth as part of the application process and report this information to the Coordinating Board. Common application forms do not have to be the source of those data.

Institutions of higher education may require an applicant to submit additional information within a reasonable time after the institution has received a common application form.

Participating institutions may charge a reasonable fee for the filing of a common application form. Operating costs of the system will be paid for by all institutions required to use the common application plus independent and health-related institutions that contract to use the electronic application, in accordance with 19 Administrative Code 4.11(h). Institutions failing to pay their share of the cost by the due date may be denied access to incoming application data until such time that payments are received.

Education Code 51.762; 19 TAC 4.11(a)–(c), (e)(2)–(3), (h)

RIGHT TO AN
ACADEMIC FRESH
START

Unless otherwise prohibited by law, a resident of this state is entitled to apply for admission to and enroll as an undergraduate student in any public institution of higher education, including a college district, under Education Code 51.931.

If an applicant elects to seek admission under this section, a public institution of higher education, in considering the applicant for admission, shall not consider academic course credits or grades earned by the applicant ten or more years prior to the starting date of the semester in which the applicant seeks to enroll. An applicant who makes the election to apply under this section and is admitted as a student may not receive any course credit for courses undertaken ten or more years prior to enrollment.

Nothing in this section prohibits a public institution of higher education from applying standard admissions criteria generally applicable to persons seeking admission to the institution.

Education Code 51.931(b)–(c), (e)

STUDENTS WITH
"NONTRADITIONAL
SECONDARY
EDUCATION"

"Nontraditional secondary education" means a course of study at the secondary school level in a nonaccredited private school setting, including a home school.

Because the State of Texas considers successful completion of a nontraditional secondary education to be equivalent to graduation from a public high school, an institution of higher education, including a college district, must treat an applicant for admission to the institution as an undergraduate student who presents evidence that the person has successfully completed a nontraditional secondary education according to the same general standards, including specific standardized testing score requirements, as other applicants for undergraduate admission who have graduated from a public high school.

An institution of higher education may not require an applicant for admission to the institution as an undergraduate student who presents evidence that the person has successfully completed a nontraditional secondary education to:

1. Obtain or submit evidence that the person has obtained a general education development certificate, certificate of high school equivalency, or other credentials equivalent to a public high school degree; or
2. Take an examination or comply with any other application or admission requirement not generally applicable to other applicants for undergraduate admission to the institution.

If an institution of higher education in its undergraduate admission review process sorts applicants by high school graduating class rank, the institution shall place any applicant who presents evidence that the applicant has successfully completed a nontraditional secondary education that does not include a high school graduating class ranking at the average high school graduating class rank of undergraduate applicants to the institution who have equivalent standardized testing scores as the applicant.

Education Code 51.9241

VETERANS, SPOUSES,
AND DEPENDENTS

In determining whether to admit a person to any certificate program or professional degree program, an institution of higher education, including a college district, may not consider the fact that the person is eligible for an exemption under Education Code 54.341 (Veterans and Other Military Personnel; Dependents). *Education Code 54.341(j)*

IMMUNIZATION
NOTICE

An institution of higher education, including a college district, in conjunction with the Texas Department of State Health Services, should provide individual notice to each student applying for admission regarding:

1. The consequences of not being current on immunization for certain diseases;
2. The age groups most vulnerable to these vaccine-preventable diseases; and
3. Local providers of immunization services.

Education Code 51.933; 25 TAC 97.64(a), (d)

Note: For information regarding immunization requirements that apply to applicants for admission, see FFAA.

FOREIGN STUDENTS
SEVIS SYSTEM

A school or school system, including a college district, seeking initial or continued authorization for attendance by a nonimmigrant, alien student holding an F visa (academic institutions), J visa (exchange student program), or M visa (vocational and nonacademic institutions), including a "border commuter" student holding an F-3 or M-3 visa (Canadian and Mexican nationals), must apply to the U.S. Attorney General for approval under 8 U.S.C. 1372 and 8 C.F.R. 214.3.

A school must also submit electronic data regarding nonimmigrant students through the Student and Exchange Visitor Information System (SEVIS). A school shall provide the information set forth at 8 U.S.C. 1372(c) and 8 C.F.R. 214.3(g), regarding each student with an F, J, or M visa. Schools must update SEVIS with the current information within 21 days of a change in the information or the occurrence of events described in 8 C.F.R. 214.3(g)(2).

8 U.S.C. 1372; 8 C.F.R. 214.3(a)(1), (g)–(h)

Not later than 30 days after the deadline for registering for classes for an academic term of an approved institution of higher education or other approved educational institution for which documentation is issued for an alien, or the scheduled commencement of participation by an alien in a designated exchange visitor program, as the case may be, the institution or program, respectively, shall report to the Immigration and Naturalization Service any failure of the alien to enroll or to commence participation. *8 U.S.C. 1372(a)(4); 8 C.F.R. 214.3(g)(2)*

An educational agency or institution may not refuse to report information concerning an F or M nonimmigrant student or a J nonim-

migrant exchange visitor that the educational agency or institution is required to report under 8 U.S.C. 1372 and 8 C.F.R. 214.3(g) (or any corresponding U.S. Department of State regulation concerning J nonimmigrants) on the basis of the Family Educational Rights and Privacy Act (FERPA) and any regulation implementing FERPA. The waiver of FERPA under this paragraph authorizes and requires an educational agency or institution to report information concerning an F, J, or M nonimmigrant that would ordinarily be protected by FERPA but only to the extent that 8 U.S.C. 1372 and 8 C.F.R. 214.3(g) (or any corresponding U.S. Department of State regulation concerning J nonimmigrants) requires the educational agency or institution to report information. *8 U.S.C. 1372(c)(2); 8 C.F.R. 214.1(h)*

READMISSION AFTER
MILITARY SERVICE

This section applies only to a student who withdraws from an institution of higher education, including a college district, to perform active military service as a member of the U.S. Armed Forces or the Texas National Guard, except that this section does not apply to a student who withdraws from an institution solely to perform one or more training exercises as a member of the Texas National Guard.

For any academic term that begins after the date a student described above is released from active military service but not later than the first anniversary of that date, the institution of higher education from which the student withdrew shall readmit the student, without requiring reapplication or charging a fee for readmission, if the student is otherwise eligible to register for classes at the institution. On readmission of the student, the institution shall:

1. Provide to the student any financial assistance previously provided by the institution to the student before the student's withdrawal if the student meets current eligibility requirements for the assistance, other than any requirement directly affected by the student's services, such as continuous enrollment or another similar timing requirement; and
2. Allow the student the same academic status that the student had before the student's withdrawal, including any course credit awarded to the student by the institution.

An institution of higher education may adopt rules requiring reasonable proof from a student of the fact and duration of the student's active military service.

Education Code 51.9242

PERSONS WITH
DISABILITIES

Qualified persons may not, on the basis of disability, be denied admission or be subjected to discrimination in admission or re-

cruitment by a postsecondary education program or activity to which 34 C.F.R. Part 104, Subpart E applies. *34 C.F.R. 104.42(a)*

NOTICE OF PENALTY
FOR FALSE ALARM OR
REPORT

Each institution of higher education, including each college district, and private or independent institution of higher education shall notify all incoming students, as soon as practicable, of the penalty for the offense under Penal Code 42.06 of making a false alarm or report involving a public or private institution of higher education. *Education Code 51.219(b)*

The College District has an open admissions policy that ensures that all persons who can benefit from postsecondary education have an opportunity to enroll. The College District shall not discriminate on the basis of race, color, sex, national origin, religion, disability, age, or military status in admissions.

Admission to the College District does not guarantee admittance to a particular course or program of study. A student may be required to satisfy certain requirements before enrolling in particular courses of study.

The College President shall develop procedures for student admissions, including any additional course admission requirements. The procedures shall be published in the College District catalog and other relevant College District publications.

FEDERAL WORK-
STUDY PROGRAM

The purpose of the federal work-study program (FWS) is to stimulate and promote the part-time employment of students who are enrolled as undergraduate, graduate, or professional students and who are in need of earnings from employment to pursue courses of study at eligible institutions, and to encourage students receiving federal student financial assistance to participate in community service activities that will benefit the nation and engender in the students a sense of social responsibility and commitment to the community. The program shall be administered by the U.S. Department of Education and participating institutions of higher education in accordance with 20 U.S.C. Chapter 28, Subchapter IV, Part C and 34 C.F.R. 675.1-.28. *20 U.S.C. 1087-51,-53(a); 34 C.F.R. 675.1-.28*

ELIGIBLE STUDENT

A student at an institution of higher education is eligible to receive part-time employment under the FWS program for an award year if the student:

1. Meets the relevant eligibility requirements contained in 34 C.F.R. 668.32;
2. Is enrolled or accepted for enrollment as an undergraduate, graduate, or professional student at the institution; and
3. Has financial need as determined in accordance with Part F of Title IV of the Higher Education Act (HEA). A member of a religious order (an order, community, society, agency, or organization) who is pursuing a course of study at an institution of higher education is considered to have no financial need if that religious order has as its primary objective the promotion of ideals and beliefs regarding a Supreme Being; requires its members to forego monetary or other support substantially beyond the support it provides; and directs the members to pursue the course of study or provides subsistence support to its members.

34 C.F.R. 675.9

ELIGIBLE
EMPLOYER

A student may be employed under the FWS program by the institution in which the student is enrolled; a federal, state, or local public agency; a private nonprofit organization; or a private for-profit organization.

Regardless of the student's employer, the student's work must be governed by employment conditions, including pay, that are appropriate and reasonable in terms of type of work; geographical region; employee proficiency; and any applicable federal, state, or local law.

FWS employment may not:

1. Impair existing service contracts;
2. Displace employees;
3. Fill jobs that are vacant because the employer's regular employees are on strike;
4. Involve the construction, operation, or maintenance of any part of a facility used or to be used for religious worship or sectarian instruction; or
5. Include employment for the U.S. Department of Education.

34 C.F.R. 675.20(a)–(c)

ACADEMIC CREDIT

A student may be employed under the FWS program and also receive academic credit for the work performed. Those jobs include, but are not limited to, work performed when the student is enrolled in an internship; enrolled in a practicum; or employed in a research, teaching, or other assistantship.

A student employed in an FWS job and receiving academic credit for that job may not be:

1. Paid less than he or she would be if no academic credit were received;
2. Paid for receiving instruction in a classroom, laboratory, or other academic setting; and
3. Paid unless the employer would normally pay the person for the same position.

34 C.F.R. 675.20(d)

NOTICE OF
EMPLOYMENT
OPPORTUNITIES

To participate in the FWS program, an institution of higher education shall enter into a participation agreement with the U.S. Secretary of Education. The agreement provides that, among other things, the institution shall inform all eligible students of the opportunity to perform community services and consult with local non-profit, governmental, and community-based organizations to identify those opportunities. *34 C.F.R. 675.8*

TEXAS COLLEGE
WORK-STUDY
PROGRAM

Any public, private, or independent institution of higher education, including a college district, is eligible to participate in the general work-study program in accordance with Education Code and 19 Administrative Code Chapter 21, Subchapter M. *19 TAC 21.403(a)(1)*

ELIGIBLE STUDENT

To be eligible for employment in the work-study program, a person must:

1. Be a Texas resident as defined by Coordinating Board rules;
2. Be enrolled for at least one-half of a full course load and conform to an individual course of study in an eligible institution;
3. Establish financial need in accordance with Coordinating Board procedures and rules; and
4. Comply with other requirements adopted by the Coordinating Board under Education Code Chapter 56, Subchapter E.

A person is not eligible to participate in the work-study program if the person receives an athletic scholarship.

Education Code 56.075; 19 TAC 21.404

ELIGIBLE
EMPLOYER

An eligible institution may enter into agreements with employers that participate in the work-study program. To be eligible to participate in the work-study program, an employer must:

1. Provide part-time employment to an eligible student in non-partisan and nonsectarian activities;
2. Provide, insofar as is practicable, employment to an eligible student that is related to the student's academic interests;
3. Use Texas college work-study program positions only to supplement and not to supplant positions normally filled by persons not eligible to participate in the work-study program;
4. Provide from sources other than federal college work-study program funds a percentage of an employed student's wages that is equal to the percentage of a student's wages that the employer would be required to provide to the student in that academic year under the federal college work-study program; and
5. Provide from sources other than federal college work-study funds 100 percent of other employee benefits for the employed student.

Each eligible institution shall ensure that at least 20 percent but not more than 50 percent of the employment positions provided through the work-study program in an academic year are provided by employers eligible under this section who are providing employment located off campus.

Education Code 56.076; 19 TAC 21.405

LIST OF WORK-
STUDY
EMPLOYMENT
OPPORTUNITIES

Each institution of higher education, including each college district, shall:

1. Establish and maintain an online list of work-study employment opportunities, sorted by department as appropriate, available to students on the institution's campus.
2. Ensure that the list is easily accessible to the public through a clearly identifiable link that appears in a prominent place on the financial aid page of the institution's Internet website.

Education Code 56.080; 19 TAC 4.229, 21.403(c)(5)

DISCRIMINATION ON
THE BASIS OF SEX

A recipient of federal funding that assists any agency, organization, or person in making employment available to any of its students shall assure itself that such employment is made available without discrimination on the basis of sex; and shall not render such services to any agency, organization, or person that discriminates on the basis of sex in its employment practices.

A recipient that employs any of its students shall not do so in a manner that violates 34 C.F.R. Part 106, Subpart E.

34 C.F.R. 106.38

WELLNESS AND HEALTH SERVICES
IMMUNIZATIONS

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(LEGAL)

GENERALLY

An institution of higher education, including a college district, may require applicants for admission to be immunized against diphtheria, rubeola, rubella, mumps, tetanus, and poliomyelitis.

The executive commissioner of the Health and Human Services Commission may require immunizations against the diseases listed above. As described below, the executive commissioner requires immunizations against additional diseases for students at any institution of higher education who are pursuing a course of study in a human or animal health profession.

An institution of higher education shall comply with any modifications or deletions in this requirement that may be made by the executive commissioner.

Education Code 51.933; 25 TAC 97.64(a), (d)

EXCEPTIONS

Exclusions from compliance are allowable on an individual basis for medical contraindications, reasons of conscience, including a religious belief, and active duty with the armed forces of the United States. Children and students in these categories must submit evidence for exclusion from compliance as specified in the Health and Safety Code 161.004(d), Health and Safety Code 161.0041, Education Code Chapter 51, and Human Resources Code Chapter 42. *Education Code 51.933(d)*

MEDICAL
REASONS

To claim an exclusion for medical reasons, the student must present an exemption statement to the school or child-care facility, dated and signed by a physician (M.D. or D.O.) properly licensed and in good standing in any state in the United States who has examined the student. The statement must state that, in the physician's opinion, the immunization required is medically contraindicated or poses a significant risk to the health and well-being of the student or any member of the student's household. Unless it is written in the statement that a lifelong condition exists, the exemption statement is valid for only one year from the date signed by the physician. *Education Code 51.933(d); 25 TAC 97.62(1)*

REASONS OF
CONSCIENCE

To claim an exclusion for reasons of conscience, including a religious belief, the child's parent, legal guardian, or a student 18 years of age or older must present to the school or child-care facility a completed, signed, and notarized affidavit on a form provided by the Texas Department of State Health Services (DSHS) stating that the child's parent, legal guardian, or the student declines vaccinations for reasons of conscience, including because of the person's religious beliefs. The affidavit will be valid for a two-year period from the date of notarization. A child or student, who has not received the required immunizations for reasons of conscience, including religious beliefs, may be excluded from school in times of

emergency or epidemic declared by the health and human services commissioner.

The affidavit must be on a form provided by DSHS as described by Health and Safety Code 161.0041 and must be submitted to the admitting official not later than the 90th day after the date the affidavit is notarized.

This exception does not apply in a time of emergency or epidemic declared by the commissioner of state health services.

Education Code 51.933(d)–(e); Health and Safety Code 161.0041; 25 TAC 97.62(2)

MILITARY DUTY

To claim an exclusion for armed forces, persons who can prove that they are serving on active duty with the armed forces of the United States are exempted from the requirements in the statutes described above. *Education Code 51.933(d)–(e); 25 TAC 97.62(3)*

PROVISIONAL
ENROLLMENT

Notwithstanding the other requirements in 25 Administrative Code 97.64, a student may be provisionally enrolled in the health-related courses if the student has received at least one dose of each specified vaccine prior to enrollment and goes on to complete each vaccination series as rapid as medically feasible in accordance with the Centers for Disease Control and Prevention's Recommended Adult Immunization Schedule as approved by the Advisory Committee on Immunization Practices (ACIP). However, the provisionally enrolled student may not participate in coursework activities involving the contact described in 25 Administrative Code 97.64(a) and/or 25 Administrative Code 97.64(d) until the full vaccination series has been administered. *25 TAC 97.64(c)(1)*

DSHS may by rule prohibit a student from attending school during the provisional enrollment period. *Att'y Gen. Op. GA-178 (2004)*

FAILURE TO
PROPERLY
DOCUMENT
IMMUNIZATION

Students who claim to have had the complete series of a required vaccination, but have not properly documented them, cannot participate in coursework activities involving the contact described in 25 Administrative Code 97.64(a) and/or 25 Administrative Code 97.64(d) until such time as proper documentation has been submitted and accepted. *25 TAC 97.64(c)(2)*

IMMUNITY

The immunization requirements in 25 Administrative Code 97.64(b) and 25 Administrative Code 97.64(d) [see REQUIRED IMMUNIZATIONS OF CERTAIN STUDENTS, STUDENTS IN HEALTH-RELATED COURSES and VETERINARY STUDENTS, below] are not applicable to individuals who can properly demonstrate proof of laboratory confirmation of immunity or laboratory confirmation of disease. Vaccines for which this may be potentially demonstrated, and acceptable methods for demonstration, are found in 25 Admin-

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Administrative Code 97.65 (relating to Exceptions to Immunization Requirements (Verification of Immunity/History of Illness)). Such a student cannot participate in coursework activities involving the contact described in 25 Administrative Code 97.64(a) until such time as proper documentation has been submitted and accepted.
25 TAC 97.64(c)(3)

ACCEPTABLE
DOCUMENTS OF
IMMUNIZATION

Vaccines administered after September 1, 1991, shall include the month, day, and year each vaccine was administered.

Documentation of vaccines administered that include the signature or stamp of the physician or his or her designee, or public health personnel, is acceptable.

An official immunization record generated from a state or local health authority is acceptable.

An official record received from school officials including a record from another state is acceptable.

All schools are required to maintain immunization records sufficient for a valid audit to be completed.

25 TAC 97.67-.68

REQUIRED
IMMUNIZATIONS OF
CERTAIN STUDENTS

STUDENTS IN
HEALTH-RELATED
COURSES

TETANUS-
DIPHTHERIA

Students enrolled in health-related higher education courses that will involve direct patient contact with potential exposure to blood or bodily fluids in educational, medical, or dental care facilities must have all the following vaccinations before they may engage in the course activities described in 25 Administrative Code 97.64(a):

1. Students must show receipt of one dose of tetanus-diphtheria-pertussis vaccine (Tdap). In addition, one dose of a tetanus-containing vaccine must have been received within the last ten years. Td vaccine is an acceptable substitute, if Tdap vaccine is medically contraindicated.

MEASLES,
MUMPS, AND
RUBELLA
VACCINES

2. Students born on or after January 1, 1957, must show, prior to patient contact, acceptable evidence of vaccination of two doses of a measles-containing vaccine administered since January 1, 1968, preferably MMR vaccine.

Students born on or after January 1, 1957, must show, prior to patient contact, acceptable evidence of vaccination of one dose of a mumps vaccine.

Students must show, prior to patient contact, acceptable evidence of one dose of rubella vaccine.

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| HEPATITIS B VACCINE | 3. Students are required to receive a complete series of hepatitis B vaccine prior to the start of direct patient care or show serologic confirmation of immunity to hepatitis B virus. |
| VARICELLA VACCINE | 4. Each student is required to have received one dose of varicella (chicken pox) vaccine on or after the student's first birthday or, if the first dose was administered on or after the student's 13th birthday, two doses of varicella (chicken pox) vaccine are required. A written statement from a parent, legal guardian, managing conservator, school nurse, or physician attesting to a child's/student's positive history of varicella disease (chicken pox) or varicella immunity is acceptable in lieu of a vaccine record for that disease. [See the form on DSHS's website at http://www.dshs.state.tx.us/immunize/docs/c-9.pdf] |
| VETERINARY STUDENTS RABIES VACCINE | <p><i>Education Code 51.933; 25 TAC 97.64(a)–(b), .65(b)</i></p> <p>Students enrolled in schools of veterinary medicine whose coursework involves direct contact with animals or animal remains shall receive a complete primary series of rabies vaccine prior to such contact. Serum antibody levels must be checked every two years, with a booster dose of rabies vaccine administered if the rabies virus-neutralizing antibody response is inadequate according to current Centers for Disease Control and Prevention guidelines. <i>Education Code 51.933; 25 TAC 97.64(d)(1)</i></p> |
| HEPATITIS B VACCINE | A complete series of hepatitis B vaccine prior to such contact. This requirement only applies to students enrolled in a course of study that involves potential exposure to human or animal blood or bodily fluids. <i>Education Code 51.933; 25 TAC 97.64(d)(2)</i> |
| TETANUS- DIPHTHERIA VACCINE | One dose of a tetanus-diphtheria toxoid (Td) is required within the last ten years. The booster dose may be in the form of a tetanus-diphtheria-pertussis containing vaccine (Tdap). <i>Education Code 51.933; 25 TAC 97.64(d)(3)</i> |
| ADDITIONAL REQUIREMENTS | Under Health and Safety Code Chapter 81, Subchapter E, additional vaccinations may be required by DSHS and/or the local health authority in specific situations under the mechanism of a control order containing control measures to prevent the spread of disease. <i>25 TAC 97.72</i> |
| BACTERIAL MENINGITIS | <p>This section applies only to an entering student at an institution of higher education or private or independent institution of higher education. "Entering student" includes:</p> <ol style="list-style-type: none">1. New student—a first-time student of an institution of higher education or private or independent institution of higher education, including a student who transfers to the institution from another institution of higher education. A student who was |

previously exempt under 19 Administrative Code 21.614(a)(2)–(5) will be treated as a new student, should the exception no longer apply.

2. Returning student—a student who previously attended an institution of higher education or private or independent institution of higher education before January 1, 2012, and who is enrolling in the same or another institution of higher education or private or independent institution of higher education following a break in enrollment of at least one fall or spring semester.

Education Code 51.9192(b); 19 TAC 21.612(1)

DEFINITIONS

“HEALTH PRACTITIONER”

“Health practitioner” means any person authorized by law to administer an immunization. *Education Code 51.9192(a)(1); 19 TAC 21.612(3)*

“ONLINE AND OTHER DISTANCE EDUCATION COURSE”

“Online and other distance education course” means a course in which the instructor and students are not in the same location. An online course typically involves web-based instruction but might also include correspondence instruction. An online or other distance education course that includes a face-to-face component, including meeting in a testing laboratory with other students, or meeting in a classroom to receive interactive video instruction, does not qualify as an online or other distance education course. *19 TAC 21.612(6)*

EVIDENCE OF VACCINATION

A student to whom this section applies or a parent or guardian of the student must provide to the institution a certificate signed by a health practitioner or an official immunization record evidencing that the student has received a bacterial meningitis vaccination dose or booster during the five-year period preceding and at least ten days prior to the first day of the first semester in which the student initially enrolls at an institution, or following a break in enrollment of at least one fall or spring semester at the same or another institution.

A student is not required to submit evidence of receiving the vaccination against bacterial meningitis or evidence of receiving a booster dose if:

1. The student is 22 years of age or older by the first day of the start of the semester;
2. The student is enrolled only in online or other distance education courses;

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3. The student is enrolled in a continuing education course or a program that is less than 360 contact hours or continuing education corporate training;
4. The student is enrolled in a dual credit course that is taught at a public or private kindergarten–grade 12 facility not located on a higher education institution campus; or
5. The student is incarcerated in a Texas prison.

Education Code 51.9192(b)–(c); 19 TAC 21.613(a), .614(a)

EXCEPTION FOR
MEDICAL REASONS
OR REASONS OF
CONSCIENCE

A student to whom this section applies or a parent or guardian of the student is not required to comply with immunization requirement if the student or a parent or guardian of the student submits to the institution:

1. An affidavit or a certificate signed by a physician who is duly registered and licensed to practice medicine in the United States in which it is stated that, in the physician's opinion, the vaccination required would be injurious to the health and well-being of the student;
2. An affidavit signed by the student stating that the student declines the vaccination for bacterial meningitis for reasons of conscience, including a religious belief. A conscientious exemption form from the DSHS must be used for students attending a public university, health-related institution, or private or independent institution of higher education. The form must be submitted to the designated department or unit no later than the 90th day after the date the affidavit is notarized; or
3. Evidence of submitting a conscientious objection form through a secure, Internet-based process developed and implemented by the DSHS. The Internet form may be used by entering students attending a public junior college. Public junior colleges may use the Internet-based process as the exclusive method to apply for an exemption from the vaccination requirement for reasons of conscience.

The exemption noted at paragraphs 2 and 3, above, does not apply during a disaster or public health emergency, terrorist attack, hostile military or paramilitary action, or extraordinary law enforcement emergency declared by an appropriate official or authority from the DSHS and in effect for the location of the college district the student attends.

Education Code 51.9192(d)–(d-2), (d-4); 19 TAC 21.614(b)–(c)

WELLNESS AND HEALTH SERVICES
IMMUNIZATIONS

FFAA
(LEGAL)

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| NOTIFICATION AT REGISTRATION | Each institution of higher education shall provide, with the registration materials that the institution provides to a student to whom this section applies before the student's initial enrollment in the institution, written or electronic notice of the right of the student or of a parent or guardian of the student to claim an exemption from the vaccination requirement in the manner prescribed above and of the importance of consulting a physician about the need for immunization to prevent the disease. <i>Education Code 51.9192(d-6); 19 TAC 21.613(d)</i> |
| DESIGNATION OF OFFICIAL | Each institution of higher education must designate a department or unit to receive from the student evidence of receipt of an initial bacterial meningitis vaccination dose or booster during the five-year period preceding and at least ten days prior to the first day of the first semester in which the student initially enrolls at an institution, or following a break in enrollment of at least one fall or spring semester at the same or another institution. <i>19 TAC 21.613(b)</i> |
| PRESENTATION OF EVIDENCE | <p>Evidence of the student having received the vaccination from an appropriate health practitioner must be received by the designated department or unit.</p> <p>Acceptable evidence of vaccination or receiving a booster dose includes:</p> <ol style="list-style-type: none"><li data-bbox="560 1096 1438 1230">1. The signature or stamp of a physician or the physician's designee or public health personnel on a form that shows the month, day, and year the vaccination dose or booster was administered;<li data-bbox="560 1251 1438 1323">2. An official immunization record generated from a state or local health authority; or<li data-bbox="560 1344 1438 1411">3. An official record received from school officials, including a record from another state. |
| EXTENSION | <p>This information shall be maintained in accordance with Family Educational Rights and Privacy Act Regulations, and with the Health Insurance Portability and Accountability Act.</p> <p><i>19 TAC 21.613(c)</i></p> <p>Under justifiable circumstances, an administrative official of the designated department or unit of the institution may grant extensions to individual students to extend the compliance date to no more than ten days after the first day of the semester or other term in which the student initially enrolls. <i>19 TAC 21.613(e)</i></p> |

STUDENT RIGHTS AND RESPONSIBILITIES

FL
(LOCAL)

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| STUDENT HANDBOOK | The College President or designee shall develop student handbooks with information on rights, responsibilities, services, resources, extracurricular activities, and other information required by policy or that students need to be successful during the academic year. The College President or designee shall ensure that no student handbook information is in conflict with policy. In case of conflict between a Board policy and provisions of student handbooks, policy shall prevail. |
| BOARD ACTION | Student handbooks are subject to Board review but shall not be adopted by the Board. |
| DISTRIBUTION | Student handbooks shall be made available on the College District's website at the beginning of the academic year; a hard copy shall be provided upon request. Amendments to the handbook shall be communicated promptly to students. |

STUDENT EXPRESSION
STUDENT USE OF COLLEGE DISTRICT FACILITIES

FLAA
(LOCAL)

The grounds and facilities of the College District shall be made available to students or registered student organizations [see FKC] when such use does not conflict with use by, or any of the policies and procedures of, the College District. The requesting students or student organization shall pay all expenses incurred by their use of the facilities in accordance with a fee schedule developed by the Board.

REQUESTS

To request permission to meet on College District premises, interested students or registered student organizations shall file a written request with the executive administrator in accordance with administrative procedures.

The students or the registered student organization making the request shall indicate that they have read and understand the policies and rules governing use of College District facilities and that they will abide by those rules.

APPROVAL

The executive administrator shall approve or reject the request in accordance with provisions of and deadlines set out in this policy and administrative procedures, without regard to the religious, political, philosophical, or other content of the speech likely to be associated with the student's or registered student organization's use of the facility.

Approval shall not be granted when the official has reasonable grounds to believe that:

1. The College District facility requested is unavailable, inadequate, or inappropriate to accommodate the proposed use at the time requested;
2. The applicant is under a disciplinary penalty or sanction prohibiting the use of the facility;
3. The proposed use includes nonpermissible solicitation [see FI];
4. The proposed use would constitute an immediate and actual danger to the peace or security of the College District that available law enforcement officials could not control with reasonable efforts;
5. The applicant owes a monetary debt to the College District and the debt is considered delinquent;
6. The proposed activity would disrupt or disturb the regular academic program;

STUDENT EXPRESSION
STUDENT USE OF COLLEGE DISTRICT FACILITIES

FLAA
(LOCAL)

7. The proposed use would result in damage to or defacement of property or the applicant has previously damaged College District property; or
8. The proposed activity would constitute an unauthorized joint sponsorship with an outside group.

The executive administrator shall provide the applicant a written statement of the grounds for rejection if a request is denied.

ANNOUNCEMENTS
AND PUBLICITY

In accordance with administrative procedures, all students and registered student organizations shall be given access on the same basis for making announcements and publicizing their meetings and activities.

IDENTIFICATION

Students or registered student organizations using College District facilities shall provide identification when requested to do so by a College District representative.

VIOLATIONS

Failure to comply with the policy and procedures regarding student use of College District facilities shall result in appropriate administrative action, including but not limited to, suspension of a student's or a registered student organization's use of College District facilities and/or other disciplinary action in accordance with the College District's discipline policies and procedures [see FM and FMA].

APPEALS

Decisions made by the administration under this policy may be appealed in accordance with FLD(LOCAL).

[For distribution of literature, see FLA]

STUDENT RIGHTS AND RESPONSIBILITIES
STUDENT CONDUCT

FLB
(LEGAL)

“DISRUPTIVE
ACTIVITIES”

A person commits an offense if the person, alone or in concert with others, intentionally engages in disruptive activity on the campus or property of an institution of higher education.

“Disruptive activities” are:

1. Obstructing or restraining the passage of persons in an exit, entrance, or hallway of a building without the authorization of the administration of the school;
2. Seizing control of a building or portion of a building to interfere with an administrative, educational, research, or other authorized activity;
3. Preventing or attempting to prevent by force or violence or the threat of force or violence a lawful assembly authorized by the school administration so that a person attempting to participate in the assembly is unable to participate due to the use of force or violence or due to a reasonable fear that force or violence is likely to occur;
4. Disrupting by force or violence or the threat of force or violence a lawful assembly in progress; or
5. Obstructing or restraining the passage of a person at an exit or entrance to the campus or property or preventing or attempting to prevent by force or violence or by threats of force or violence the ingress or egress of a person to or from the property or campus without the authorization of the administration of the school.

This section may not be construed to infringe on any right of free speech or expression guaranteed by the Constitution of the United States or of this state. [See FLA]

Education Code 37.123(b); 51.935(a)–(b), (e)

Note: For further information regarding conduct on college district property, see GDA. For information regarding weapons on campus, see CHF.

STUDENT RIGHTS AND RESPONSIBILITIES
STUDENT CONDUCT

FLB
(LOCAL)

DEFINITIONS

Definitions of terms used in this policy shall be as follows.

“STUDENT”

A “student” shall mean one who is currently enrolled in the College District. These policies and regulations shall also apply to any prospective or former student who has been accepted for admission or readmission to any component institution while he or she is on the premises of any component institution.

“PREMISES”

The “premises” of the College District is defined as all real property over which the College District has possession and control.

“SCHOLASTIC DISHONESTY”

“Scholastic dishonesty” shall include, but not be limited to, cheating, plagiarism, and collusion.

“Cheating” shall include, but shall not be limited to:

1. Copying from another student’s test or class work;
2. Using test materials not authorized by the person administering the test;
3. Collaborating with or seeking aid from another student during a test without permission from the test administrator;
4. Knowingly using, buying, selling, stealing, or soliciting, in whole or in part, the contents of an unadministered test, paper, or another assignment;
5. The unauthorized transporting or removal, in whole or in part, of the contents of the unadministered test;
6. Substituting for another student, or permitting another student to substitute for one’s self, to take a test;
7. Bribing another person to obtain an unadministered test or information about an unadministered test; or
8. Manipulating a test, assignment, or final course grades.

“Plagiarism” shall be defined as the appropriating, buying, receiving as a gift, or obtaining by any means another’s work and the unacknowledged submission or incorporation of it in one’s own written work.

“Collusion” shall be defined as the unauthorized collaboration with another person in preparing written work for fulfillment of course requirements.

“DISORDERLY CONDUCT”

“Disorderly conduct” shall include any of the following activities occurring on premises owned or controlled by the College District:

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1. Behavior of a boisterous and tumultuous character such that there is a clear and present danger of alarming persons where no legitimate reason for alarm exists.
2. Interference with the peaceful and lawful conduct of persons under circumstances in which there is reason to believe that such conduct will cause or provoke a disturbance.
3. Violent and forceful behavior at any time such that there is a clear and present danger that free movement of other persons will be impaired.
4. Behavior involving personal abuse or assault when such behavior creates a clear and present danger of causing assaults or fights.
5. Violent, abusive, indecent, profane, boisterous, unreasonably loud, or otherwise disorderly conduct under circumstances in which there is reason to believe that such conduct will cause or provoke a disturbance.
6. Willful and malicious behavior that interrupts the speaker of any lawful assembly or impairs the lawful right of others to participate effectively in such assembly or meeting when there is reason to believe that such conduct will cause or provoke a disturbance.
7. Willful and malicious behavior that obstructs or causes the obstruction of any doorway, hall, or any other passageway in a College District building to such an extent that the employees, officers, and other persons, including visitors, having business with the College District are denied entrance into, exit from, or free passage in such building.

RESPONSIBILITY

Each student shall be charged with notice and knowledge of, and shall be required to comply with, the contents and provisions of the College District's rules and regulations concerning student conduct.

All students shall obey the law, show respect for properly constituted authority, and observe correct standards of conduct. Each student shall be expected to:

1. Demonstrate courtesy, even when others do not;
2. Behave in a responsible manner, always exercising self-discipline;
3. Attend all classes, regularly and on time;
4. Prepare for each class and take appropriate materials and assignments to class;

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5. Obey all classroom rules;
6. Respect the rights and privileges of students, faculty, and other College District staff and volunteers;
7. Respect the property of others, including College District property and facilities; and
8. Cooperate with and assist the College District staff in maintaining safety, order, and discipline.

PROHIBITED
CONDUCT

The following behavior shall be prohibited:

FEDERAL, STATE,
AND LOCAL LAW

1. Violations of federal, state, or local law or College District policies, procedures, or rules, including the student handbook.

PROHIBITED
WEAPONS

2. Possession, distribution, sale, or use of firearms, illegal knives, clubs, or other prohibited weapons, as described in CHF, without prior approval.

DRUGS AND
ALCOHOL

3. The use, possession, control, manufacture, transmission, or sale, or being under the influence, of a drug or narcotic, as those terms are defined by the Texas Controlled Substances Act, or other prohibited substances described in FLBD, unless under the direction of a physician.
4. The use, possession, control, manufacture, transmission, or sale of paraphernalia related to any prohibited substance.
5. The use, possession, control, manufacture, transmission, or sale, or being under the influence, of alcohol or other intoxicating beverage without the permission of the College District.

DEBTS

6. Owing a monetary debt to the College District that is considered delinquent or writing an "insufficient funds" check to the College District.

DISRUPTIONS

7. "Disorderly conduct," as defined above, or disruptive behavior.

BEHAVIOR
TARGETING
OTHERS

8. Threatening another person, including a student or employee.
9. Intentionally, knowingly, or negligently causing physical harm to any person.
10. Engaging in conduct that constitutes harassment, bullying, or dating violence directed toward another person, including a student or employee. [See DIA series, FFD series, and FFE as appropriate]
11. Hazing with or without the consent of a student. [See FLBC]

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12. Initiations by organizations that include features that are dangerous, harmful, or degrading to the student, a violation of which also renders the organization subject to appropriate discipline.
13. Endangering the health or safety of members of the College District community or visitors to the premises.
- PROPERTY
14. Intentionally, knowingly, or negligently defacing, damaging, misusing, or destroying College District property or property owned by others.
15. Stealing from the College District or others.
16. Theft, sabotage, destruction, distribution, or other use of the intellectual property of the College District or third parties without permission.
- DIRECTIVES
17. Failure to comply with directives given by College District personnel.
18. Failure to provide identification when requested to do so by College District personnel.
- TOBACCO AND E-CIGARETTES
19. Possession or use of tobacco products or e-cigarettes on College District property without authorization. "E-cigarette" means an electronic cigarette or any other device that simulates smoking by using a mechanical heating element, battery, or electronic circuit to deliver nicotine or other substances to the individual inhaling from the device. The term does not include a prescription medical device unrelated to the cessation of smoking. The term includes:
- a. A device described by this definition regardless of whether the device is manufactured, distributed, or sold as an e-cigarette, e-cigar, or e-pipe or under another product name or description; and
 - b. A component, part, or accessory for the device, regardless of whether the component, part, or accessory is sold separately from the device.
- MISUSE OF TECHNOLOGY
20. Violating policies, rules, or agreements signed by the student regarding the use of technology resources.
21. Attempting to access or circumvent passwords or other security-related information of the College District, students, or employees or uploading or creating computer viruses.
22. Attempting to alter, destroy, or disable College District technology resources including but not limited to computers and

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related equipment, College District data, the data of others, or other networks connected to the College District's system.

23. Using the Internet or other electronic communications to threaten College District students, employees, or volunteers.
24. Sending, posting, or possessing electronic messages that are abusive, obscene, sexually oriented, threatening, harassing, damaging to another's reputation, or illegal.
25. Using e-mail or websites to engage in or encourage illegal behavior or threaten the safety of the College District, students, employees, or visitors.
26. Possessing published or electronic material that is designed to promote or encourage illegal behavior or that could threaten the safety of the College District, students, employees, or visitors.

DISHONESTY

27. Scholastic dishonesty, as defined above.
28. Making false accusations or perpetrating hoaxes regarding the safety of the College District, students, employees, or visitors.
29. Intentionally or knowingly providing false information to the College District.
30. Intentionally or knowingly falsifying records, passes, or other College District-related documents.

GAMBLING

31. Gambling.

OTHER CONDUCT

32. Engaging in any conduct that College District officials might reasonably believe will substantially disrupt the College District program or incite violence.

DISCIPLINE

A student shall be subject to discipline, including suspension, in accordance with FM and FMA if the student violates this policy:

1. While on College District premises;
2. While attending a College District activity; or
3. While elsewhere if the behavior adversely impacts the educational environment or otherwise interferes with the College District's operations or objectives.

PUBLICATION

The student conduct rules contained in this policy and any other conduct rules of the College District developed by the College President shall be published in the student handbook.

STUDENT RIGHTS AND RESPONSIBILITIES
STUDENT COMPLAINTS

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UNITED STATES
CONSTITUTION

A governmental entity, including a college district, shall take no action abridging the freedom of speech or the right of the people to petition the governing board of the entity for redress of grievances. [See FLA] *U.S. Const. Amend. I, XIV*

The governing board may confine its meetings to specified subject matter and may hold nonpublic sessions to transact business. But when the governing board sits in public meetings to conduct public business and hear the views of citizens, it may not discriminate between speakers on the basis of the content of their speech or the message it conveys. *Rosenberger v. Rector & Visitors of Univ. of Virginia, 515 U.S. 819, 828 (1995); City of Madison v. Wis. Emp. Rel. Comm'n, 429 U.S. 167, 174 (1976); Pickering v. Bd. of Educ., 391 U.S. 563, 568 (1968)*

TEXAS CONSTITUTION

The citizens shall have the right, in a peaceable manner, to assemble together for their common good; and to apply to those invested with the powers of government for redress of grievances or other purposes, by petition, address, or remonstrance. *Tex. Const. Art. I, Sec. 27*

The governing board of a community college is not required to negotiate or even respond to complaints. However, the governing board must stop, look, and listen and must consider the petition, address, or remonstrance. *Prof'l Ass'n of College Educators v. El Paso County Cmty. [College] Dist., 678 S.W.2d 94 (Tex. App.—El Paso 1984, writ ref'd n.r.e.)*

CHALLENGE TO
EDUCATION RECORDS

An educational agency or institution, including a college district, shall give a student, on request, an opportunity for a hearing to challenge the content of the student's education records on the grounds that the information contained in the records is inaccurate, misleading, or in violation of the privacy rights of the student. [See FJ] *34 C.F.R. 99.21*

APPEALS TO THE
COORDINATING
BOARD

In accordance with 19 Administrative Code Chapter 1, Subchapter E, students may file written complaints with the Coordinating Board regarding institutions. *19 TAC 1.111(a)*

If a student complaint form concerns compliance with the statutes and regulations that the Coordinating Board administers and the Coordinating Board has not referred the complaint to another entity, the Coordinating Board will initiate an investigation, as described in 19 Administrative Code 1.116(b)–(h). *19 TAC 1.111(a), .116(a)*

EXHAUSTION OF
ADMINISTRATIVE
REMEDIES

Prior to initiating an investigation, the Coordinating Board shall require the complainant to exhaust all grievance and appeal procedures that the institution has established to address student com-

STUDENT RIGHTS AND RESPONSIBILITIES
STUDENT COMPLAINTS

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plaints. Complainants will be encouraged to consult the institution's website and student handbook, or to contact the institution's student ombudsman, Office of Student Affairs, Office of the General Counsel, or other appropriate administrative official, for information regarding the institution's processes for resolving complaints. Upon exhaustion of the institution's procedures, the complainant shall inform the Coordinating Board of the outcome of the grievance and appeal procedures and provide all documentation concerning same. *19 TAC 1.116(b)*

EXCEPTIONS

The following is a non-exhaustive list of student complaints that are not reviewed by the Coordinating Board:

1. The Coordinating Board does not handle, investigate, or attempt to resolve anonymous complaints.
2. The Coordinating Board does not intervene in matters solely concerning an individual's grades, examination results, or evaluation of academic performance, as these are within the sole purview of the institution and its faculty.
3. The Coordinating Board does not intervene in matters solely related to student life such as student housing, dining facilities, food service, violations of the Student Code of Conduct, or student activities and organizations, as these issues are within the sole purview of the institution.
4. The Coordinating Board does not handle, investigate, or attempt to resolve complaints in matters that are or have been in litigation.
5. The Coordinating Board does not handle, investigate, or attempt to resolve complaints about religious institutions relating solely to their religious (as opposed to secular) standards and religious programs of study.
6. The Coordinating Board does not handle, investigate, or attempt to resolve student complaints against institutions not authorized by the Coordinating Board to operate in Texas. Institutions authorized by the Coordinating Board to operate in Texas are listed on the following websites:
<http://www.txhighereddata.org> and
<http://www.thecb.state.tx.us>.
7. The Coordinating Board does not handle, investigate, or attempt to resolve complaints regarding tribal institutions.
8. The Coordinating Board does not handle, investigate, or attempt to resolve complaints about criminal matters, and in-

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stead encourages students to contact local law enforcement authorities regarding these complaints.

19 TAC 1.1113

RESOLUTION

After receiving the Coordinating Board staff's recommendation, the Commissioner shall consider the recommendation regarding the complaint and render a written determination thereon. If the Commissioner finds the complaint is without merit, the Commissioner shall dismiss the complaint. If the Commissioner finds the complaint has merit, the Commissioner may require the institution to take specific action(s) to remedy the complaint. In the Commissioner's sole discretion, complaints regarding institutional integrity may be forwarded to the Coordinating Board for its consideration and determination. The Coordinating Board shall send a copy of the Commissioner's or the Coordinating Board's, as appropriate, written determination to the complainant and the institution. As necessary, the Coordinating Board may take all appropriate actions to enforce its determination. *19 TAC 1.119*

POSTING
REQUIRED

Each institution, including each college district, shall post information regarding the complaint procedure outlined in 19 Administrative Code Chapter 1, Subchapter E on its website. Such information shall:

1. Contain, at a minimum, contact information for filing student complaints with the Coordinating Board, a description of the complaint procedure outlined in Subchapter E, and the Uniform Resource Locator (URL) for Subchapter E on the Texas Secretary of State's website;
2. Be accessible from the institution's Internet website home page by use of not more than three links;
3. Be searchable by keywords and phrases;
4. Be accessible to the public without requiring registration or use of a user name, a password, or another user identification; and
5. Be updated as soon as practicable if the information changes.

Each institution shall also provide each individual student of that institution with written information regarding the complaint procedure outlined in Subchapter E at the beginning of each academic year, such as in the school's catalog. Such information shall contain, at a minimum, contact information for filing student complaints with the Coordinating Board and a description of the complaint procedure outlined in Subchapter E.

19 TAC 1.112

Note: See GDA for provisions concerning students barred from campus.

Note: For procedures related to student discipline, see FMA.

PENALTIES FOR
STUDENT
MISCONDUCT

A student shall be subject to discipline for violations of College District policies and procedures, including the rules outlining expectations for student conduct [see FLB]. If a student commits an infraction or engages in misconduct, the College District may impose one or more of the following penalties:

1. Reprimand - A verbal or written warning to the student following a rule violation. Repetition of such misconduct may result in more severe disciplinary action.
2. Restitution - Reimbursement for damage to or misappropriation of property. Reimbursement may take the form of appropriate service to repair or otherwise compensate for damage.
3. Scholastic penalties - The assignment of a failing grade on an assignment or examination or in a course by an instructor based on scholastic dishonesty; including cheating, collusion, and plagiarism; committed by a student. The instructor shall submit a written report of the incident and of the planned action to the instructor's dean.
4. Conditional Probation - The placing of a student on notice that continued infraction of regulations may result in suspension or expulsion from the College District. Conditional probation may include restrictions on a student's rights and privileges or specified community service. The probation may be for a specified length of time or for an indefinite period according to the relative severity of the infraction or misconduct. Failure to fulfill the terms of the probation may lead to suspension or expulsion.
5. Suspension - Forced withdrawal from the College District for either a definite period of time or until stated conditions have been met. Normally, suspension shall extend through a minimum of one regular long semester (with summer sessions not counting in the one semester minimum time lapse). However, suspension may exceed the one semester minimum.
6. Expulsion - Permanent forced withdrawal from the College District. A student receiving disciplinary expulsion shall have the action noted in the student's permanent record.

SUSPENDED OR
EXPELLED
STUDENTS

No former student who has been suspended or expelled from the College District for disciplinary reasons shall be permitted on the campus or other facilities of the College District, initiated into an honorary or service organization, or permitted to receive credit for

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academic work done in residence or by correspondence or extension during the period of suspension or expulsion without the prior written approval of the College President or a designated representative.

DISCIPLINARY
RECORD

The College District shall maintain for every student alleged or determined to have committed misconduct at the College District, a disciplinary record that shall reflect the charge, the disposition of the charge, the sanction assessed, if any, and any other pertinent information. The disciplinary record shall be separate from the student's academic record and shall be treated as confidential; the contents shall not be revealed except on request of the student or in accordance with applicable state or federal laws.

The disciplinary record shall be maintained permanently in the event that a student is expelled or subject to an extended suspension. In all other cases, the disciplinary record shall be maintained in accordance with the College District's record retention schedule.

PUBLICATION

Information regarding student discipline described in College District policies and accompanying procedures shall be published in the student handbook.

SOME POLICY TITLES ARE INCLUDED FOR FUTURE EXPANSION

SECTION G: COMMUNITY AND GOVERNMENTAL RELATIONS

| | |
|-----|--|
| GA | ACCESS TO PROGRAMS, SERVICES, AND ACTIVITIES |
| GB | PUBLIC COMPLAINTS AND HEARINGS |
| GC | PUBLIC INFORMATION PROGRAM |
| GCA | Access to Information |
| GCB | Requests for Information |
| GCC | Student's Right to Know |
| GD | COMMUNITY USE OF COLLEGE DISTRICT FACILITIES |
| GDA | Conduct on College District Premises |
| GE | ADVERTISING AND FUNDRAISING |
| GF | VOLUNTEERS |
| GG | RELATIONS WITH GOVERNMENTAL AGENCIES AND AUTHORITIES |
| GGA | Local Governmental Authorities |
| GGB | Interlocal Cooperation Contracts |
| GGC | State Governmental Authorities |
| GGD | Federal Governmental Authorities |
| GGE | Emergency Management |
| GH | RELATIONS WITH SCHOOLS AND DISTRICTS |
| GI | RELATIONS WITH OTHER COLLEGES AND UNIVERSITIES |
| GJ | RELATIONS WITH REGIONAL EDUCATION SERVICE CENTERS |
| GK | RELATIONS WITH EDUCATIONAL ACCREDITATION AGENCIES |
| GL | RELATIONS WITH BUSINESSES AND THE COMMUNITY |

NONDISCRIMINATION
GENERALLY

No governmental entity, including a college district, shall deny to any person within its jurisdiction the equal protection of the laws. *U.S. Const. Amend. XIV*

An officer or employee of a political subdivision of the state, including a college district, who is acting or purporting to act in an official capacity may not, because of a person's race, religion, color, sex, or national origin:

1. Refuse to issue to the person a license, permit, or certificate;
2. Revoke or suspend the person's license, permit, or certificate;
3. Refuse to permit the person to use facilities open to the public and owned, operated, or managed by or on behalf of the state or a political subdivision of the state;
4. Refuse to permit the person to participate in a program owned, operated, or managed by or on behalf of the state or a political subdivision of the state;
5. Refuse to grant a benefit to the person;
6. Impose an unreasonable burden on the person; or
7. Refuse to award a contract to the person.

Civ. Prac. and Rem. Code 106.001(a)

RELIGIOUS FREEDOM

A governmental entity, including a college district, shall make no law prohibiting the free exercise of religion. *U.S. Const. Amends. I, XIV*

A government agency may not substantially burden a person's free exercise of religion. This restriction does not apply if the governmental agency demonstrates that the application of the burden to the person is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that interest. [See also DAA and FA] *Civ. Prac. and Rem. Code 110.003(a)-(b)*

A religious organization, an organization supervised or controlled by or in connection with a religious organization, an individual employed by a religious organization while acting in the scope of that employment, or a clergy or minister may not be required to solemnize any marriage or provide services, accommodations, facilities, goods, or privileges for a purpose related to the solemnization, formation, or celebration of any marriage if the action would cause the organization or individual to violate a sincerely held religious belief. *Family Code 2.601*

A refusal to provide services, accommodations, facilities, goods, or privileges under Family Code 2.601 is not the basis for a civil or

criminal cause of action or any other action by this state or a political subdivision of this state to penalize or withhold benefits or privileges, including tax exemptions or governmental contracts, grants, or licenses, from any protected organization or individual. *Family Code 2.602*

DISCRIMINATION ON
THE BASIS OF SEX

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance. [See also DAA and FA] *20 U.S.C. 1681; 34 C.F.R. 106.31*

DISCRIMINATION ON
THE BASIS OF RACE,
COLOR, OR NATIONAL
ORIGIN

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. [See also DAA and FA] *42 U.S.C. 2000d*

DISCRIMINATION ON
THE BASIS OF
DISABILITY—FEDERAL
PROHIBITION

ADA

Under the Americans with Disabilities Act (ADA), no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, including a college district, or be subjected to discrimination by any such entity. A public entity shall not exclude or otherwise deny equal services, programs, or activities to an individual or entity because of the known disability of an individual with whom the individual or entity is known to have a relationship or association. *42 U.S.C. 12132; 28 C.F.R. 35.130*

SECTION 504

Under Section 504 of the Rehabilitation Act, no otherwise qualified individual with a disability shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. *29 U.S.C. 794(a)*

“DISABILITY”

“Disability” means, with respect to an individual:

1. A physical or mental impairment that substantially limits one or more major life activities of an individual;
2. A record of having such an impairment; or
3. Being regarded as having such an impairment.

An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability. An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

The term “disability” does not include:

1. Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;
2. Compulsive gambling, kleptomania, or pyromania; or
3. Psychoactive substance use disorders resulting from current illegal use of drugs.

42 U.S.C. 12102(1), (4)(C)–(D); 28 C.F.R. 35.108(a), (d), (g)

“REGARDED AS
HAVING SUCH AN
IMPAIRMENT”

An individual meets the requirement of being “regarded as having such an impairment” if the individual establishes that he or she has been subjected to an action prohibited under the ADA because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity. *42 U.S.C. 12102(3)(A); 28 C.F.R. 35.108(f)*

TRANSITORY
AND MINOR

Item 3 in the definition of “Disability,” above, (“regarded as having such an impairment”) shall not apply to impairments that are transitory or minor. A transitory impairment is an impairment with an actual or expected duration of six months or less. *42 U.S.C. 12102(3)(B); 28 C.F.R. 35.108(d)(1)(ix), (f)(2)*

MITIGATING
MEASURES

The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as medication, medical supplies, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy or supplies; use of assistive technology; reasonable accommodations or auxiliary aids or services; learned behavioral or adaptive neurological modifications; or psychotherapy, behavioral therapy, or physical therapy.

The ameliorative effects of mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity.

“Ordinary eyeglasses and contact lenses” are lenses that are intended to fully correct visual acuity or to eliminate refractive error.

“Low-vision devices” means devices that magnify, enhance, or otherwise augment a visual image.

42 U.S.C. 12102(4)(E); 28 C.F.R. 35.108(d)(1)(viii), (4)

“MAJOR LIFE
ACTIVITIES”

“Major life activities” include, but are not limited to:

1. Caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting,

bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, and working; and

2. The operation of a major bodily function, such as the functions of the immune system, special sense organs and skin, normal cell growth, and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions. The operation of a major bodily function includes the operation of an individual organ within a body system.

In determining whether an impairment substantially limits a major life activity, the term "major" shall not be interpreted strictly to create a demanding standard. Whether an activity is a major life activity is not determined by reference to whether it is of central importance to daily life.

42 U.S.C. 12102(2); 28 C.F.R. 35.108(c), (d)

"PHYSICAL OR
MENTAL
IMPAIRMENT"

"Physical or mental impairment" means:

1. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems, such as: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic, lymphatic, skin, and endocrine; or
2. Any mental or psychological disorder such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disability.

Physical or mental impairment includes, but is not limited to, contagious and noncontagious diseases and conditions such as the following: orthopedic, visual, speech, and hearing impairments, and cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, intellectual disability, emotional illness, dyslexia and other specific learning disabilities, Attention Deficit Hyperactivity Disorder, Human Immunodeficiency Virus infection (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism.

Physical or mental impairment does not include homosexuality or bisexuality.

28 C.F.R. 35.108(b)

ACCESS TO PROGRAMS, SERVICES, AND ACTIVITIES

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(LEGAL)

“QUALIFIED
INDIVIDUAL WITH A
DISABILITY”

The term “qualified individual with a disability” means an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by the college district. *42 U.S.C. 12131(2); 28 C.F.R. 35.104*

“INDIVIDUAL
WITH A
DISABILITY”

“Individual with a disability” means a person who has a disability. The term “individual with a disability” does not include an individual who is currently engaging in the illegal use of drugs, when the public entity acts on the basis of such use. *28 C.F.R. 35.104*

REASONABLE
MODIFICATION

A public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.

A public entity is not required to provide a reasonable modification to an individual who meets the definition of “disability” solely under the “regarded as” prong of the definition of “disability” at 28 C.F.R. 35.108(a)(1)(iii).

28 C.F.R. 35.130(b)(7)

COMMUNICATIONS

A public entity shall take appropriate steps to ensure that communications with applicants, participants, and members of the public, and companions with disabilities are as effective as communications with others. A public entity shall furnish appropriate auxiliary aids and services where necessary to afford individuals with disabilities, including applicants, participants, companions, and members of the public, an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity of a public entity. In determining what types of auxiliary aids or services are necessary, a public entity shall give primary consideration to the requests of the individual with disabilities. In order to be effective, auxiliary aids and services must be provided in accessible formats, in a timely manner, and in such a way as to protect the privacy and independence of the individual with a disability. *28 C.F.R. 35.160*

“AUXILIARY AIDS
AND SERVICES”

“Auxiliary aids and services” includes:

1. Qualified interpreters on-site or through video remote interpreting (VRI) services; notetakers; real-time computer-aided transcription services; written materials; exchange of written notes; telephone handset amplifiers; assistive listening devices; assistive listening systems; telephones compatible with hearing aids; closed caption decoders; open and closed cap-

tioning, including real-time captioning; voice, text, and video-based telecommunications products and systems, including text telephones (TTYs), videophones, and captioned telephones, or equally effective telecommunications devices; videotext displays; accessible electronic and information technology; or other effective methods of making aurally delivered information available to individuals who are deaf or hard of hearing;

2. Qualified readers; taped texts; audio recordings; Braille materials and displays; screen reader software; magnification software; optical readers; secondary auditory programs (SAP); large print materials; accessible electronic and information technology; or other effective methods for making visually delivered materials available to individuals who are blind or have low vision;
3. Acquisition or modification of equipment or devices; and
4. Other similar services and actions.

28 C.F.R. 35.104

LIMITS OF
REQUIRED
MODIFICATION

Title 28 C.F.R. Chapter I, Part 35, Subpart E does not require a public entity to take any action that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity or in undue financial and administrative burdens. The decision that compliance would result in such alteration or burdens must be made by the head of the public entity or his or her designee after considering all resources available for use in the funding and operation of the service, program, or activity and must be accompanied by a written statement of the reasons for reaching that conclusion. *28 C.F.R. 35.164*

DIRECT THREAT

The ADA does not require a public entity to permit an individual to participate in or benefit from the services, programs, or activities of the public entity when that individual poses a direct threat to the health or safety of others.

“Direct threat” means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures, or by the provision of auxiliary aids or services as provided below.

28 C.F.R. 35.104

In determining whether an individual poses a direct threat to the health or safety of others, a public entity must make an individualized assessment, based on reasonable judgment that relies on cur-

rent medical knowledge or on the best available objective evidence, to ascertain:

1. The nature, duration, and severity of the risk;
2. The probability that the potential injury will actually occur; and
3. Whether reasonable modifications of policies, practices, or procedures or the provision of auxiliary aids or services will mitigate the risk.

28 C.F.R. 35.139

NOTICE

A public entity shall make available to applicants, participants, beneficiaries, and other interested persons information regarding the provisions of 28 C.F.R. Chapter I, Part 35 and its applicability to the services, programs, or activities of the public entity, and make such information available to them in such manner as the head of the entity finds necessary to apprise such persons of the protections against discrimination assured them by the ADA and 28 C.F.R. Chapter I, Part 35. *28 C.F.R. 35.106*

COMPLIANCE
COORDINATOR

A public entity that employs 50 or more persons shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under 28 C.F.R. Chapter I, Part 35, including any investigation of any complaint communicated to it alleging its noncompliance with 28 C.F.R. Chapter I, Part 35 or alleging any actions that would be prohibited under 28 C.F.R. Chapter I, Part 35. The public entity shall make available to all interested individuals the name, office address, and telephone number of the employee or employees designated. *28 C.F.R. 35.107(a)*

COMPLAINT
PROCEDURES
ADA

A public entity that employs 50 or more persons shall adopt and publish grievance procedures for the prompt and equitable resolution of complaints alleging any action that would be prohibited by 28 C.F.R. Chapter I, Part 35. [See GB] *28 C.F.R. 35.107(b)*

SECTION 504

A recipient of federal financial assistance that employs 15 or more persons shall adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action prohibited by 34 C.F.R. Part 104 (Section 504 of the Rehabilitation Act of 1973 regulations). Such procedures need not be established with respect to complaints from applicants for employment. [See GB] *34 C.F.R. 104.7(b), .11*

ACCESS TO PROGRAMS, SERVICES, AND ACTIVITIES

GA
(LEGAL)

DISCRIMINATION ON
THE BASIS OF
DISABILITY—STATE
PROHIBITION

No person with a disability may be denied admittance to any public facility in the state because of the person's disability. No person with a disability may be denied the use of a white cane, assistance animal, wheelchair, crutches, or other device of assistance.

NON-
DISCRIMINATION

The discrimination prohibited by this section includes a refusal to allow a person with a disability to use or be admitted to any public facility, a ruse or subterfuge calculated to prevent or discourage a person with a disability from using or being admitted to a public facility and a failure to:

1. Comply with Government Code Chapter 469;
2. Make reasonable accommodations in policies, practices, and procedures; or
3. Provide auxiliary aids and services necessary to allow the full use and enjoyment of the public facility.

Human Resources Code 121.003(c)–(d)

REGULATIONS

Regulations relating to the use of public facilities by any designated class of persons from the general public may not prohibit the use of particular public facilities by persons with disabilities who, except for their disabilities or use of assistance animals or other devices for assistance in travel, would fall within the designated class.

Human Resources Code 121.003(e)

Note: For information regarding access by service or assistance animals and miniature horses to public facilities, see FAA(LEGAL).

RETALIATION

No recipient of federal financial assistance or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title VI, Title IX, or Section 504 or because he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding or hearing under 34 C.F.R. Parts 100, 104, or 106. *34 C.F.R. 100.7(e) (Title VI), 104.61 (Section 504), 106.71 (Title IX)*

SOCIAL SECURITY
NUMBERS

It shall be unlawful for any local government agency, including a college district, to deny to any individual any right, benefit, or privilege provided by law because of such individual's refusal to disclose his or her social security account number.

EXCEPTIONS

The above provision does not apply with respect to:

1. Any disclosure that is required by federal statute. The United States Internal Revenue Code provides that the social securi-

ty number issued to an individual for purposes of federal income tax laws shall be used as the identifying number for taxpayers;

2. The disclosure of a social security number to any federal, state, or local agency maintaining a system of records in existence and operating before January 1, 1975, if such disclosure was required under statute or regulation adopted before such date to verify the identity of an individual; or
3. Any use for the purposes of establishing the identity of individuals affected by any tax, general public assistance, driver's license, or motor vehicle registration law within a college district's jurisdiction.

STATEMENT OF
USES

A college district that requests disclosure of a social security number shall inform that individual whether the disclosure is mandatory or voluntary, by what statutory authority such number is solicited, and what uses will be made of it.

5 U.S.C. 552a Note; Pub. L. No. 93-579, 7, 88 Stat. 1896 (1974)

HANDGUN LICENSE
AS PROOF OF
IDENTIFICATION

A person may not deny the holder of a concealed handgun license issued under Government Code Chapter 411, Subchapter H access to goods, services, or facilities, except as provided by Transportation Code 521.460 (regarding motor vehicle rentals) or in regard to the operation of a motor vehicle, because the holder has or presents a concealed handgun license rather than a driver's license or other acceptable form of personal identification.

This section does not affect the requirement under Government Code 411.205 that a person present a driver's license or identification certificate in addition to a concealed handgun license.

Business and Commerce Code 506.001

This introductory page outlines the contents of this legally referenced policy on access to public information. See the following sections for statutory provisions on:

| | | |
|-------------|---|-------------|
| SECTION I | Public Information Generally | pages 2–5 |
| SECTION II | Information That Is Confidential | pages 5–15 |
| SECTION III | Information Excepted from Public Disclosure | pages 15–22 |

SECTION I: PUBLIC INFORMATION GENERALLY

It is the policy of this state that each person is entitled, unless otherwise expressly provided by law, at all times to complete information about the affairs of government and the official acts of public officials and employees.

Access to public information is addressed by the Public Information Act (PIA), Government Code Chapter 552. This chapter shall be liberally construed in favor of granting a request for information.

Gov't Code 552.001

DEFINITIONS

"PUBLIC INFORMATION"

"Public information" means information that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

1. By a governmental body, including a college district board of trustees;
2. For a governmental body and the governmental body:
 - a. Owns the information;
 - b. Has a right of access to the information; or
 - c. Spends or contributes public money for the purpose of writing, producing, collecting, assembling, or maintaining the information; or
3. By an individual officer or employee of a governmental body in the officer's or employee's official capacity and the information pertains to official business of the governmental body.

The definition of "public information" applies to and includes any electronic communication created, transmitted, received, or maintained on any device if the communication is in connection with the transaction of official business.

Information is in connection with the transaction of official business if the information is created by, transmitted to, received by, or maintained by an officer or employee of the governmental body in the officer's or employee's official capacity, or a person or entity performing official business or a governmental function on behalf of a governmental body, and pertains to official business of the governmental body.

Gov't Code 552.002(a)-(a-2)

PUBLIC INFORMATION PROGRAM
ACCESS TO INFORMATION

GCA
(LEGAL)

| | |
|--|---|
| "OFFICIAL BUSINESS" | "Official business" means any matter over which a governmental body has any authority, administrative duties, or advisory duties. <i>Gov't Code 552.003(2-a)</i> |
| AVAILABILITY OF PUBLIC INFORMATION | Public information is available to the public at a minimum during the normal business hours of the governmental body. <i>Gov't Code 552.021</i> |
| INFORMATION THAT MUST BE DISCLOSED UNLESS CONFIDENTIAL UNDER LAW | <p>Without limiting the amount or kind of information that is public information under the PIA, the following categories of information are public information and not excepted from required disclosure unless made confidential under the PIA or other law:</p> <ol style="list-style-type: none"><li data-bbox="560 695 1435 802">1. A completed report, audit, evaluation, or investigation made of, for, or by the governmental body, except by provided in Government Code 552.108.<li data-bbox="560 823 1435 894">2. The name, sex, ethnicity, salary, title, and dates of employment of each employee and officer of a governmental body.<li data-bbox="560 915 1435 1022">3. Information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by a governmental body.<li data-bbox="560 1043 1435 1115">4. The name of each official and the final record of voting on all proceedings of the board.<li data-bbox="560 1136 1435 1243">5. All working papers, research material, and information used to estimate the need or expenditure of public funds or taxes by a governmental body, on completion of the estimate.<li data-bbox="560 1264 1435 1392">6. The name, place of business, and the name of the municipality to which local sales and use taxes are credited, if any, for the named person, of a person reporting or paying sales and use taxes under Tax Code Chapter 151.<li data-bbox="560 1413 1435 1656">7. A description of an agency's central and field organizations, including the established places at which the public may obtain information, submit information or requests, and obtain decisions; the employees from whom the public may obtain information, submit information or requests, or obtain decisions; and the methods by which the public may obtain information, submit information or requests, or obtain decisions.<li data-bbox="560 1677 1435 1806">8. A statement of the general course and method by which an agency's functions are channeled and determined, including the nature and requirements of all formal and informal policies and procedures.<li data-bbox="560 1827 1435 1894">9. A rule of procedure, description of forms available or the places at which forms may be obtained, and instructions relating |

to the scope and content of all papers, reports, or examinations.

10. A substantive rule of general applicability adopted or issued by an agency as authorized by law, and a statement of general policy or interpretation of general applicability formulated and adopted by an agency.
11. Each amendment, revision, or repeal of information described in items 7–10.
12. Final opinions, including concurring and dissenting opinions, and orders issued in the adjudication of cases.
13. A policy statement or interpretation that has been adopted or issued by an agency.
14. Administrative staff manuals and instructions to staff that affect a member of the public.
15. Information regarded as open to the public under an agency's policies.
16. Information that is in a bill for attorney's fees and that is not privileged under the attorney-client privilege.
17. Information that is also contained in a public court record.
18. A settlement agreement to which a governmental body is a party.

Gov't Code 552.022

INVESTMENT
INFORMATION

The categories of information held by a governmental body relating to its investments, as specified by Government Code 552.0225(b), are public information and not excepted from disclosure under the PIA. *Gov't Code 552.0225(b)*

EXPENDITURES
FOR A SECURITY
SYSTEM

Financial information in the possession of a governmental entity that relates to the expenditure of funds by a governmental entity for a security system is public information that is not excepted from required disclosure under the PIA. *Gov't Code 418.182(b)*

SECURITY
CAMERAS IN
PRIVATE OFFICES

Information in the possession of a governmental entity that relates to the location of a security camera in a private office at a state agency, including an institution of higher education, is public information and is not excepted from required disclosure under the PIA unless the security camera is located in an individual personal residence for which the state provides security or is in use for surveillance in an active criminal investigation. *Gov't Code 418.182(c)*

BODY-WORN
CAMERAS

Information recorded by a body-worn camera that is or could be used as evidence in a criminal prosecution is subject to disclosure under the PIA. Information recorded by a body-worn camera and held by a law enforcement agency under Occupations Code Chapter 1701, Subchapter N is not subject to disclosure under the PIA. A recording is confidential and excepted from the requirements of Government Code, Chapter 552 if the recording:

1. Was not required to be made under this subchapter or another law or under a policy adopted by the appropriate law enforcement agency; and
2. Does not relate to a law enforcement purpose.

A law enforcement agency may not release any portion of a recording made in a private space, or of a recording involving the investigation of conduct that constitutes a misdemeanor punishable by fine only and does not result in arrest, without written authorization from the person who is the subject of that portion of the recording or, if the person is deceased, from the person's authorized representative.

Occupations Code 1701.661(c)-(d), (f), (h)

SECTION II: INFORMATION THAT IS CONFIDENTIAL

CERTIFIED AGENDA
OR RECORDING OF A
CLOSED MEETING

The certified agenda or recording of a closed meeting is available for public inspection and copying only under a court order issued under Government Code 551.104(b)(3). *Gov't Code 551.104(c)*

"Recording" means a tangible medium on which audio or a combination of audio and video is recorded, including a disc, tape, wire, film, electronic storage drive, or other medium now existing or later developed. *Gov't Code 551.001(7)*

PERSONAL
INFORMATION

EMPLOYEE / BOARD
MEMBER

Each employee, with the exception of a peace officer or security officer to whom Government Code 552.1175 applies, or official of a governmental body and each former employee or official of a governmental body shall choose whether to allow public access to information in the custody of the governmental body that relates to the person's home address, home telephone number, emergency contact information, or social security number, or that reveals whether the person has family members.

Each employee and official and each former employee and official shall state that person's choice to the main personnel officer of the governmental body in a signed writing not later than the 14th day after the date on which the employee begins employment with the governmental body, the official is elected or appointed, or the former employee or official ends service with the governmental body.

If the employee or official or former employee or official chooses not to allow public access to the information the information is protected under Government Code Chapter 552, Subchapter C and the governmental body may redact the information from any information the governmental body discloses under the PIA without the necessity of requesting a decision from the attorney general. If an employee or official or a former employee or official fails to state the person's choice within the 14-day period, the information is subject to public access.

An employee or official or former employee or official of a governmental body who wishes to close or open public access to the information may request in writing that the main personnel officer of the governmental body close or open access.

A governmental body that redacts or withholds information under this section shall provide the following information to the requestor on a form prescribed by the attorney general:

1. A description of the redacted or withheld information;
2. A citation to Government Code 552.024; and
3. Instructions regarding how the requestor may seek a decision from the attorney general regarding whether the redacted or withheld information is excepted from required disclosure.

If a governmental body redacts or withholds information without requesting a decision from the attorney general about whether the information may be redacted or withheld, the requestor is entitled to seek a decision from the attorney general about the matter.

Gov't Code 552.024; Tex. Att'y Gen. ORD-530 (1989)

PEACE OFFICERS /
SECURITY
OFFICERS

Information that relates to the home address, home telephone number, emergency contact information, date of birth, or social security number of any peace officer as defined by Code of Criminal Procedure article 2.12, commissioned security officer as defined by Occupations Code 1702.002, or other individual to whom Government Code 552.1175 applies, or that reveals whether the individual has family members is confidential and may not be disclosed to the public under Government Code Chapter 552 if the individual to whom the information relates:

1. Chooses to restrict public access to the information; and
2. Notifies the governmental body of the individual's choice on a form provided by the governmental body, accompanied by evidence of the individual's status.

The choice remains valid until rescinded in writing by the individual.

A governmental body that redacts or withholds information under this section shall provide the following information to the requestor on a form prescribed by the attorney general:

1. A description of the redacted or withheld information;
2. A citation to Government Code 552.024; and
3. Instructions regarding how the requestor may seek a decision from the attorney general regarding whether the redacted or withheld information is excepted from required disclosure.

If a governmental body redacts or withholds information without requesting a decision from the attorney general about whether the information may be redacted or withheld, the requestor is entitled to seek a decision from the attorney general about the matter.

Gov't Code 552.1175 [For officer information excepted under Government Code 552.117, see Section III: Information Excepted from Public Disclosure]

STUDENT RECORDS

Information is confidential and excepted from the requirements of the PIA if it is a student record at an educational institution funded wholly or partly by state revenue. The record shall be made available on the request of the educational institution personnel, the student involved, or the student's parent, guardian, or spouse or a person conducting a child abuse investigation required by Family Code Chapter 261, Subchapter D.

The PIA does not require the release of information contained in education records of an educational agency or institution, except in conformity with the Family Educational Rights and Privacy Act of 1974 (FERPA), 20 U.S.C. 1232g. This section does not prohibit the disclosure or provision of information included in an education record if the disclosure or provision is authorized by FERPA or other federal law. [See FL]

Gov't Code 552.114(b)-(c), .026

REDACTION

An educational institution may redact information covered under Government Code 552.114(b) from information disclosed under the PIA without requesting a decision from the attorney general. *Gov't Code 552.114(d)*

EXCEPTION

If an applicant for admission to an educational institution described by Government Code 552.114(b), above, or a parent or legal guardian of a minor applicant to an educational institution described by Government Code 552.114(b), above, requests information in the record of the applicant, the educational institution shall disclose any information that is related to the applicant's ap-

plication for admission and was provided to the educational institution by the applicant. *Gov't Code 552.114(e)*

"STUDENT
RECORD"

"Student record" means:

1. Information that constitutes education records as that term is defined by the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g(a)(4)); or
2. Information in a record of an applicant for admission to an educational institution, including a transfer applicant.

Gov't Code 552.114(a)

CREDIT CARD, DEBIT
CARD, CHARGE CARD,
AND ACCESS DEVICE
NUMBERS

A credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.

"Access device" means a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another device may be used to:

1. Obtain money, goods, services, or another thing of value; or
2. Initiate a transfer of funds other than a transfer originated solely by paper instrument.

A governmental body may redact information that must be withheld as described above from any information the governmental body discloses without the necessity of requesting a decision from the attorney general.

A governmental body that redacts or withholds information under this section shall provide the following information to the requestor on a form prescribed by the attorney general:

1. A description of the redacted or withheld information;
2. A citation to Government Code 552.024; and
3. Instructions regarding how the requestor may seek a decision from the attorney general regarding whether the redacted or withheld information is excepted from required disclosure.

If a governmental body redacts or withholds information without requesting a decision from the attorney general about whether the information may be redacted or withheld, the requestor is entitled to seek a decision from the attorney general about the matter.

Gov't Code 552.136

CONFIDENTIAL
INVESTMENT
INFORMATION

All information prepared or provided by a private investment fund and held by a governmental body that is not listed in Government Code 552.0225(b) is confidential and excepted from the requirements of the PIA.

Unless the information has been publicly released, pre-investment and post-investment diligence information, including reviews and analyses, prepared or maintained by a governmental body or a private investment fund is confidential and excepted from the requirements of the PIA, except to the extent it is subject to disclosure under the following provision.

All information regarding a governmental body's direct purchase, holding, or disposal of restricted securities that is not listed in Section 552.0225(b)(2)–(9), (11), or (13)–(16) is confidential and excepted from the requirements of the PIA. This provision does not apply to a governmental body's purchase, holding, or disposal of restricted securities for the purpose of reinvestment nor does it apply to a private investment fund's investment in restricted securities. This provision applies to information regarding a direct purchase, holding, or disposal of restricted securities by the Texas growth fund, created under Texas Constitution Article XVI, Section 70 that is not listed in Government Code 552.0225(b).

Gov't Code 552.143(a)–(c)

E-MAIL ADDRESSES
CONFIDENTIAL

An e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body is confidential and not subject to disclosure under the PIA. Confidential information described by this section that relates to a member of the public may be disclosed if the member of the public affirmatively consents to its release.

EXCEPTIONS

This section does not apply to an e-mail address:

1. Provided to a governmental body by a person who has a contractual relationship with the governmental body or by the contractor's agent;
2. Provided to a governmental body by a vendor who seeks to contract with the governmental body or by the vendor's agent;
3. Contained in a response to a request for bids or proposals, contained in a response to similar invitations soliciting offers or information relating to a potential contract, or provided to the governmental body in the course of negotiating the terms of a contract or potential contract;

4. Provided to the governmental body on a letterhead, coversheet, printed document, or other document made available to the public; or
5. Provided to a governmental body for the purpose of providing public comment on or receiving notices related to an application for a license or receiving orders or decisions from a governmental body. "License" includes the whole or part of a state agency permit, certificate, approval, registration, or similar form of permission required by law.

This section does not prohibit a governmental body from disclosing an e-mail address for any reason to another governmental body or to a federal agency.

Gov't Code 552.137, 2001.003(2)

PARTICIPANT IN
ADDRESS
CONFIDENTIALITY
PROGRAM

Information relating to a participant in the Address Confidentiality Program for Victims of Family Violence, Sexual Assault, or Stalking under Code of Criminal Procedure Chapter 56, Subchapter C is confidential, except as provided by Code of Criminal Procedure 56.90, and may not be disclosed under the PIA. *Code of Criminal Procedure 56.88*

VICTIMS OF CERTAIN
CRIMES

An employee of a governmental body who is also a victim under Code of Criminal Procedure Chapter 56, Subchapter B regardless of whether the employee has filed an application for compensation under that subchapter, may elect whether to allow public access to information held by the attorney general's office or governmental body that would identify or tend to identify the victim, including a photograph or other visual representation of the victim. The election must be made in writing on a form developed by the governmental body, be signed by the employee, and be filed with the governmental body before the third anniversary of the latest to occur of one of the following:

1. The date the crime was committed;
2. The date employment begins; or
3. The date the governmental body develops the form and provides it to employees.

If the employee fails to make an election, the identifying information is excepted from disclosure until the third anniversary of the date the crime was committed. In case of disability, impairment, or other incapacity of the employee, the election may be made by the guardian of the employee or former employee.

Gov't Code 552.132(d)-(e)

VICTIM IMPACT
STATEMENT

The following information that is held by a governmental body or filed with a court and that is contained in a victim impact statement or was submitted for purposes of preparing a victim impact statement is confidential:

1. The name, social security number, address, and telephone number of a crime victim; and
2. Any other information the disclosure of which would identify or tend to identify the crime victim.

"Crime victim" means a person who is a victim as defined by Code of Criminal Procedure 56.32.

"Victim impact statement" means a victim impact statement under Code of Criminal Procedure 56.03.

Gov't Code 552.1325

LIBRARY RECORDS

A record of a library or library system, supported in whole or in part by public funds, that identifies or serves to identify a person who requested, obtained, or used a library material or service is excepted from the requirements of the PIA, unless the records are disclosed:

1. Because the library or library system determines that disclosure is reasonably necessary for the operation of the library or library system and the record is not confidential under other state or federal law;
2. Under Government Code 552.023; or
3. To a law enforcement agency or prosecutor under a court order or subpoena obtained after a showing to a district court that disclosure of the record is necessary to protect the public safety or the record is evidence of an offense or constitutes evidence that a particular person committed an offense.

A record of a library or library system that is excepted from required disclosure under this section is confidential.

Gov't Code 552.124

CERTAIN PRODUCTS,
DEVICES, AND
PROCESSES

In order to protect the actual or potential value, the following information is confidential and is not subject to disclosure under the PIA, or otherwise:

1. All information relating to a product, device, or process, the application or use of such a product, device, or process, and all technological and scientific information (including computer programs) developed in whole or in part at a state institution of higher education, regardless of whether patentable or ca-

pable of being registered under copyright or trademark laws, that have a potential for being sold, traded, or licensed for a fee.

2. Any information relating to a product, device, or process, the application or use of such product, device, or process, and any technological and scientific information (including computer programs) that is the proprietary information of a person, partnership, corporation, or federal agency that has been disclosed to an institution of higher education solely for the purposes of a written research contract or grant that contains a provision prohibiting the institution of higher education from disclosing such proprietary information to third persons or parties.

Education Code 51.914(a)

RESEARCH

Information maintained by or for an institution of higher education that would reveal the college district's plans or negotiations for commercialization or a proposed research agreement, contract, or grant, or that consists of unpublished research or data that may be commercialized, is not subject to the PIA, unless the information has been published, is patented, or is otherwise subject to an executed license, sponsored research agreement, or research contract or grant. *Education Code 51.914(b)*

RESEARCH AND
DEVELOPMENT
FACILITY

The plans, specifications, blueprints, and designs, including related proprietary information, of a scientific research and development facility that is jointly financed by the federal government and a local government or state agency, including an institution of higher education, is confidential and is not subject to disclosure under the PIA if the facility is designed and built for the purposes of promoting scientific research and development and increasing the economic development and diversification of this state. *Education Code 51.914(a)*

COMPLIANCE
INVESTIGATIONS

The following are confidential:

1. Information that directly or indirectly reveals the identity of an individual who made a report to the compliance program office of an institution of higher education, sought guidance from the office, or participated in an investigation conducted under the compliance program; and
2. Information that directly or indirectly reveals the identity of an individual as a person who is alleged to have or may have planned, initiated, or participated in activities that are the subject of a report made to the compliance program office of an institution of higher education if, after completing an investiga-

tion, the office determines the report to be unsubstantiated or without merit.

Information is excepted from disclosure under the PIA if it is collected or produced in a compliance program investigation and releasing the information would interfere with an ongoing compliance investigation.

Education Code 51.971(c), (e)

EXCEPTIONS

This section does not apply to information related to an individual who consents to disclosure of the information.

Information made confidential or excepted from public disclosure by this section may be made available to the following on request in compliance with applicable law and procedure:

1. A law enforcement agency or prosecutor;
2. A governmental agency responsible for investigating the matter that is the subject of a compliance report, including the Texas Workforce Commission civil rights division or the federal Equal Employment Opportunity Commission; or
3. An officer or employee of an institution of higher education or compliance officer who is responsible under institutional policy for a compliance program investigation or for reviewing a compliance program investigation.

A disclosure to an individual listed above is not a voluntary disclosure for purposes of Government Code 552.007. [See AF]

Education Code 51.971(d), (f)–(g)

COMPUTER NETWORK
SECURITY

Information is excepted from the requirements of the PIA if it is information that relates to computer network security, to network security information that is restricted under Government Code 2059.055, or to the design, operation, or defense of a computer network. The following information is confidential:

1. A computer network vulnerability report;
2. Any other assessment of the extent to which data processing operations, a computer, a computer program, network, system, system interface, or software of a governmental body or of a contractor of a governmental body is vulnerable to unauthorized access or harm, including an assessment of the extent to which the governmental body's or contractor's electronically stored information containing sensitive or critical information is vulnerable to alteration, damage, erasure or inappropriate use; and

3. A photocopy or other copy of an identification badge issued to an official or employee of a governmental body.

Information may be disclosed to a bidder if the governmental body determines that providing the information is necessary for the bidder to provide an accurate bid. Such a disclosure is not a voluntary disclosure for purposes of Government Code 552.007 (requiring disclosure to any person).

Gov't Code 552.139

SECURITY SYSTEM
SPECIFICATIONS,
OPERATIONS, AND
LOCATIONS

Except as provided by Government Code 418.182(b) and (c), information, including access codes and passwords, in the possession of a governmental entity that relates to the specifications, operating procedures, or location of a security system used to protect public or private property from an act of terrorism or related criminal activity is confidential. *Gov't Code 418.182(a)*

EMERGENCY ALERT
SYSTEM

The personal identifying information obtained from an individual for the purpose of the emergency alert system of a college district, including an e-mail address or telephone number, is confidential and not subject to disclosure under the PIA. [See CGC] *Education Code 51.218(e)*

SENSITIVE CRIME
SCENE IMAGE

A sensitive crime scene image, as defined by Government Code 552.1085(a)(6), in the custody of a governmental body, including a college district, is confidential and excepted from the requirements of Government Code 552.021, and a governmental body may not permit a person to view or copy the image except as provided by Government Code 552.1085. *Gov't Code 552.1085(c)*

MILITARY DISCHARGE
RECORDS

A military veteran's Department of Defense Form DD-214 or other military discharge record that is first recorded with or that otherwise first comes into the possession of a governmental body on or after September 1, 2003, is confidential for the 75 years following the date it is recorded with or otherwise comes into the possession of the governmental body in accordance with Government Code Section 552.140 or in accordance with a court order. A governmental body that obtains information from the record shall limit the governmental body's use and disclosure of the information to the purpose for which the information was obtained. *Gov't Code 552.140*

RETIREMENT SYSTEM
INFORMATION

Records of individual members, annuitants, retirees, beneficiaries, alternate payees, program participants, or persons eligible for benefits from a retirement system under a retirement plan or program administered by the retirement system that are in the custody of another governmental agency acting in cooperation with or on behalf of the retirement system are confidential and not subject to public disclosure. *Gov't Code 552.0038*

ELECTION JUDGE OR CLERK INFORMATION An e-mail address or personal phone number of an election judge or clerk collected or maintained by the authority conducting the election is confidential and does not constitute public information for purposes of the PIA. *Election Code 32.076(a)*

EXCEPTION An e-mail address or phone number described by Election Code 32.076(a), above, shall be made available on request to:

1. Any entity eligible to submit lists of election judges or clerks for that election; or
2. The state executive committee of a political party with a county chair eligible to submit lists of election judges or clerks for that election.

Election Code 32.076(b)

SECTION III: INFORMATION EXCEPTED FROM PUBLIC DISCLOSURE

The PIA does not prohibit a governmental body or its officer for public information voluntarily making part or all of its information available to the public, unless the disclosure is expressly prohibited by law or the records are confidential by law. *Gov't Code 552.007*

Except for social security numbers as provided by Government Code 552.147, the confidentiality provisions of this chapter, or other law, information that is not confidential, but is excepted from required disclosure under the PIA, is public information and is available to the public on or after the 75th anniversary of the date the information was originally created or received by the governmental body. This paragraph does not limit the authority of a governmental body to establish retention periods for records under applicable law. *Gov't Code 552.0215*

CONFIDENTIAL INFORMATION Information is excepted from the requirements of the PIA if it is information considered to be confidential by law, either constitutional, statutory, or by judicial decision. *Gov't Code 552.101*

PERSONNEL FILE Information is excepted from the requirements of the PIA if it is information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, except that all information in the personnel file of an employee of a governmental body is to be made available to that employee or the employee's designated representative as public information is made available under the PIA. *Gov't Code 552.102*

SUBSTANTIAL THREAT OF PHYSICAL HARM Information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from the requirements of the PIA if, under the specific circumstances

pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm. *Gov't Code 552.152*

LITIGATION

Information is excepted from the requirements of the PIA if it is information relating to litigation of a civil or criminal nature to which the state or a political subdivision is or may be a party or to which an officer or employee of the state or political subdivision, as a consequence of the person's office or employment, is or may be a party. The state or a political subdivision is considered to be a party to litigation of a criminal nature until the applicable statute of limitations has expired or until the defendant has exhausted all appellate and postconviction remedies in state and federal court. Information relating to litigation involving a governmental body or an officer or employee of a governmental body is excepted from disclosure under the PIA only if the litigation is pending or reasonably anticipated on the date that the requestor applies to the officer for public information for access to or duplication of the information. *Gov't Code 552.103*

COMPETITION OR
BIDDING

Information is excepted from the requirements of the PIA if it is information that, if released, would give advantage to a competitor or bidder. The requirement of Government Code 552.022 that a category of information listed under Section 552.022(a) is public information and not excepted from required disclosure under the PIA unless expressly confidential under law does not apply to information that is excepted from required disclosure under this provision. *Gov't Code 552.104*

LOCATION OR PRICE
OF PROPERTY

Information is excepted from the requirements of the PIA if it is information relating to the location of real or personal property for a public purpose prior to public announcement of the project, or appraisals or purchase price of real or personal property for a public purpose prior to the formal award of contracts for the property. *Gov't Code 552.105*

DRAFTS AND
WORKING PAPERS

A draft or working paper involved in the preparation of proposed legislation is excepted from the requirements of the PIA. *Gov't Code 552.106*

LEGAL MATTERS

Information is excepted from the requirements of the PIA if it is information the attorney of a political subdivision is prohibited from disclosing because of a duty to the client under the Texas Rules of Evidence or the Texas Disciplinary Rules of Professional Conduct or a court by order has prohibited disclosure of the information. *Gov't Code 552.107*

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ACCESS TO INFORMATION

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LAW ENFORCEMENT
INFORMATION

Information held by a law enforcement agency that deals with detection, investigation, or prosecution of crime is excepted from the requirements of the PIA if:

1. Release of the information would interfere with the detection, investigation, or prosecution of crime;
2. It is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication; or
3. It is information relating to a threat against a peace officer collected or disseminated under Government Code 411.048.

An internal record or notation of a law enforcement agency that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from the requirements of the PIA if:

1. Release of the internal record or notation would interfere with law enforcement or prosecution; or
2. The internal record or notation relates to law enforcement only in relation to an investigation that did not result in conviction or deferred adjudication.

This section does not except from the requirements of the PIA information that is basic information about an arrested person, an arrest, or a crime.

Gov't Code 552.108

PRIVATE
CORRESPONDENCE
AND
COMMUNICATIONS

Private correspondence or communications of an elected office holder relating to matters the disclosure of which would constitute an invasion of privacy are excepted from the requirements of the PIA. *Gov't Code 552.109*

TRADE SECRETS

A trade secret obtained from a person and privileged or confidential by statute or judicial decision is excepted from the requirements of the PIA. *Gov't Code 552.110(a)*

COMMERCIAL OR
FINANCIAL
INFORMATION

Commercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained are excepted from the requirements of the PIA. *Gov't Code 552.110(b)*

AGENCY MEMORANDA

An interagency or intraagency memorandum or letters that would not be available by law to a party in litigation with the agency is excepted from the requirements of the PIA. *Gov't Code 552.111; City of Garland v. Dallas Morning News, 22 S.W.3d 351 (Tex. 2000) (concluding that the deliberative process privilege, incorporated*

into the exception found at Government Code 552.111, exempts communications related to a governmental agency's policymaking)

AUDIT WORKING
PAPER

An audit working paper of an audit of the state auditor or the auditor of an institution of higher education is excepted from the requirements of the PIA. If information in an audit working paper is also maintained in another record, that other record is not excepted from the requirements of the PIA.

"Audit working paper" includes all information, documentary or otherwise, prepared or maintained in conducting an audit or preparing an audit report, including intra-agency and interagency communications and drafts of the audit report or portions of those drafts.

Gov't Code 552.116

CONTACT
INFORMATION

Information is excepted from the requirements of the PIA if it is information that relates to the home address, home telephone number, emergency contact information, or social security number of the following person, or that reveals whether the person has family members:

1. A current or former official or employee of a governmental body, except as otherwise provided by Government Code 552.024.
2. A peace officer as defined by Code of Criminal Procedure 2.12, regardless of whether the officer complies with Government Code 552.024 or 552.1175, as applicable.
3. A commissioned security officer as defined by Occupations Code 1702.002, regardless of whether the officer complies with Sections 552.024 or 552.1175, as applicable.
4. Other officials listed under Government Code 552.117. [See PERSONAL INFORMATION, above]

Gov't Code 552.117

PHOTOGRAPHS OF
PEACE OFFICERS

A photograph that depicts a peace officer, as defined by Code of Criminal Procedures 2.12, the release of which would endanger the life or physical safety of the officer is excepted from the requirements of the PIA, unless:

1. The officer is under indictment or charged with an offense by information;
2. The officer is a party in a civil service hearing or a case in arbitration; or
3. The photograph is introduced as evidence in a judicial proceeding.

A photograph excepted from disclosure as described above may be made public only if the peace officer gives written consent to the disclosure.

Gov't Code 552.119

TEST ITEMS

Test items developed by a state-funded educational institution. A test item developed by a licensing agency or governmental body is excepted from the requirements of the PIA. *Gov't Code 552.122*

RARE BOOKS AND
ORIGINAL
MANUSCRIPTS

A rare book or original manuscript that was not created or maintained in the conduct of official business of a governmental body and that is held by a private or public archival and manuscript repository for the purpose of historical research is excepted from the requirements of the PIA. *Gov't Code 552.120*

DOCUMENTS HELD
FOR HISTORICAL
RESEARCH

An oral history interview, personal paper, unpublished letter, or organizational record of a nongovernmental entity that was not created or maintained in the conduct of official business of a governmental body and that is held by a private or public archival and manuscript repository for the purpose of historical research is excepted from the requirements of the PIA to the extent that the archival and manuscript repository and the donor of the interview, paper, letter, or record agree to limit disclosure of the item. *Gov't Code 552.121*

CHIEF EXECUTIVE
OFFICER APPLICANTS

The name of an applicant for the position of chief executive officer of an institution of higher education, and other information that would tend to identify the applicant, is excepted from the requirements of the PIA except that the governing board of the institution must give public notice of the name or names of the finalists being considered for the position at least 21 days before the date of the meeting at which final action or a vote is to be taken on the employment of the person. *Gov't Code 552.123*

MOTOR VEHICLE
RECORD
INFORMATION

Information is excepted from the requirements of the PIA if the information relates to:

1. A motor vehicle operator's or driver's license or permit issued by an agency of this state or another state or country;
2. A motor vehicle title or registration issued by an agency of this state or another state or country; or
3. A personal identification document issued by an agency of this state, or another state or country or a local agency authorized to issue an identification document.

Information described above may be released only if, and in the manner, authorized by Transportation Code Chapter 730.

Subject to Transportation Code Chapter 730 (the Motor Vehicle Records Disclosure Act), a governmental body may redact information described above from any information the governmental body discloses without the necessity of requesting a decision from the attorney general under Government Code Chapter 552, Subchapter G. If a governmental body redacts or withholds information without requesting a decision from the attorney general about whether the information may be redacted or withheld, the requestor is entitled to seek a decision from the attorney general about the matter.

A governmental body that redacts or withholds information as described above shall provide the following information to the requestor on a form prescribed by the attorney general: a description of the redacted or withheld information; a citation to Government Code 552.130; and instructions regarding how the requestor may seek a decision from the attorney general regarding whether the redacted or withheld information is excepted from required disclosure.

Gov't Code 552.130

COMMERCIAL BOOK
OR PUBLICATION

A governmental body is not required under the PIA to allow the inspection of or to provide a copy of information in a commercial book or publication purchased or acquired by the governmental body for research purposes if the book or publication is commercially available to the public. Although information in a book or publication may be made available to the public as a resource material, such as a library book, a governmental body is not required to make a copy of the information in response to a request for public information. A governmental body shall allow the inspection of information in a book or publication that is made part of, incorporated into, or referred to in a rule or policy of the governmental body. *Gov't Code 552.027*

SOCIAL SECURITY
NUMBERS

The social security number of a living person is excepted from the requirements of the PIA, but is not confidential under Government Code 552.147 and this section does not make the social security number of a living person confidential under the PIA or other law. A governmental body may redact the social security number of a living person from any information the governmental body discloses under the PIA without the necessity of requesting a decision from the attorney general. *Gov't Code 552.147(a)-(b)*

DONOR INFORMATION

The name or other information that would tend to disclose the identity of a person, other than a governmental body, who makes a gift, grant, or donation of money or property to an institution of higher education or to another person with the intent that the money or property be transferred to an institution of higher education is ex-

cepted from the requirements of the PIA. This provision does not except from required disclosure other information relating to the described gifts, grants, and donations, including the amount or value of an individual gift, grant, or donation. *Gov't Code 552.1235*

SAFETY AND
SECURITY AUDIT

Any document or information collected, developed, or produced during a safety and security audit conducted under Education Code 37.108(b) is not subject to disclosure under the PIA [see CG].

MULTIHAZARD
EMERGENCY
OPERATIONS PLAN
EXCEPTION

A document relating to a public junior college district's multihazard emergency operations plan [see CGC] is subject to disclosure if the document enables a person to:

1. Verify that the district has established a plan and determine the agencies involved in the development of the plan and the agencies coordinating with the district to respond to an emergency, including the Texas Department of State Health Services, local emergency services agencies, law enforcement agencies, health departments, and fire departments;
2. Verify that the district's plan was reviewed within the last 12 months and determine the specific review dates;
3. Verify that the plan addresses the four phases of emergency management under Education Code 37.108(a);
4. Verify that district employees have been trained to respond to an emergency and determine the types of training, the number of employees trained, and the person conducting the training;
5. Verify that each campus in the district has conducted mandatory emergency drills and exercises in accordance with the plan and determine the frequency of the drills;
6. Verify that the district has completed a safety and security audit under Education Code 37.108(b) and determine the date the audit was conducted, the person conducting the audit, and the date the district presented the results of the audit to the district's board of trustees; and
7. Verify that the district has addressed any recommendations by the board for improvement of the plan and determine the district's progress within the last 12 months.

Education Code 37.108(c-1)-(c-2)

CYBERSECURITY
INFORMATION

A cyber threat indicator or defensive measure shared by or with a state, tribal, or local government under 6 U.S.C. 1503 shall be deemed voluntarily shared information and exempt from disclosure

under any state or local freedom of information law, open government law, open meetings law, open records law, sunshine law, or similar law requiring disclosure of information or records. *6 U.S.C. 1503(d)(4)(B)*

A cyber threat indicator or defensive measure shared with the federal government under Title 6, United States Code, shall be:

1. Deemed voluntarily shared information and exempt from disclosure under federal public information law and any state or local provision of law requiring disclosure of information or records; and
2. Withheld, without discretion, from the public under federal public information law and any state or local provision of law requiring disclosure of information or records.

6 U.S.C. 1504(d)(3) [See CS]

PUBLIC INFORMATION PROGRAM
REQUESTS FOR INFORMATION

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This introductory page outlines the contents of the public information policy. See the following sections for statutory provisions on:

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**SECTION I: OFFICER FOR PUBLIC INFORMATION AND RE-
QUIRED NOTICES**

The chief administrative officer of a governmental body, including a college district, is the officer for public information. Each department head is an agent of the officer for public information for purposes of complying with the Public Information Act (PIA), Government Code Chapter 552. *Gov't Code 552.201(a), .202*

DUTIES

An officer for public information is responsible for the release of public information as required by the PIA. Each officer for public information, subject to penalties provided by the PIA, shall:

1. Make public information available for public inspection and copying;
2. Carefully protect public information from deterioration, alteration, mutilation, loss, or unlawful removal; and
3. Repair, renovate, or rebind public information as necessary to maintain it properly.

The officer is not responsible for the use made of the information by the requestor or the release of information after it is removed from a record as a result of an update, a correction, or a change of status of the person to whom the information pertains.

Gov't Code 552.203-.204

PUBLIC INFORMATION
ACT TRAINING

The officer for public information of a governmental body shall complete a course of training of not less than one and not more than two hours regarding the responsibilities of the governmental body with which the official serves and its officers and employees under the PIA not later than the 90th day after the date the public official assumes the person's duties as a public official.

The attorney general shall ensure that the training is made available. The office of the attorney general may provide the training and may also approve any acceptable course of training offered by a governmental body or other entity.

A governmental body shall maintain and make available for public inspection the record of the public information coordinator's completion of the training.

A public official may designate a public information coordinator to satisfy the training requirements for the public official if the public information coordinator is primarily responsible for administering the responsibilities of the public official or governmental body under the PIA.

Gov't Code 552.012(a)-(e)

SIGN

An officer for public information shall prominently display a sign in the form prescribed by the attorney general that contains basic information about the rights of a requestor, the responsibilities of a governmental body, including a college district, and the procedures for inspecting or obtaining a copy of public information under the PIA. The officer shall display the sign at one or more places in the administrative offices of the governmental body where it is plainly visible to:

1. Members of the public who request public information in person under the PIA; and
2. Employees of the governmental body whose duties include receiving or responding to requests under the PIA.

Gov't Code 552.205(a)

SECTION II: ACCESS TO PUBLIC INFORMATION

PROCEDURAL RULES

A governmental body, including a college district, may promulgate reasonable rules of procedure by which public information may be inspected and copied efficiently, safely, and without delay. The rules may not be inconsistent with any provision of the PIA. *Gov't Code 552.230*

It shall be the policy of a governmental body to provide a suitable copy of public information within a reasonable time after the date on which the copy is requested. *Gov't Code 552.228(a)*

TREATMENT OF
REQUESTS

The officer for public information or the officer's agent may not make an inquiry of a requestor except to establish proper identification or to ask the requestor to narrow or clarify the request as provided by Government Code 552.222(b) or (c) [see REQUESTS TO CLARIFY OR NARROW, below]. The officer for public information or agent shall treat all requests for information uniformly without regard to the position or occupation of the requestor, the person on whose behalf the request is made, or the status of the individual as a member of the media. The officer for public information or the officer's agent shall give to a requestor all reasonable comfort and facility for the full exercise of the right granted by the PIA.

Gov't Code 552.222(a), .223-.224

LOCATION OF ACCESS

An officer for public information complies with the request to promptly produce public information under the PIA by:

1. Providing the information for inspection or duplication in the offices of the governmental body [see TIME FOR EXAMINATION, below]; or

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2. Sending copies of the public information by first class U.S. mail, if the person requesting the information requests that copies be provided and pays the postage and any other applicable charges that the requestor has accrued under Government Code Chapter 552, Subchapter F [see COSTS AND CHARGES, below].

The PIA does not authorize a requestor to remove an original copy of a public record from the office of a governmental body.

Gov't Code 552.221(b), .226

ONLINE ACCESS

In addition to the methods of production described by Government Code 552.221(b), an officer for public information for a political subdivision of this state complies with Government Code 552.221(a) by referring a requestor to an exact Internet location or uniform resource locator (URL) address on a website maintained by the political subdivision and accessible to the public if the requested information is identifiable and readily available on that website. If the person requesting the information prefers a manner other than access through the URL, the political subdivision must supply the information in the manner required by Section 552.221(b).

If an officer for public information for a political subdivision provides by e-mail an Internet location or URL address as permitted above, the e-mail must contain a statement in a conspicuous font clearly indicating that the requestor may nonetheless access the requested information by inspection or duplication or by receipt through United States mail, as provided by Section 552.221(b).

Gov't Code 552.221(b-1)-(b-2)

TIME FOR RESPONSE

An officer for public information of a governmental body shall promptly produce public information for inspection, duplication, or both, on application by any person to the officer. "Promptly" means as soon as possible under the circumstances, that is, within a reasonable time, without delay. A governmental body, including a college district, may not automatically withhold for ten business days public information not excepted from disclosure.

If an officer for public information cannot produce the public information for inspection or duplication within ten business days after the date the information is requested, the officer shall certify that fact in writing to the requestor and set a date and hour within a reasonable time when the information will be available for inspection or duplication.

If the requested information is unavailable at the time of the request to examine because it is in active use or in storage, the of-

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ficier for public information shall certify this fact in writing to the requestor and set a date and hour within a reasonable time when the information will be available for inspection or duplication.

Gov't Code 552.221(a), (c)–(d); Tex. Atty. Gen. ORD-664 (2000)

RELEASE OF
DEIDENTIFIED
INFORMATION

An agency of this state, including a college district, shall provide written notice to a person to whom the agency releases deidentified information that the information is deidentified information.

"Deidentified information" means information with respect to which the holder of the information has made a good faith effort to remove all personal identifying information or other information that may be used by itself or in combination with other information to identify the subject of the information. The term includes aggregate statistics, redacted information, information for which random or fictitious alternatives have been substituted for personal identifying information, and information for which personal identifying information has been encrypted and for which the encryption key is maintained by a person otherwise authorized to have access to the information in an identifiable format.

"Personal identifying information" means information that alone or in conjunction with other information identifies an individual, including an individual's:

1. Name, social security number, date of birth, or government-issued identification number;
2. Mother's maiden name;
3. Unique biometric data, including the individual's fingerprint, voice print, and retina or iris image;
4. Unique electronic identification number, address, or routing code; and
5. Telecommunication access device as defined by Penal Code 32.51.

Business and Commerce Code 506.001(2)–(3), .002(a), .021(1)

REQUESTS TO
CLARIFY OR NARROW

If what information is requested is unclear to the governmental body, the governmental body may ask the requestor to clarify the request.

If a large amount of information has been requested, the governmental body, including a college district, may discuss with the requestor how the scope of a request might be narrowed, but the governmental body may not inquire into the purpose for which the information will be used. *Gov't Code 552.222(b)*

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MOTOR VEHICLE RECORD If the information requested relates to a motor vehicle record, the officer for public information or the officer's agent may require the requestor to provide additional identifying information sufficient for the officer or the officer's agent to determine whether the requestor is eligible to receive the information under Transportation Code Chapter 730. "Motor vehicle record" has the meaning assigned that term by Transportation Code 730.003. *Gov't Code 552.222(c)*

REQUEST CONSIDERED WITHDRAWN If, by the 61st day after the governmental body sends the written request for clarification or discussion under Government Code 552.222(b) or an officer for public information or agent sends a written request for additional information under Government Code 552.222(c) the governmental body, officer for public information, or agent, as applicable, does not receive a written response from the requestor, the underlying request for public information is considered to have been withdrawn by the requestor. A written request for clarification or discussion on the written request for additional information must include a statement as to the consequences of failure by the requestor to timely respond to the request for clarification, discussion, or additional information.

RESPONDING BY MAIL OR E-MAIL If the requestor's request for public information included the requestor's physical or mailing address, the request may not be considered withdrawn unless the governmental body, or officer for public information, or agent, as applicable, sends the request for clarification or discussion on the written request for additional information to that address by certified mail.

If the requestor's request for public information was sent by electronic mail, the request may be considered to have been withdrawn if:

1. The governmental body, officer for public information, or agent, as applicable, sends the request for clarification or discussion or the written request for additional information by electronic mail to the same electronic mail address from which the original request was sent or to another electronic mail address provided by the requestor; and
2. The governmental body, officer for public information, or agent, as applicable, does not receive from the requestor a written response or response by electronic mail within the period described by Subsection(d).

Gov't Code 552.222(d)-(g)

TIME FOR EXAMINATION A requestor must complete the examination of the information not later than the tenth business day after the date the custodian of the information makes it available. If the requestor does not complete

the examination of information within ten business days after the date the custodian of the information makes the information available and does not file a request for additional time, the requestor is considered to have withdrawn the request.

The officer for public information shall extend the initial examination period by an additional ten business days if, within the initial period, the requestor files with the officer for public information a written request for additional time. The officer for public information shall extend an additional examination period by another ten business days if, within the first additional period, the requestor files with the officer for public information a written request for more additional time.

The time during which a person may examine information may be interrupted by the officer for public information if the information is needed for use by the governmental body, including a college district. The period of interruption is not considered to be a part of the time during which the person may examine the information.

Gov't Code 552.225

ELECTRONIC DATA

If public information exists in an electronic or magnetic medium, the requestor may request a copy in an electronic medium, such as on diskette or on magnetic tape. A governmental body, including a college district, shall provide a copy in the requested medium if:

1. The governmental body has the technological ability to produce a copy of the requested information in the requested medium;
2. The governmental body is not required to purchase any software or hardware to accommodate the request; and
3. Provision of a copy of the information will not violate the terms of any copyright agreement between the governmental body and a third party.

If a governmental body is unable to comply with a request to produce a copy of information in a requested medium for any of these reasons, the governmental body shall provide a copy in another medium that is acceptable to the requestor. A governmental body is not required to copy information onto a diskette or other material provided by the requestor but may use its own supplies.

Gov't Code 552.228(b)-(c)

REQUESTS
REQUIRING
PROGRAMMING OR
MANIPULATION

A governmental body shall provide the requestor a written statement described below, if the governmental body determines:

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1. That responding to a request for public information will require programming or manipulation of data; and
2. That:
 - a. Compliance with the request is not feasible or will result in substantial interference with its ongoing operations; or
 - b. The information could be made available in the requested form only at a cost that covers the programming and manipulation of data.

The written statement must include:

1. A statement that the information is not available in the requested form;
2. A description of the form in which the information is available;
3. A description of any contract or services that would be required to provide the information in the requested form;
4. A statement of the estimated cost of providing the information in the requested form, as determined in accordance with the rules established by the attorney general under the PIA [see GAB(EXHIBIT)]; and
5. A statement of the anticipated time required to provide the information in the requested form.

Gov't Code 552.231(a)–(b)

RESPONSE TIME
WHEN
PROGRAMMING
OR MANIPULATION
IS REQUIRED

The governmental body shall provide the written statement to the requestor within 20 days after the date of the governmental body's receipt of the request. The governmental body has an additional ten days to provide the statement if the governmental body gives written notice to the requestor, within 20 days after the date of receipt of the request, that the additional time is needed. *Gov't Code 552.231(c)*

FURTHER
ACTION

On providing the written statement to the requestor as described above, the governmental body does not have any further obligation to provide the information in the requested form or in the form in which it is available, unless within 30 days the requestor states in writing to the governmental body that the requestor:

1. Wants the governmental body to provide the information in the requested form according to the cost and time parameters set out in the statement or according to other terms to which the requestor and the governmental body agree; or
2. Wants the information in the form in which it is available.

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If a requestor does not make a timely written statement, the requestor is considered to have withdrawn the request for information.

Gov't Code 552.231(d)–(d-1)

PROCESSING OF
REQUESTS

The officer for public information of a governmental body shall establish policies that assure the expeditious and accurate processing of requests for information that require programming or manipulation of data. A governmental body shall maintain a file containing all written statements issued under the PIA in a readily accessible location. *Gov't Code 552.231(e)*

REPETITIOUS OR
REDUNDANT
REQUESTS

A governmental body, including a college district, that determines that a requestor has made a request for information for which the governmental body has previously furnished copies to the requestor or made copies available to the requestor on payment of the applicable charges under Government Code Chapter 552, Subchapter F, shall respond to the request, in relation to the information for which copies have been already furnished or made available, in accordance with this section, except that:

1. This section does not prohibit the governmental body from furnishing the information or making the information available to the requestor again in accordance with the request; and
2. The governmental body is not required to comply with this section in relation to information that the governmental body simply furnishes or makes available to the requestor again in accordance with the request.

If the governmental body selects this option, the governmental body is not required to comply with the procedures described below.

Gov't Code 552.232(a)

This section does not apply to information for which the governmental body has not previously furnished copies to the requestor or made copies available to the requestor on payment of applicable charges under Subchapter F. A request by the requestor for information for which copies have not been previously furnished or made available to the requestor, including information that was not furnished or made available because the information was redacted or because the information did not exist at the time of an earlier request, shall be treated in the same manner as any other request for public information under the PIA. *Gov't Code 552.232(d)*

PROCEDURES

The governmental body shall certify to the requestor that copies of all or part of the requested information, as applicable, were previ-

ously furnished to the requestor or made available to the requestor on payment of applicable charges under Subchapter F. The certification must include:

1. A description of the information for which copies have been previously furnished or made available to the requestor;
2. The date the governmental body received the requestor's original request for that information;
3. The date the governmental body previously furnished copies or made available copies of the information to the requestor;
4. A certification that no subsequent additions, deletions, or corrections have been made to that information; and
5. The name, title, and signature of the officer for public information or the officer's agent making the certification.

Gov't Code 552.232(b)

SECTION III: ATTORNEY GENERAL DECISIONS

A governmental body, including a college district, that receives a written request for information that it wishes to withhold from public disclosure and that it considers to be within one of the exceptions to required disclosure under the PIA, must ask for a decision from the attorney general about whether the information is within the exception if there has not been a previous determination about whether the information falls within one of the exceptions [see **SUBMISSION TO ATTORNEY GENERAL**, below]. For these purposes, a "written request" includes a request made in writing that is sent to the officer for public information, or the person designated by that officer, by electronic mail or facsimile transmission. *Gov't Code 552.301(a), (c)*

TIME FOR REQUEST

The governmental body must ask for the attorney general's decision and state the exceptions that apply within a reasonable time but not later than the tenth business day after receiving the written request. If a governmental body does not timely request an attorney general decision and provide the requestor with the information required by Government Code 552.301(d) and (e-1) [see, **STATEMENT TO REQUESTOR**, below], the information requested in writing is presumed to be subject to required public disclosure and must be released unless there is a compelling reason to withhold the information. *Gov't Code 552.301(b), .302*

A governmental body may only request an attorney general decision if the governmental body reasonably believes that the re-

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requested information is excepted from required disclosure. *Tex. Atty. Gen. ORD-665 (2000)*

CALCULATING TIME
LINES

RECEIPT OF
REQUEST FROM
REQUESTOR

For the purposes of Government Code Chapter 552, Subchapter G regarding attorney general decisions, if a governmental body receives a written request by U.S. mail and cannot adequately establish the actual date on which the governmental body received the request, the written request is considered to have been received by the governmental body on the third business day after the date of the postmark on a properly addressed request. *Gov't Code 552.301(a-1)*

SUBMISSION BY
MAIL

When Subchapter G requires a request, notice, or other document to be submitted or otherwise given to a person within a specified period, the requirement is met in a timely fashion if the document is sent to the person by first class U.S. mail or common or contract carrier properly addressed with postage or handling charges prepaid and:

1. It bears a post office cancellation mark or a receipt mark of a common or contract carrier indicating a time within that period; or
2. The person required to submit or otherwise give the document furnishes satisfactory proof that it was deposited in the mail or with a common or contract carrier within that period.

Gov't Code 552.308(a)

ELECTRONIC
SUBMISSIONS

When Subchapter G requires a request, notice, or other document to be submitted or otherwise given to the attorney general within a specified period, the requirement is met in a timely fashion the document is submitted to the attorney general through the attorney general's designated electronic filing system within that period. This provision does not affect the right of a person or governmental body to submit information to the attorney general by mail under Government Code 552.308.

When Subchapter G requires the attorney general to deliver a notice, decision, or other document within a specified period, the requirement is met in a timely fashion if the document is electronically transferred by the attorney general electronically within that period.

Gov't Code 552.309

PREVIOUS
DETERMINATIONS

SAME
INFORMATION

A governmental body, including a college district, must release the requested information and is prohibited from asking for a decision from the attorney general about whether information requested under the PIA is within an exception under the PIA if the government-

tal body has previously requested and received a determination from the attorney general concerning the precise information at issue in a pending request and the attorney general or a court determined that the information is public information under the PIA that is not excepted. This exception applies to specific information that is again requested from a governmental body after the attorney general has previously issued a decision regarding the precise information or records at issue. The law, facts, and circumstances that formed the basis of the prior ruling must not have since changed. *Gov't Code 552.301(f); Tex. Att'y Gen. ORD-673 (2001)*

EXCEPTION

A governmental body may ask for another decision from the attorney general concerning the precise information that was at issue in a prior decision made by the attorney general under Subchapter G if:

1. A suit challenging the prior decision was timely filed against the attorney general in accordance with the PIA concerning the precise information at issue;
2. The attorney general determines that the requestor has voluntarily withdrawn the request for the information in writing or has abandoned the request; and
3. The parties agree to dismiss the lawsuit.

Gov't Code 552.301(g)

CATEGORIES OF
INFORMATION

A governmental body may rely on a previous determination by the attorney general regarding a specific, clearly delineated category of information if:

1. The previous decision is applicable to the type of governmental body from which the information is requested;
2. The previous decision concludes that the category of information is or is not excepted from public disclosure;
3. The elements of law, fact, and circumstances are met to support the previous decision's conclusion that the requested records and information at issue are or are not excepted from public disclosure; and
4. The previous decision explicitly provides that the governmental body or bodies to which the decision applies may withhold the information without the necessity of seeking a decision from the attorney general.

Tex. Att'y Gen. ORD-673 (2001)

A governmental body that relies on any previous determination to withhold information from disclosure should notify the requestor in writing of the decision or ruling upon which it is relying.

A governmental body may withhold from public disclosure the categories of personnel records listed at Texas Attorney General Open Records Decision 684 (2010).

Tex. Att'y Gen. ORD-684 (2010)

A governmental body may withhold from public disclosure personally identifiable, non-directory information in "education records" as defined in the Family Education Rights and Privacy Act of 1974 (FERPA), 20 U.S.C. 1232g [see FL]. *Tex. Att'y Gen. ORD-634 (1995)*

STATEMENT TO
REQUESTOR

A governmental body that requests an attorney general decision must provide to the requestor within a reasonable time but not later than the tenth business day after the date of receiving the requestor's written request:

1. A written statement that the governmental body wishes to withhold the requested information and has asked for a decision from the attorney general about whether the information is within an exception to public disclosure; and
2. A copy of the governmental body's written communication to the attorney general asking for the decision or, if a governmental body's written communication to the attorney general discloses the requested information, a redacted copy of that written communication.

Gov't Code 552.301(d)

SUBMISSION TO
ATTORNEY
GENERAL

A governmental body that requests an attorney general decision must within a reasonable time but not later than the 15th business day after the date of receiving the written request:

1. Submit to the attorney general all of the following:
 - a. Written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld;
 - b. A copy of the written request for information;
 - c. A signed statement as to the date on which the written request for information was received by the governmental body or evidence sufficient to establish that date; and

- d. A copy of the specific information requested, or submit representative samples of the information if a voluminous amount of information was requested.
2. Label that copy of specific information or of the representative samples to indicate which exceptions apply to which parts of the copy.

A governmental body that submits written comments to the attorney general shall send a copy of the comments to the requestor not later than the 15th business day after the governmental body receives the written request. If the written comments disclose or contain the substance of the information requested, the copy of the comments provided to the requestor shall be redacted.

Gov't Code 552.301(e)–(e-1)

Unless the information requested is confidential by law, the governmental body may disclose the requested information to the public or the requestor before the attorney general makes a final determination that the requested information is public or, if suit is filed under this chapter, before a final determination that the requested information is public has been made by the court with jurisdiction over the suit, except as otherwise provided by Government Code 552.322. *Gov't Code 552.303(a)*

ELECTRONIC
SUBMISSION

A governmental body that requests a decision from the attorney general about whether requested public information is exempted from public disclosure may submit that request for decision to the attorney general through the attorney general's designated electronic filing system. The governmental body's request for decision must comply with the requirements of Government Code 552.301.

The deadlines in Government Code 552.301 and 552.303 are met if the governmental body timely submits the required documents and other materials through the attorney general's designated electronic filing system within the time prescribed.

The governmental body must comply with the requirements of Government Code 552.301(d) and (e-1) and 552.305 regardless of whether the request for attorney general decision is submitted electronically or through another permissible method of submission.

To use the attorney general's designated electronic filing system, the governmental body must agree to and comply with the terms and conditions of use as outlined on the attorney general's designated electronic filing system website.

The confidentiality of Government Code 552.3035 applies to information submitted under Government Code 552.301(e)(1)(D) through the attorney general's designated electronic filing system.

1 TAC 63.22

ADDITIONAL
INFORMATION

If the attorney general determines that information in addition to that required by Government Code 552.301 is necessary to render a decision, the attorney general shall give written notice of that fact to the governmental body. The governmental body shall submit the necessary additional information to the attorney general not later than the seventh calendar day after the date the notice is received. If a governmental body does not comply with the attorney general's request, the information that is the subject of a person's request to the governmental body and regarding which the governmental body fails to timely submit to the attorney general is presumed to be subject to required public disclosure and must be released unless there exists a compelling reason to withhold the information. *Gov't Code 552.303(c)-(e)*

PRIVACY OR
PROPERTY
INTERESTS

In a case in which information is requested and a person's privacy or property interests may be involved, including a case under Government Code 552.101 (information confidential by law), 552.104 (information related to competitive bidding), 552.110 (trade secrets), and 552.114 (student records), a governmental body may decline to release the information for the purpose of requesting an attorney general decision. A person whose interests may be involved, or any other person, may submit in writing to the attorney general the person's reasons why the information should be withheld or released. The governmental body may, but is not required to, submit its reasons why the information should be withheld or released. *Gov't Code 552.305(a)-(c)*

NOTICE TO
OWNER OF
PROPRIETARY
INFORMATION

If release of a person's proprietary information may be subject to exception under Government Code 552.101 (information confidential by law), 552.110 (trade secrets), 552.113 (geological or geophysical information), or 552.131 (economic development information), a governmental body that requests an attorney general decision shall make a good faith attempt to notify that person of the request for the attorney general decision. The notice must:

1. Be in writing and be sent within a reasonable time not later than the tenth business day after the date the governmental body receives the request for information; and
2. Include:

- a. A copy of any written request for information, if any, received by the governmental body; and
- b. A statement, in the form prescribed by the attorney general, that the person is entitled to submit in writing to the attorney general within a reasonable time, not later than the tenth business day after the date the person receives the notice, each reason the person has as to why the information should be withheld and a letter, memorandum, or brief in support of that reason.

Gov't Code 552.305(d)

SECTION IV: CHARGES REGARDING PUBLIC INFORMATION REQUESTS

The charge for providing a copy of public information shall be an amount that reasonably includes all costs related to reproducing the public information, including costs of materials, labor, and overhead. The charges for providing copies of public information may not be excessive and may not exceed the actual cost of producing the information or for making public information that exists in a paper record available for inspection.

Charges for providing a copy of public information are considered to accrue at the time the governmental body, including a college district, advises the requestor that the copy is available on payment of the applicable charges.

Gov't Code 552.261(a), (d), .262(a)

50 PAGES OR LESS

If a request is for 50 or fewer pages of paper records, the charge for providing the copy of the public information may not include costs of materials, labor, or overhead, but shall be limited to the charge for each page of the paper record that is photocopied, unless the pages to be photocopied are located in two or more separate buildings that are not physically connected with each other or a remote storage facility. A connection of two buildings by a covered or open sidewalk, an elevated or underground passageway, or a similar facility is insufficient to cause the buildings to be considered separate buildings. *Gov't Code 552.261(a), (c)*

STATEMENT OF
LABOR COSTS

If the charge for providing a copy of public information includes costs of labor, the requestor may require the governmental body's officer for public information or the officer's agent to provide the requestor with a written statement as to the amount of time that was required to produce and provide the copy. The statement must be signed by the officer for public information or the officer's agent, and the officer or agent's name must be typed or legibly

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printed below the signature. A charge may not be imposed for providing the written statement to the requestor. *Gov't Code 552.261(b)*

ATTORNEY
GENERAL'S RULES

The rules adopted by the attorney general shall be used by each governmental body in determining charges for providing copies of public information and in determining the charge, deposit, or bond required for making public information that exists in a paper record available for inspection, except to the extent that other law provides for charges for specific kinds of public information. [See GAB(EXHIBIT)]

A governmental body may determine its own charges for providing copies of public information and its own charge, deposit, or bond for making public information that exists in a paper record available for inspection but may not charge an amount that is greater than 25 percent more than the amount established by the attorney general, unless the governmental body requests an exemption.

Gov't Code 552.262(a); 1 TAC 70.1(b)

EXEMPTIONS

A governmental body may request that it be exempt from part or all of the rules adopted by the attorney general for determining charges for providing copies of public information or the charge, deposit, or bond required for making public information that exists in a paper record available for inspection. The request must be made in writing to the attorney general and must state the reason for the exemption. If the attorney general determines that good cause exists for exempting a governmental body from a part or all of the rules, the attorney general shall give written notice of the determination to the governmental body within 90 days of the request. On receipt of the determination, the governmental body may amend its charges for providing copies of public information or its charge, deposit, or bond required for making public information that exists in a paper record available for inspection according to the attorney general's determination. *Gov't Code 552.262(c)*

STATEMENT OF
ESTIMATED CHARGES

If a request for a copy of public information will result in the imposition of a charge that exceeds \$40, or a request to inspect a paper record will result in the imposition of a charge under Government Code 552.271 that exceeds \$40, the governmental body shall provide the requestor with a written itemized statement that details all estimated charges that will be imposed, including any allowable charges for labor or personnel costs. If an alternative less costly method of viewing the records is available, the statement must include a notice that the requestor may contact the governmental body regarding the alternative method. A governmental body must inform the requestor of the responsibilities imposed on the requestor by Government Code 552.2615 and of the rights granted by

that entire section and give the requestor the information needed to respond, including:

1. That the requestor must provide the governmental body with a mailing, facsimile transmission, or electronic mail address to receive the itemized statement and that it is the requestor's choice which type of address to provide;
2. That the request is considered automatically withdrawn if the requestor does not respond in writing to the itemized statement and any updated itemized statement in the time and manner required by this section; and
3. That the requestor may respond to the statement by delivering the written response to the governmental body by mail, in person, by facsimile transmission if the governmental body is capable of receiving documents transmitted in that manner, or by electronic mail if the governmental body has an electronic mail address.

If the governmental body later determines, but before it makes the copy or the paper record available, that the estimated charges will exceed the charges detailed in the original itemized statement by 20 percent or more, the governmental body shall send to the requestor a written updated itemized statement that details all estimated charges that will be imposed, including any allowable charges for labor or personnel costs.

Gov't Code 552.2615(a), (c)

REQUESTOR'S
RESPONSE

A request described by Government Code 552.2615(a), above, is considered to have been withdrawn by the requestor if the requestor does not respond in writing to the itemized statement by informing the governmental body within ten business days after the date the statement is sent to the requestor that:

1. The requestor will accept the estimated charges;
2. The requestor is modifying the request in response to the itemized statement; or
3. The requestor has sent to the attorney general a complaint alleging that the requestor has been overcharged for being provided with a copy of the public information.

Gov't Code 552.2615(b)

ACTUAL CHARGES

If the actual charges that a governmental body imposes for a copy of public information, or for inspecting a paper record under Government Code 552.271, exceeds \$40, the charges may not exceed:

1. The amount estimated in the updated itemized statement; or
2. If an updated itemized statement is not sent to the requestor, an amount that exceeds by 20 percent or more the amount estimated in the original itemized statement.

Gov't Code 552.2615(d)

TIMING OF
DEADLINES

An itemized statement or updated itemized statement is considered to have been sent by the governmental body to the requestor on the date that:

1. The statement is delivered to the requestor in person;
2. The governmental body deposits the properly addressed statement in the U.S. mail; or
3. The governmental body transmits the properly addressed statement by electronic mail or facsimile transmission, if the requestor agrees to receive the statement by electronic mail or facsimile transmission, as applicable.

A requestor is considered to have responded to the itemized statement or the updated itemized statement on the date that:

1. The response is delivered to the governmental body in person;
2. The requestor deposits the properly addressed response in the U.S. mail; or
3. The requestor transmits the properly addressed response to the governmental body by electronic mail or facsimile transmission.

The time deadlines do not affect the application of a time deadline imposed on a governmental body for requesting a decision by the attorney general under the PIA.

Gov't Code 552.2615(e)-(g)

DEPOSIT OR BOND

An officer for public information or the official's agent may require a deposit or bond for payment of anticipated costs for the preparation of a copy of public information if:

1. The officer for public information or the officer's agent has provided the requestor with the written itemized statement required by Government Code 552.2615 [see STATEMENT OF ESTIMATED CHARGES, above] detailing the estimated charge for providing the copy; and

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2. The charge for providing the copy of the public information specifically required by the requestor is estimated by the governmental body to exceed \$100, if the governmental body has more than 15 full-time employees, or \$50, if the governmental body has fewer than 16 full-time employees.

The officer for public information or the officer's agent may not require a deposit or bond as a down payment for copies of public information that the requestor may request in the future.

For the purposes of charging for providing copies of public information under Government Code Chapter 552, Subchapter F or for requesting an attorney general's opinion under Government Code Chapter 552, Subchapter G, a request for a copy of public information is considered to have been received by a governmental body on the date the governmental body receives the deposit or bond for payment of anticipated costs or unpaid amounts if the governmental body's officer for public information or the officer's agent requires a deposit or bond in accordance with this section. A requestor who fails to make a required deposit or post a bond before the tenth business day after the date the deposit or bond is required is considered to have withdrawn the request for the copy of the public information that precipitated the requirement of the deposit or bond.

Gov't Code 552.263(a)-(b), (e)-(f)

MODIFIED
REQUEST

If a requestor modifies the request in response to the requirement of a deposit or bond, the modified request is considered a separate request and is considered received on the date the governmental body receives the written modified request. *Gov't Code 552.263(e-1)*

UNPAID AMOUNTS

An officer for public information or the officer's agent may require a deposit or bond for payment of unpaid amounts owing to the governmental body in relation to previous requests that the requestor has made under the PIA before preparing a copy of public information in response to a new request, if those unpaid amounts exceed \$100. The officer for public information or the officer's agent may not seek payment of those unpaid amounts through any other means. *Gov't Code 552.263(c)*

A governmental body that receives a request from a requestor who, within the preceding 180 days, has accepted but failed to pay written itemized statements of estimated charges from the governmental body as provided under Government Code 552.261(b) may require the requestor to pay the estimated charges for the request before the request is fulfilled. *Gov't Code 552.2661*

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DOCUMENTATION OF UNPAID AMOUNTS The governmental body must fully document the existence and amount of those unpaid amounts or the amount of any anticipated costs, as applicable, before requiring a deposit or bond. The documentation is subject to required public disclosure under the PIA. *Gov't Code 552.263(d)*

WAIVERS A governmental body shall provide a copy of public information without charge or at a reduced charge if the governmental body determines that waiver or reduction of the charge is in the public interest because providing the information primarily benefits the general public.

If the cost to a governmental body of processing the collection of a charge for providing a copy of public information will exceed the amount of the charge, the governmental body may waive the charge.

Gov't Code 552.267

GOVERNMENT PUBLICATION The cost provisions described above do not apply to a publication that is compiled and printed by or for a governmental body for public dissemination. If the cost of the publication is not determined by state law, a governmental body may determine the charge for providing the publication. The governmental body may provide the publication free of charge if state law does not require a certain charge. *Gov't Code 552.270*

SECTION V: INSPECTION OF PUBLIC INFORMATION

If the requestor does not request a copy of public information, a charge may not be imposed for making available for inspection any public information that exists in a paper record, except as set forth below. *Gov't Code 552.271(a)*

CONFIDENTIAL INFORMATION If a requested page contains confidential information that must be edited from the record before the information can be made available for inspection, the governmental body may charge for the cost of making a photocopy of the page from which confidential information must be edited. No charge other than the cost of the photocopy may be imposed. *Gov't Code 552.271(b)*

PAYMENT, DEPOSIT, OR BOND An officer for public information or the officer's agent may require a requestor to pay, or to make a deposit or post a bond for the payment of, anticipated personnel costs for making available for inspection public information that exists in paper records if:

1. The public information specifically requested by the requestor is older than five years or completely fills, or when assembled will completely fill, six or more archival boxes; and

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2. The officer for public information or agent estimates that more than five hours will be required to make the information available for inspection.

Gov't Code 552.271(c)

CERTAIN SMALL
GOVERNMENTAL
BODIES

If a governmental body has fewer than 16 full-time employees, the payment, deposit, or bond may be required only if:

1. The public information specifically requested by the requestor is older than three years or completely fills, or when assembled will completely fill, three or more archival boxes; and
2. The officer for public information or the officer's agent estimates that more than two hours will be required to make the information available for inspection.

Gov't Code 552.271(d)

ELECTRONIC
RECORDS

In response to a request to inspect information that exists in an electronic medium and that is not available directly online to the requestor, a charge may not be imposed for access to the information unless complying with the request will require programming or manipulation of data. If programming or manipulation of data is required, the governmental body shall notify the requestor before assembling the information and provide the requestor with an estimate of charges that will be imposed to make the information available. A charge under this section must be assessed in accordance with the PIA.

If public information exists in an electronic form on a computer owned or leased by a governmental body and if the public has direct access to that computer through a computer network or other means, the electronic form of the information may be electronically copied from that computer without charge if accessing the information does not require processing, programming, or manipulation on the government-owned or government-leased computer before the information is copied. If public information exists in an electronic form on a computer owned or leased by a governmental body and if the public has direct access to that computer through a computer network or other means and the information requires processing, programming, or manipulation before it can be electronically copied, a governmental body may impose charges in accordance with the PIA.

If information is created or kept in an electronic form, a governmental body is encouraged to explore options to separate out confidential information and to make public information available to the public through electronic access through a computer network or other means.

Gov't Code 552.272(a)-(d)

SECTION VI: MISCELLANEOUS PROVISIONS

LARGE OR FREQUENT
REQUESTS

PERSONNEL TIME

A governmental body, including a college district, may establish a reasonable limit on the amount of time that personnel of the governmental body are required to spend producing public information for inspection or duplication by a requestor, or providing copies of public information to a requestor, without recovering its costs attributable to that personnel time. The time limit may not be less than 36 hours for a requestor during the 12-month period that corresponds to the fiscal year of the governmental body. *Gov't Code 552.275(a)-(b)*

REQUEST BY
MINOR

In determining whether a time limit applies, any time spent complying with a request for public information submitted in the name of a minor, as defined by Family Code 101.003(a), is to be included in the calculation of the cumulative amount of time spent complying with a request for public information by a parent, guardian, or other person who has control of the minor under a court order and with whom the minor resides, unless that parent, guardian, or other person establishes that another person submitted that request in the name of the minor. *Gov't Code 552.275(c)*

EXCEPTION

This section does not apply if the requestor is an individual who, for a substantial portion of the individual's livelihood or for substantial financial gain, gathers, compiles, prepares, collects, photographs, records, writes, edits, reports, investigates, processes, or publishes news or information for and is seeking the information for:

1. A radio or television broadcast station that holds a broadcast license for an assigned frequency issued by the Federal Communications Commission;
2. A newspaper that is qualified under Government Code 2051.044 to publish legal notices or is a free newspaper of general circulation and that is published at least once a week and available and of interest to the general public in connection with the dissemination of news;
3. A newspaper of general circulation that is published on the Internet by a news medium engaged in the business of disseminating news or information to the general public; or
4. A magazine that is published at least once a week or on the Internet by a news medium engaged in the business of disseminating news or information to the general public.

This section does not apply if the requestor is an elected official of the United States, this state, or a political subdivision of this state. This section does not apply if the requestor is a representative of a

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publicly funded legal services organization that is exempt under Internal Revenue Code 501(c)(3).

Gov't Code 552.275(j)-(l)

WRITTEN
STATEMENT OF
PERSONNEL TIME

If a governmental body establishes a time limit, each time the governmental body complies with a request for public information, the governmental body shall provide the requestor with a written statement of the amount of personnel time spent complying with that request and the cumulative amount of time spent complying with requests for public information from that requestor during the applicable 12-month period. The amount of time spent preparing the written statement may not be included in the amount of time in the statement provided by the requestor. *Gov't Code 552.275(d)*

WRITTEN ESTIMATE
OF CHARGES

If in connection with a request for public information, the cumulative amount of personnel time spent complying with requests for public information from the same requestor equals or exceeds the established time limit, the governmental body shall provide the requestor with a written estimate of the total cost, including materials, personnel time, and overhead expenses, necessary to comply with the request. The written estimate must be provided to the requestor on or before the tenth day after the date on which the public information was requested. The amount of this charge relating to the cost of locating, compiling, and producing the public information shall be established by rules prescribed by the attorney general. *Gov't Code 552.275(e)*

ADDITIONAL TIME

If the governmental body determines that additional time is required to prepare the written estimate and provides the requestor with a written statement of that determination, the governmental body must provide the written estimate as soon as practicable, but on or before the tenth day after the date the governmental body provided the statement. *Gov't Code 552.275(f)*

ACCEPTANCE OF
CHARGES

If a governmental body provides a requestor with the written estimate, the governmental body is not required to produce public information for inspection or duplication or to provide copies of public information in response to the requestor's request unless on or before the tenth day after the date the governmental body provided the written estimate, the requestor submits a statement in writing to the governmental body in which the requestor commits to pay the lesser of:

1. The actual costs incurred in complying with the request, including the cost of materials, personnel time, and overhead; or
2. The amount stated in the written estimate.

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If the requestor fails or refuses to submit a written statement, the requestor is considered to have withdrawn the requestor's pending request for public information.

Gov't Code 552.275(g)-(h)

WAIVED OR
REDUCED
CHARGES

This section does not prohibit a governmental body from providing a copy of public information without charge or at a reduced rate under Government Code 552.267, or from waiving a charge for providing a copy of public information under Section 552.267 [see WAIVERS, above]. *Gov't Code 552.275(i)*

FILING SUIT TO
WITHHOLD
INFORMATION

The only suit a governmental body, including a college district, may file seeking to withhold information from a requestor is a suit that:

1. Is filed in a Travis County district court against the attorney general in accordance with Government Code 552.325; and
2. Seeks declaratory relief from compliance with a decision by the attorney general issued under Government Code Chapter 552, Subchapter G.

The governmental body must bring the suit not later than the 30th calendar day after the date the governmental body receives the decision of the attorney general determining that the requested information must be disclosed to the requestor. If the governmental body does not bring suit within that period, the governmental body shall comply with the decision of the attorney general. If the governmental body wishes to preserve an affirmative defense for its officer for public information, as provided by Government Code 552.353(b)(3), suit must be filed not later than the tenth calendar day after receipt of a decision by the attorney general that the information is public.

Gov't Code 552.324, .353(b)(3)

REQUESTS FOR
BODY-WORN CAMERA
RECORDINGS

A member of the public is required to provide the following information when submitting a written request to a law enforcement agency for information recorded by a body-worn camera:

CONTENTS OF
REQUEST

1. The date and approximate time of the recording;
2. The specific location where the recording occurred; and
3. The name of one or more persons known to be a subject of the recording.

A failure to provide all of the information required to be part of a request for recorded information does not preclude the requestor from making a future request for the same recorded information.

Occupations Code 1701.661(a)-(b)

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RESPONSE TO
REQUESTS

A law enforcement agency may:

1. Seek to withhold information subject to Occupations Code 1701.661(d) in accordance with procedures provided by Government Code 552.301;
2. Assert any exceptions to disclosure in the PIA or other law; or
3. Release information requested in accordance with Occupations Code 1701.661(a) after the agency redacts any information made confidential under the PIA or other law.

Occupations Code 1701.661(e)

REQUEST FOR
ATTORNEY
GENERAL DECISION

Notwithstanding Government Code 552.301(b) [see TIME FOR REQUEST, above], a governmental body's request for a decision from the attorney general about whether a requested body-worn camera recording falls within an exception to public disclosure is considered timely if made not later than the 20th business day after the date of receipt of the written request. *Occupations Code 1701.662(a)*

Notwithstanding Government Code 552.301(d) [see STATEMENT TO REQUESTOR, above], a governmental body's response to a requestor regarding a requested body-worn camera recording is considered timely if made not later than the 20th business day after the date of receipt of the written request. *Occupations Code 1701.662(b)*

Notwithstanding Government Code 552.301(e) [see SUBMISSION TO ATTORNEY GENERAL, above], a governmental body's submission to the attorney general of the information required by that subsection regarding a requested body-worn camera recording is considered timely if made not later than the 25th business day after the date of receipt of the written request. *Occupations Code 1701.662(c)*

Notwithstanding Government Code 552.301(e-1) [see SUBMISSION TO ATTORNEY GENERAL, above], a governmental body's submission to a requestor of the information required by that subsection regarding a requested body-worn camera recording is considered timely if made not later than the 25th business day after the date of receipt of the written request. *Occupations 1701.662(d)*

RESPONSE TO
VOLUMINOUS
PUBLIC
INFORMATION
REQUESTS

Notwithstanding Government Code 552.221(d) [see TIME FOR RESPONSE, above], an officer for public information who is employed by a governmental body and who receives a voluminous request in accordance with Occupations Code 1701.661(a) is considered to have promptly produced the information for purposes of Section 552.221 if the officer takes the actions required under Sec-

tion 552.221 before the 21st business day after the date of receipt of the written request.

"Voluminous request" includes:

1. A request for body-worn camera recordings from more than five separate incidents;
2. More than five separate requests for body-worn camera recordings from the same person in a 24-hour period, regardless of the number of incidents included in each request; or
3. A request or multiple requests from the same person in a 24-hour period for body-worn camera recordings that, taken together, constitute more than five total hours of video footage.

Occupations Code 1701.663

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CHARGING FOR
PERSONNEL TIME

In addition to other labor charges permitted by law, after College District personnel have collectively spent 36 hours of time producing public information for a requestor during the College District's fiscal year, the College District shall charge the requestor for any additional personnel time spent producing information for the requestor, in accordance with law.

GUIDELINES FOR COPY CHARGES

The charges in this exhibit, to recover costs associated with providing copies of public information, are based on estimated average costs to governmental bodies across the state. When actual costs are 25 percent higher than those used in these rules, governmental bodies other than agencies of the state may request an exemption in accordance with 1 Administrative Code 70.4.

Copy charges

Standard-paper copy: The charge for standard paper copies reproduced by means of an office machine copier or a computer printer is \$.10 per page or part of a page. Each side that has recorded information is considered a page. 1 TAC 70.3(b)(1), .10(1)

Nonstandard-size copy: The charges below are to cover the materials onto which information is copied and do not reflect any additional charges, including labor, that may be associated with a particular request. The charges for nonstandard copies are:

1. Diskette — \$1.00
2. Magnetic tape — actual cost
3. Data cartridge — actual cost
4. Tape cartridge — actual cost
5. Rewritable CD (CD-RW) — \$1.00
6. Non-rewritable CD (CD-R) — \$1.00
7. Digital video disc (DVD) — \$3.00
8. JAZ drive — actual cost
9. Other electronic media — actual cost
10. VHS video cassette — \$2.50
11. Audio cassette — \$1.00
12. Oversize paper copy (e.g., 11" x 17", greenbar, bluebar, not including maps and photographs using specialty paper; see also 1 Administrative Code 70.9) — \$.50
13. Specialty paper (e.g., Mylar, blueprint, blueline, map, photographic) — actual cost

1 TAC 70.3(b)(2), .10(2)

Labor charges

For programming: If a particular request requires the services of a programmer in order to execute an existing program or to create a new program so that requested information may be accessed and copied, the governmental body may charge for the programmer's time. The hourly charge for a programmer is \$28.50 an hour. Only programming services will be charged at this hourly rate. Governmental bodies that do not have in-house programming

capabilities will comply with requests in accordance with Government Code 552.231. If the charge for providing a copy of public information includes costs of labor, a governmental body will comply with the requirements of Government Code 552.261(b). *1 TAC 70.3(c), .10(3)–(4)*

For locating, compiling, manipulating data, and reproducing public information: The charge for labor costs incurred in processing a request for public information is \$15 an hour. The labor charge includes the actual time to locate, compile, manipulate data, and reproduce the requested information.

A labor charge will not be billed in connection with complying with requests that are for 50 or fewer pages of paper records, unless the documents to be copied are located in two or more separate buildings that are not physically connected to each other or a remote storage facility. For purposes of this provision, two buildings connected by a covered or open sidewalk, an elevated or underground passageway, or a similar facility, are not considered to be separate buildings.

A labor charge will not be recovered for any time spent by an attorney, legal assistant, or any other person who reviews the requested information:

1. To determine whether the governmental body will raise any exceptions to disclosure of the requested information under Government Code Chapter 552, Subchapter C; or
2. To research or prepare a request for a ruling by the attorney general's office pursuant to Government Code 552.301.

When confidential information pursuant to a mandatory exception of the Act is mixed with public information in the same page, a labor charge may be recovered for time spent to redact, blackout, or otherwise obscure confidential information in order to release the public information. A labor charge will not be made for redacting confidential information for requests of 50 or fewer pages, unless the request also qualifies as a labor charge pursuant to Government Code 552.261(a)(1) or (2).

If the charge for providing a copy of public information includes costs of labor, a governmental body will comply with the requirements of Government Code 552.261.

1 TAC 70.3(d), .10(3)

Overhead charges

Whenever any labor charge is applicable to a request, a governmental body may include in the charges direct and indirect costs, in addition to the specific labor charge. This overhead charge would cover such costs as depreciation of capital assets, rent, maintenance and repair, utilities, and administrative overhead. If a governmental body chooses to recover such costs, a charge will be made in accordance with the methodology described below. Although an exact calculation of costs will vary, the use of a standard charge will avoid complication in calculating such costs and will provide uniformity for charges made statewide.

An overhead charge will not be made for requests for copies of 50 or fewer pages of standard paper records unless the request also qualifies for a labor charge pursuant to Government Code 552.261(a)(1) or (2).

The overhead charge will be computed at 20 percent of the charge made to cover any labor costs associated with a particular request. For example, if one hour of labor is used for a particular request, the formula would be as follows: Labor charge for locating, compiling, and reproducing, $\$15.00 \times .20 = \3 ; or programming labor charge, $\$28.50 \times .20 = \5.70 . If a request requires one hour of labor charge for locating, compiling, and reproducing information ($\$15.00$ per hour); and one hour of programming labor charge ($\$28.50$ per hour), the combined overhead would be: $\$15 + \$28.50 = \$43.50 \times .20 = \8.70 .

1 TAC 70.3(e), .10(4)

Microfiche and microfilm charges

If a governmental body already has information that exists on microfiche or microfilm and has copies available for sale or distribution, the charge for a copy must not exceed the cost of its reproduction. If no copies of the requested microfiche or microfilm are available and the information on the microfiche or microfilm can be released in its entirety, the governmental body should make a copy of the microfiche or microfilm. The charge for a copy will not exceed the cost of its reproduction. The Texas State Library and Archives Commission has the capacity to reproduce microfiche and microfilm for the governmental body. Governmental bodies that do not have in-house capability to reproduce microfiche or microfilm are encouraged to contact the Texas State Library before having the reproduction made commercially.

If only a master copy of information in microform is maintained, the charge is \$.10 per page for standard size paper copies plus any applicable labor and overhead charge for more than 50 copies.

1 TAC 70.3(f), .10(5)

Remote document retrieval charges

Due to limited on-site capacity of storage of documents, it is frequently necessary to store information that is not in current use in remote storage locations. Every effort should be made by a governmental body to store current records on-site. To the extent that the retrieval of documents results in a charge to comply with a request, it is permissible to recover costs of such services for requests that qualify for labor charges under current law.

If a governmental body has a contract with a commercial records storage company, whereby the private company charges a fee to locate, retrieve, deliver, and return to storage the needed record(s), no additional labor charge will be factored in for time spent locating documents at the storage location by the private company's personnel. If after delivery to the governmental body the boxes must still be searched for records that are responsive to the request, a labor charge is allowed in accordance with 1 Administrative Code 70.3(d)(1) [see For locating, compiling, manipulating data, and reproducing public information, above].

1 TAC 70.3(g), .10(6)

Computer resource charges

The computer resource charge is a utilization charge for computers based on the amortized cost of acquisition, lease, operation, and maintenance of computer resources, which might include, but is not limited to, some or all of the following: central processing units (CPUs),

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servers, disk drives, local area networks (LANs), printers, tape drives, other peripheral devices, communications devices, software, and system utilities.

These computer resource charges are not intended to substitute for cost recovery methodologies or charges made for purposes other than responding to public information requests.

The charges in this section are averages based on a survey of governmental bodies with a broad range of computer capabilities. Each governmental body using this cost recovery charge will determine which category(ies) of computer system(s) used to fulfill the public information request most closely fits its existing system(s) and set its charge accordingly:

| <u>Type of System</u> | <u>Rate</u> |
|-----------------------|------------------------|
| Mainframe | \$10.00 per CPU minute |
| Midsized | \$ 1.50 per CPU minute |
| Client/Server | \$ 2.20 per clock hour |
| PC or LAN | \$ 1.00 per clock hour |

The charge made to recover the computer utilization cost is the actual time the computer takes to execute a particular program times the applicable rate. The CPU charge is not meant to apply to programming or printing time; rather, it is solely to recover costs associated with the actual time required by the computer to execute a program. This time, called CPU time, can be read directly from the CPU clock, and most frequently will be a matter of seconds. If programming is required to comply with a particular request, the appropriate charge that may be recovered for programming time is described at 1 Administrative Code 70.3(d) [see Labor charges, above]. No charge should be made for computer print-out time. For example, if a mainframe computer is used, and the processing time is 20 seconds, the charges would be as follows: $\$10 / 3 = \3.33 ; or $\$10 / 60 \times 20 = \3.33 .

A governmental body that does not have in-house computer capabilities will comply with requests in accordance with Government Code 552.231.

1 TAC 70.3(h), .10(7)

Miscellaneous supplies

The actual cost of miscellaneous supplies, such as labels, boxes, and other supplies used to produce the requested information, may be added to the total charge for public information.

1 TAC 70.3(i), .10(8)

Postal and shipping charges

Governmental bodies may add any related postal or shipping expenses that are necessary to transmit the reproduced information to the requesting party. *1 TAC 70.3(j), .10(9)*

Sales tax

Pursuant to Office of the Comptroller of Public Accounts' rules, sales tax will not be added on charges for public information. (34 Administrative Code, Part 1, Chapter 3, Subchapter O, 3.341 and 3.342). *1 TAC 70.3(k), .10(14)*

Miscellaneous charges

A governmental body that accepts payment by credit card for copies of public information and that is charged a transaction fee by the credit card company may recover that fee. 1 TAC 70.3(l)

Note: For institutional reports required to be distributed to students, see AFA.

CLERY ACT
REPORTING

Under the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, each eligible institution participating in any program under 20 U.S.C. Chapter 28, Subchapter IV, Part F and 42 U.S.C. Chapter 34, Subchapter I, Part C, shall on August 1, 1991, begin to collect information with respect to campus crime statistics and campus security policies of that institution, and, beginning September 1, 1992, and each year thereafter, prepare, publish, and distribute, through appropriate publications or mailings, to all current students and employees, and to any applicant for enrollment or employment upon request, an annual security report containing at least the information with respect to the campus security policies and campus crime statistics of that institution. *20 U.S.C. 1092(f)*

DEFINITIONS
"CAMPUS"

"Campus" means any building or property owned or controlled by an institution of higher education within the same reasonably contiguous geographic area of the institution and used by the institution in direct support of, or in a manner related to, the institution's educational purposes, including residence halls; and any building or property within the same reasonably contiguous geographic area of the institution that is owned by the institution but controlled by another person, is frequently used by students, and supports institutional purposes, such as a food or other retail vendor.

In cases where branch campuses of an institution of higher education, schools within an institution of higher education, or administrative divisions within an institution are not within a reasonably contiguous geographic area, such entities shall be considered separate campuses for purposes of the reporting requirements of the Clery Act.

20 U.S.C. 1092(f)(6)(A)(i), (B); 34 C.F.R. 668.46(a)

"CAMPUS
SECURITY
AUTHORITY"

A "campus security authority" means:

1. A campus police department or a campus security department of an institution.
2. Any individual or individuals who have responsibility for campus security but who do not constitute a campus police department or a campus security department under this definition, such as an individual who is responsible for monitoring entrance into institutional property.

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3. Any individual or organization specified in an institution's statement of campus security policy as an individual or organization to which students and employees should report criminal offenses.
4. An official of an institution who has significant responsibility for student and campus activities, including, but not limited to, student housing, student discipline, and campus judicial proceedings. If such an official is a pastoral or professional counselor as defined by 34 C.F.R. 668.46(a), the official is not considered a campus security authority when acting as a pastoral or professional counselor.

34 C.F.R. 668.46(a)

“CLERY
GEOGRAPHY”

For the purposes of collecting statistics on the crimes listed in 34 C.F.R. 668.46(c) [see REPORTED CRIMES and RECORDING CRIMES, below] for submission to the U.S. Department of Education and inclusion in an institution's annual security report, Clery geography includes:

1. Buildings and property that are part of the institution's campus;
2. The institution's noncampus buildings and property; and
3. Public property within or immediately adjacent to and accessible from the campus.

For the purposes of maintaining the crime log required in 34 C.F.R. 668.46(f) [see CRIME LOG, below], “Clery geography” includes, in addition to the locations listed above in this definition, areas within the patrol jurisdiction of the campus police or the campus security department.

34 C.F.R. 668.46(a)

“HATE CRIME”

The term “hate crime” means a crime reported to local police agencies or to a campus security authority that manifests evidence that the victim was intentionally selected because of the perpetrator's bias against the victim. For the purposes of the Clery Act, the categories of bias include the victim's actual or perceived race, religion, gender, gender identity, sexual orientation, ethnicity, national origin, and disability.

“NONCAMPUS
BUILDING OR
PROPERTY”

The term “noncampus building or property” means any building or property owned or controlled by a student organization recognized by the institution and any building or property, other than a branch campus, owned or controlled by an institution of higher education that is used in direct support of, or in relation to, the institution's

educational purposes, is used by students, and is not within the same reasonably contiguous geographic area of the institution. 20 U.S.C. 1092(f)(6)(A)(ii); 34 C.F.R. 668.46(a)

“PUBLIC
PROPERTY”

The term “public property” means all public property that is within the same reasonably contiguous geographic area of the institution, such as a sidewalk, a street, other thoroughfare, or parking facility, and is adjacent to a facility owned or controlled by the institution if the facility is used by the institution in direct support of, or in a manner related to the institution’s educational purposes. 20 U.S.C. 1092(f)(6)(A)(iii); 34 C.F.R. 668.46(a)

ANNUAL SECURITY
REPORT

An institution must prepare an annual security report that contains, at a minimum, the following information:

1. The crime statistics described in 34 C.F.R. 668.46(c) [see REPORTED CRIMES, below].
2. A statement of policies regarding procedures for students and others to report criminal actions or other emergencies occurring on campus. This statement must include the institution’s policies concerning its response to these reports, including:
 - a. Policies for making timely warning reports to members of the campus community, as required by 34 C.F.R. 668.46(e) [see EMERGENCY NOTIFICATION, below], regarding the occurrence of crimes described in 34 C.F.R. 668.46(c)(1) [see REPORTED CRIMES, below];
 - b. Policies for preparing the annual disclosure of crime statistics;
 - c. A list of the titles of each person or organization to whom students and employees should report the criminal offenses described in 34 C.F.R. 668.46(c)(1) [see REPORTED CRIMES, below] for the purposes of making timely warning reports and the annual statistical disclosure; and
 - d. Policies or procedures for victims or witnesses to report crimes on a voluntary, confidential basis for inclusion in the annual disclosure of crime statistics.
3. A statement of policies concerning security of and access to campus facilities, including campus residences, and security considerations used in the maintenance of campus facilities.
4. A statement of policies concerning campus law enforcement that:

- a. Addresses the law enforcement authority and jurisdiction of security personnel;
 - b. Addresses the working relationship of campus security personnel with state and local police agencies, including:
 - (1) Whether those security personnel have the authority to make arrests; and
 - (2) Any agreements, such as written memoranda of understanding between the institution and such agencies, for the investigation of alleged criminal offenses.
 - c. Encourages accurate and prompt reporting of all crimes to the campus police and the appropriate police agencies, when the victim of a crime elects to, or is unable to, make such a report; and
 - d. Describes procedures, if any, that encourage pastoral counselors and professional counselors, if and when they deem it appropriate, to inform the persons they are counseling of any procedures to report crimes on a voluntary, confidential basis for inclusion in the annual disclosure of crime statistics.
5. A description of the type and frequency of programs designed to inform students and employees about campus security procedures and practices and to encourage students and employees to be responsible for their own security and the security of others.
 6. A description of programs designed to inform students and employees about the prevention of crimes.
 7. A statement of policy concerning the monitoring and recording through local police agencies of criminal activity by students at noncampus locations of student organizations officially recognized by the institution, including student organizations with noncampus housing facilities.
 8. A statement of policy regarding the possession, use, and sale of alcoholic beverages and enforcement of state underage drinking laws.
 9. A statement of policy regarding the possession, use, and sale of illegal drugs and enforcement of federal and state drug laws.
 10. A description of any drug or alcohol-abuse education programs, as required under Section 120(a)–(d) of the Higher

Education Act of 1965 (HEA), otherwise known as the Drug-Free Schools and Communities Act of 1989. For the purpose of meeting this requirement, the institution may cross-reference the materials the institution uses to comply with Section 120(a)–(d) of the HEA.

11. A statement advising the campus community where law enforcement agency information provided by a state under Section 121 of the Adam Walsh Child Protection and Safety Act of 2006, 42 U.S.C. 16921, concerning registered sex offenders may be obtained, such as the law enforcement office of the institution, a local law enforcement agency with jurisdiction for the campus, or a computer network address.

20 U.S.C. 1092(f)(1); 34 C.F.R. 668.46(b)

CAMPUS SEXUAL
ASSAULT
PROGRAMS

In accordance with 20 U.S.C. 1092(j) and 34 C.F.R. 668.46(b)(11) and (j)–(k), an institution must prepare an annual security report that contains a statement of policy regarding the institution's programs to prevent dating violence, domestic violence, sexual assault, and stalking, and of procedures that the institution will follow when one of these crimes is reported. [See FA] *20 U.S.C. 1092(f)(8); 34 C.F.R. 668.46(b)(11)*

EMERGENCY
RESPONSE AND
EVACUATION
PROCEDURES

An institution must include a statement of policy regarding its emergency response and evacuation procedures in the annual security report. This statement must include:

1. The procedures the institution will use to immediately notify the campus community upon the confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees occurring on the campus;
2. A description of the process the institution will use to:
 - a. Confirm that there is a significant emergency or dangerous situation as described in item 1;
 - b. Determine the appropriate segment or segments of the campus community to receive a notification;
 - c. Determine the content of the notification; and
 - d. Initiate the notification system;
3. A statement that the institution will, without delay, and taking into account the safety of the community, determine the content of the notification and initiate the notification system, unless issuing a notification will, in the professional judgment of responsible authorities, compromise efforts to assist a victim

or to contain, respond to, or otherwise mitigate the emergency;

4. A list of the titles of the person or persons or organization or organizations responsible for carrying out the actions described in item 2;
5. The institution's procedures for disseminating emergency information to the larger community; and
6. The institution's procedures to test the emergency response and evacuation procedures on at least an annual basis, including:
 - a. Tests that may be announced or unannounced;
 - b. Publicizing its emergency response and evacuation procedures in conjunction with at least one test per calendar year; and
 - c. Documenting, for each test, a description of the exercise, the date, time, and whether it was announced or unannounced.

20 U.S.C. 1092(f)(1); 34 C.F.R. 668.46(b)(13), (g)

MISSING
STUDENT
NOTIFICATION
POLICIES AND
PROCEDURES

An institution that provides any on-campus student housing facility must include a statement of policy regarding missing student notification procedures for students who reside in on-campus student housing facilities in its annual security report in accordance with 20 U.S.C. 1092(j) and 34 C.F.R. 668.46(h). [See FG] *20 U.S.C. 1092(j); 34 C.F.R. 668.46(b)(14), (h)*

REPORTED CRIMES

An institution must report to the U.S. Department of Education and disclose in its annual security report statistics for the three most recent calendar years concerning the number of each of the following crimes that occurred on or within its Clery geography and that are reported to local police agencies or to a campus security authority:

1. Primary crimes, including:
 - a. Criminal homicide:
 - (1) Murder and nonnegligent manslaughter.
 - (2) Negligent manslaughter.
 - b. Sex offenses:
 - (1) Rape;
 - (2) Fondling;

- (3) Incest; and
 - (4) Statutory rape.
 - c. Robbery.
 - d. Aggravated assault.
 - e. Burglary.
 - f. Motor vehicle theft.
 - g. Arson.
- 2. Arrests and referrals for disciplinary actions, including:
 - a. Arrests for liquor law violations, drug law violations, and illegal weapons possession.
 - b. Persons not included in item 2a who were referred for campus disciplinary action for liquor law violations, drug law violations, and illegal weapons possession.
- 3. Hate crimes, including:
 - a. The number of each type of crime in item 1 that are determined to be hate crimes; and
 - b. The number of the following crimes that are determined to be hate crimes:
 - (1) Larceny-theft.
 - (2) Simple assault.
 - (3) Intimidation.
 - (4) Destruction/damage/vandalism of property.
- 4. Dating violence, domestic violence, and stalking.

34 C.F.R. 668.46(c)(1)

In compliance with 34 C.F.R. 668.46(c)(9), an institution must compile the crime statistics using the FBI's UCR program and the Hierarchy Rule. *34 C.F.R. 668.46(c)(9)*

HATE CRIMES

For each hate crime recorded under item 3, an institution must identify the category of bias that motivated the crime. For the purposes of this paragraph, the categories of bias include the victim's actual or perceived race, gender, gender identity, religion, sexual orientation, ethnicity, national origin, and disability. *34 C.F.R. 668.46(c)(4)*

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INFORMATION
SUPPLIED BY A
LOCAL OR STATE
POLICE AGENCY

In complying with the statistical reporting requirements under 34 C.F.R. 668.46(c)(1), an institution must make a reasonable, good faith effort to obtain statistics for crimes that occurred on or within the institution's Clery geography and may rely on the information supplied by a local or state police agency. If the institution makes such a reasonable, good faith effort, it is not responsible for the failure of the local or state police agency to supply the required statistics. *34 C.F.R. 668.46(c)(11)*

RECORDING
CRIMES

An institution must include in its crime statistics all crimes listed in paragraph (c)(1) of this section occurring on or within its Clery geography that are reported to a campus security authority for purposes of Clery Act reporting. Clery Act reporting does not require initiating an investigation or disclosing personally identifying information about the victim, as defined in Section 40002(a)(20) of the Violence Against Women Act of 1994, 42 U.S.C. 13925(a)(20).

An institution must record a crime statistic for the calendar year in which the crime was reported to local police agencies or to a campus security authority. When recording crimes of stalking by calendar year, an institution must follow the requirements in 34 C.F.R. 668.46(c)(6).

34 C.F.R. 668.46(c)(2)(i), (3)

GEOGRAPHIC
BREAKDOWN

An institution must specify whether each of the crimes recorded under 34 C.F.R. 668.46(c)(1) [see REPORTED CRIMES, above] occurred:

1. On campus;
2. In or on a noncampus building or property; or
3. On public property.

An institution must identify, of the crimes that occurred on campus, the number that took place in dormitories or other residential facilities for students on campus. When recording stalking by location, an institution must follow the requirements in 34 C.F.R. 668.46(c)(6).

20 U.S.C. 1092(f)(12); 34 C.F.R. 668.46(c)(5)

IDENTITY OF
VICTIM OR
ACCUSED

The required statistics do not include the identification of the victim or the person accused of committing the crime. *20 U.S.C. 1092(f)(7); 34 C.F.R. 668.46(c)(7)*

REPORTS TO
PASTORAL OR
PROFESSIONAL
COUNSELORS

An institution is not required to report statistics under 34 C.F.R. 668.46(c) for crimes reported to a pastoral or professional counselor. *20 U.S.C. 1092(f)(10); 34 C.F.R. 668.46(c)(8)*

MAPS

In complying with the statistical reporting requirements, the institution may provide a map to current and prospective students and employees that depicts its campus, noncampus buildings or property, and public property areas if the map accurately depicts its campus, noncampus buildings or property, and public property areas. *34 C.F.R. 668.46(c)(10)*

WITHHOLDING
OR REMOVING
REPORTED
CRIMES

An institution may not withhold, or subsequently remove, a reported crime from its crime statistics based on a decision by a court, coroner, jury, prosecutor, or other similar noncampus official.

An institution may withhold, or subsequently remove, a reported crime from its crime statistics in the rare situation where sworn or commissioned law enforcement personnel have fully investigated the reported crime and, based on the results of this full investigation and evidence, have made a formal determination that the crime report is false or baseless and therefore "unfounded." Only sworn or commissioned law enforcement personnel may "unfound" a crime report for purposes of reporting under the Clery Act. The recovery of stolen property, the low value of stolen property, the refusal of the victim to cooperate with the prosecution, and the failure to make an arrest do not "unfound" a crime report.

An institution must report to the U.S. Department of Education and disclose in its annual security report statistics the total number of crime reports listed in 34 C.F.R. 668.46(c)(1) [see REPORTED CRIMES, above] that were "unfounded" and subsequently withheld from its crime statistics during each of the three most recent calendar years.

34 C.F.R. 668.46(c)(2)(ii)–(iii)

CRIME LOG

An institution that maintains a campus police or a campus security department must maintain a written, easily understood daily crime log that records, by the date the crime was reported, any crime that occurred within its Clery geography and that is reported to the campus police or the campus security department. This log must include:

1. The nature, date, time, and general location of each crime;
and
2. The disposition of the complaint, if known.

The institution must make an entry or an addition to an entry to the log within two business days of the report of the information to the campus police or the campus security department, unless that disclosure is prohibited by law or would jeopardize the confidentiality of the victim.

The institution must make the crime log for the most recent 60-day period open to public inspection during normal business hours. The institution must make any portion of the log older than 60 days available within two business days of a request for public inspection.

An institution may withhold the crime log information if there is clear and convincing evidence that the release of such information would jeopardize an ongoing criminal investigation or the safety of an individual, cause a suspect to flee or evade detection, or result in the destruction of evidence. The institution must disclose any information withheld once the adverse effect described is no longer likely to occur.

An institution may withhold only that information that would cause the adverse effects described.

20 U.S.C. 1092(f)(4); 34 C.F.R. 668.46(f)

EMERGENCY
NOTIFICATION

An institution must, in a manner that is timely and that withholds as confidential the names and other identifying information of victims, and will aid in the prevention of similar crimes, report to the campus community on crimes that are:

1. Described in 34 C.F.R. 668.46(c)(1) [see REPORTED CRIMES, above];
2. Reported to campus security authorities as identified under the institution's statement of current campus policies or local police agencies; and
3. Considered by the institution to represent a threat to students and employees.

An institution is not required to provide a timely warning with respect to crimes reported to a pastoral or professional counselor.

If there is an immediate threat to the health or safety of students or employees occurring on campus, as described in 34 C.F.R. 668.46(g)(1), an institution must follow its emergency notification procedures. An institution that follows its emergency notification procedures is not required to issue a timely warning based on the same circumstances; however, the institution must provide adequate follow-up information to the community as needed.

34 C.F.R. 668.46(e)

COMMUNITY USE OF COLLEGE DISTRICT FACILITIES

GD
(LEGAL)

- PROHIBITED ACTS An officer or employee of the state or of a political subdivision of the state, including a college district, who is acting or purporting to act in an official capacity may not, because of a person's race, religion, color, sex, or national origin:
1. Refuse to permit the person to use facilities open to the public and owned, operated, or managed by or on behalf of the state or of a political subdivision of the state;
 2. Refuse to permit the person to participate in a program owned, operated, or managed by or on behalf of the state or of a political subdivision of the state;
 3. Refuse to grant a benefit to the person; or
 4. Impose an unreasonable burden on the person.

Civ. Prac. and Rem. Code 106.001(a)

FIRST AMENDMENT A governmental entity, including a college district, shall take no action respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the board for a redress of grievances. *U.S. Const. Amend. I, XIV*

FORUM ANALYSIS
"TRADITIONAL
PUBLIC FORUM" A "traditional public forum" includes locations, such as sidewalks and parks, where members of the public have historically been permitted to gather and speak on any topic. *Cornelius v. NAACP Legal Def. & Educ. Fund, Inc., 473 U.S. 788 (1985)* An institution's property is not a traditional public forum, with the exception of sidewalks, streets, and parks that are indistinguishable from surrounding city property. *Widmar v. Vincent, 454 U.S. 263 (1981); Brister v. Faulkner, 214 F.3d 675 (2000)*

If an institution's property is deemed a traditional public forum, the entity may exclude particular content if that entity can assert a compelling governmental interest that is narrowly tailored to address that interest, a standard referred to as the "strict scrutiny" standard. The institution can also enforce viewpoint-neutral time, place, and manner restrictions to meet a compelling governmental interest if a sufficient number of alternative communication channels are available. *Perry Educ. Ass'n v. Perry Local Educators' Ass'n, 460 U.S. 37 (1983)*

"DESIGNATED
PUBLIC FORUM" A "designated public forum" is a forum that a college or university intentionally opens to the general public to discuss matters of public concern. *Cornelius v. NAACP Legal Def. and Educ. Fund, Inc., 473 U.S. 788 (1985)*. Once designated, an institution may enforce reasonable time, place, and manner restrictions. *Widmar v. Vin-*

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| | <p><u>cent</u>, 454 U.S. 263 (1981). Any content limitations are subject to the strict scrutiny standard described above. <u>Chiu v. Plano Indep. School Dist.</u>, 260 F.3d 330 (5th Cir. 2001)</p> |
| "LIMITED PUBLIC FORUM" | <p>A "limited public forum" is a forum that an institution opens to a particular group of speakers or for discussion regarding a particular topic. <u>Christian Legal Society v. Martinez</u>, 130 S.Ct. 2971 (2010); <u>Rosenberger v. Rector & Visitors of Univ. of Va.</u>, 515 U.S. 819 (1995). Within a limited public forum, limits on expression must be viewpoint-neutral and reasonable in light of the purpose of the forum. The government may impose reasonable time, place, and manner restrictions, as long as these restrictions do not relate to the content of the expression. <u>Cornelius v. NAACP Legal Def. and Educ. Fund, Inc.</u>, 473 U.S. 788 (1985)</p> <p>To distinguish between a designated public forum and a limited public forum, courts consider two factors: (1) the intent of the institution regarding the forum, and (2) the forum's nature and compatibility with particular speech. <u>Justice for All v. Faulkner</u>, 410 F.3d 760 (5th Cir. 2005); <u>Chiu v. Plano Indep. School Dist.</u>, 260 F.3d 330 (5th Cir. 2001)</p> |
| "NONPUBLIC FORUM" | <p>If an institution has not opened a public forum, it remains a "non-public forum." Although limits on expression must be reasonable and viewpoint neutral even within a nonpublic forum, an institution will have greater discretion to control the content of speech within such a forum. <u>Cornelius v. NAACP Legal Def. and Educ. Fund, Inc.</u>, 473 U.S. 788 (1985)</p> |
| PROTECTED SPEECH | <p>The mere dissemination of ideas on the campus of an institution of higher education may not be restricted on the basis of conventions of decency, regardless of how offensive those ideas are to good taste. However, an institution has the authority to enforce reasonable regulations as to the time, place, and manner of speech and its dissemination. <u>Papish v. Bd. of Curators</u>, 410 U.S. 667 (1973); <u>Healy v. James</u>, 408 U.S. 169 (1972)</p> <p>[See also CHE for use of the college district's mail system]</p> |
| FEES FOR USE | <p>The governing board of each junior college district shall be authorized to fix and collect rentals, rates, charges, and/or fees from students and others for the occupancy, use, or availability of all or any of its property, buildings, structures, activities, operations, or facilities, in such amounts and in such manner as may be determined by such board. <i>Education Code 130.123(c)</i></p> |
| FACILITIES AS POLLING PLACES | <p>The entity, including a college district, that owns or controls a public building shall make the building available for use as a polling place in any election that covers territory in which the building is located.</p> |

If more than one authority requests the use of the building for the same day and simultaneous use is impractical, the entity that owns or controls the building shall determine which authority may use the building. *Election Code 43.031(c)*

No charge, including a charge for personnel, utilities, or other expenses incurred before or after regular business hours, may be made for the use of a public building for a polling place if the day of the election is a day on which the building is normally open for business. If the day of an election is a day on which the building is not normally open for business, a charge may be made only for reimbursement of the actual expenses resulting from use of the building in the election. *Election Code 43.033(a)*

ELECTIONEERING “Electioneering” includes the posting, use, or distribution of political signs or literature. *Election Code 61.003(b)(1), 85.036(f)(2)*

DURING THE
REGULAR
VOTING PERIOD A person commits an offense if, during the voting period and within 100 feet of an outside door through which a voter may enter the building in which a polling place is located, the person loiters or electioneers for or against any candidate, measure, or political party.

The entity that owns or controls a public building being used as a polling place may not, at any time during the voting period, prohibit electioneering on the building's premises outside of the area described above, but may enact reasonable regulations concerning the time, place, and manner of electioneering.

Election Code 61.003(a)–(a-1)

DURING EARLY
VOTING During the time an early voting polling place is open for the conduct of early voting, a person may not electioneer for or against any candidate, measure, or political party in or within 100 feet of an outside door through which a voter may enter the building or structure in which the early voting polling place is located. A person commits an offense if the person electioneers in violation of this provision.

The entity that owns or controls a public building being used as an early voting polling place may not, at any time during the early voting period, prohibit electioneering on the building's premises outside of the area described above, but may enact reasonable regulations concerning the time, place, and manner of electioneering.

Election Code 85.036(a)–(b), (d)

POLITICAL PARTY
CONVENTIONS No charge may be made for the use of a public building for a precinct, county, or senatorial district convention except for reimbursement for the actual expenses resulting from use of the build-

ing for the convention. The reimbursing authority is entitled to an itemized statement of expenses before making remittance. A person commits an offense if the person assesses a charge for the use of a public building for a precinct, county, or senatorial district convention in violation of this provision. *Election Code 174.0631*

SEARCH AND RESCUE
DOGS

“Search and rescue dogs” mean canines that are trained or being trained to assist a nationally recognized search and rescue agency in search and rescue activities. *Health and Safety Code 785.001(4)*

PUBLIC FACILITY

The owner, manager, or operator of a public facility, or an employee or other agent of the owner, manager, or operator, may not deny a search and rescue dog admittance to the facility. The owner, manager, or operator of a public facility, or an employee or other agent of the owner, manager, or operator, may not deny a search and rescue dog’s handler admittance to the facility because of the presence of the handler’s search and rescue dog. The discrimination prohibited by this section includes:

1. Refusing to allow a search and rescue dog or the dog’s handler to use or be admitted to a public facility;
2. A ruse or subterfuge calculated to prevent or discourage a search and rescue dog or the dog’s handler from using or being admitted to a public facility; and
3. Failing to make a reasonable accommodation in a policy, practice, or procedure to allow a search and rescue dog or the dog’s handler to be admitted to a public facility.

Health and Safety Code 785.002(a)–(b), (d)

TRANSPORTATION

The owner, manager, or operator of a common carrier, airplane, railroad train, motor bus, streetcar, boat, or other public conveyance or mode of transportation operating within this state, or an employee or other agent of the owner, manager, or operator, may not:

1. Refuse to accept as a passenger a search and rescue dog or the dog’s handler; or
2. Require the dog’s handler to pay an additional fare because of the search and rescue dog.

Health and Safety Code 785.002(c)

HOUSING

A search and rescue dog’s handler is entitled to full and equal access, in the same manner as other members of the general public, to all housing accommodations offered for rent, lease, or compensation in this state, subject to any condition or limitation established

by law that applies to all persons, except that the handler may not be required to pay an extra fee or charge or security deposit for the search and rescue dog. *Health and Safety Code 785.002(f)*

“HANDLER”

“Handler” means a person who handles a search and rescue dog and who is certified by the National Association for Search and Rescue or another state or nationally recognized search and rescue agency. *Health and Safety Code 785.001(1)*

CREDENTIALS

A person may ask a search and rescue dog handler to display proof that the handler is a person with a certification issued by the National Association for Search and Rescue or another state or nationally recognized search and rescue agency. *Health and Safety Code 785.005*

RESPONSIBILITIES

A handler who accompanies a search and rescue dog shall keep the dog properly harnessed or leashed. A person may maintain a cause of action against a dog’s handler for personal injury, property damage, or death resulting from the failure of the dog’s handler to properly harness or leash the dog under the same law applicable to other causes brought for the redress of injuries caused by animals. The handler of a search and rescue dog is liable for any property damage caused by the search and rescue dog to a public facility or to housing accommodations. *Health and Safety Code 785.004(a)–(b)*

POLICY

A policy relating to the use of a public facility by a designated class of persons from the general public may not prohibit the use of the particular public facility by a search and rescue dog or the dog’s handler. *Health and Safety Code 785.002(e)*

PENALTY

A person who violates Health and Safety Code 785.002 commits an offense. An offense under this subsection is a misdemeanor punishable by a fine of not less than \$300 or more than \$1,000. It is a defense to prosecution that the actor requested the search and rescue dog handler’s credentials under Health and Safety Code 785.005 and the handler failed to provide the actor with the credentials. *Health and Safety Code 785.003*

COMMUNITY USE OF COLLEGE DISTRICT FACILITIES

GD
(LOCAL)

USE OF COLLEGE
DISTRICT FACILITIES

The grounds and facilities of the College District shall be made available to members of the College District community and community organizations, including College District support organizations, when such use is for educational, recreational, civic, or social activities and the use does not conflict with use by, or any of the policies and procedures of, the College District.

[For use by employees or employee organizations, see DGD. For use by students and registered student organizations, see FLAA.]

FACILITIES USED AS
POLLING PLACES

The College District shall make its buildings available as polling places in accordance with GD(LEGAL) and Election Code 43.031(c).

During the time that the College District is serving as a polling place, electioneering activities, including the posting of political signs, shall be allowed on campus except in areas prohibited by state law. The College District enacts the following reasonable regulations concerning electioneering:

- No political sign shall be larger than 27 inches by 18 inches.
- No political sign shall be attached to any College District-owned property.
- Each political sign shall be installed using a stake of 1/4 inch diameter or less.
- No electioneering activity, including the posting of political signs, shall pose a hazard to the health or safety to any person on the College District campus.
- No electioneering activity, including the posting of political signs, shall cause damage to any public or private property on the College District campus.
- No electioneering activity, including the posting of political signs, shall cause any disruption to the educational processes on the College District campus.
- All electioneering activity shall cease immediately after the closing of the polling place on College District property, and all political signs shall be removed within 24 hours after the closing of the polling place.

REQUESTS

To request permission to meet on College District premises, interested community members or organizations shall file a written request with the College President or designee in accordance with administrative procedures.

COMMUNITY USE OF COLLEGE DISTRICT FACILITIES

GD
(LOCAL)

The community members or organization making the request shall indicate that they have read and understand the policies and rules governing use of College District facilities and that they will abide by those rules.

APPROVAL

Requests for community use of College District facilities shall be considered on a first-come, first-served basis.

The College President or designee shall approve or reject the request in accordance with provisions of and deadlines set out in this policy and administrative procedures, without regard to the religious, political, philosophical, or other content of the speech likely to be associated with the community members' or organization's use of the facility.

Approval shall not be granted when the official has reasonable grounds to believe that:

1. The College District facility requested is unavailable, inadequate, or inappropriate to accommodate the proposed use at the time requested;
2. The applicant is subject to a sanction [see VIOLATIONS OF POLICY, below] prohibiting the use of the facility;
3. The proposed use would constitute an immediate and actual danger to the peace or security of the College District that available law enforcement officials could not control with reasonable efforts;
4. The applicant owes a monetary debt to the College District and the debt is considered delinquent;
5. The proposed activity would disrupt or disturb the regular academic program; or
6. The proposed use would result in damage to or defacement of property or the applicant has previously damaged College District property.

FOR-PROFIT USE

The College District shall not permit individuals or for-profit organizations to use its facilities, with the following exceptions:

1. For-profit organizations may present public performances of music or drama for up to seven calendar days in a calendar year.
2. For-profit organizations may enter into lease agreements for the use of College District-owned facilities if the College President determines the lease to be in the best interest of the College District.

COMMUNITY USE OF COLLEGE DISTRICT FACILITIES

GD
(LOCAL)

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| NONPROFIT USE | The College District shall permit nonprofit organizations to conduct fundraising events on College District property when these activities do not conflict with College District use or with any College District policy. No agency may use the College District's facilities more than seven days in a calendar year. |
| EXCEPTION | Any limitations on repeated use by a community member or organization shall not apply to any group or organization when the primary participants in the activities are College District students, faculty, or staff. |
| CAMPAIGN-RELATED USE | Except to the extent a College District facility is used as an official polling place, College District facilities shall not be available for use by individuals or groups for political advertising, campaign communications, or electioneering, as those terms are used in state law. |
| NO APPROVAL REQUIRED | No approval shall be required for nonschool-related recreational use of the College District's intramural fields when the facilities are not in use by the College District or for another scheduled purpose. Use of these fields is limited to short-term, intermittent use. Use of the baseball and softball fields shall be prohibited unless the user has prior approval from the athletic department. |
| WRITTEN NOTICE IF REQUEST REJECTED | The College President or designee shall provide the applicant a written statement of the grounds for rejection if a request is denied. |
| EMERGENCY USE | In case of emergencies or disasters, the College President or designee may authorize the use of College District facilities by civil defense, health, or emergency service authorities. |
| REPEATED USE | The College District shall permit repeated use by any community member or organization in accordance with administrative procedures. |
| EXCEPTION | Any limitations on repeated use by a community member or organization shall not apply to any group or organization when the primary participants in the activities are College District students, faculty, or staff. |
| SCHEDULING | Academic and extracurricular activities sponsored by the College District shall always have priority when any use is scheduled. The College President or designee shall have authority to cancel a scheduled use by a community member or organization if an unexpected conflict arises with a College District activity. |
| USE AGREEMENT | Any community member or organization approved for a nonschool use of College District facilities shall be required to complete a written agreement indicating receipt and understanding of this policy and any applicable administrative regulations, and acknowledging |

COMMUNITY USE OF COLLEGE DISTRICT FACILITIES

GD
(LOCAL)

that the College District is not liable for any personal injury or damages to personal property related to the nonschool use.

FEES FOR USE

A community member or organization authorized to use College District facilities shall be charged a fee for the use of designated facilities.

The Board shall establish and publish a schedule of fees based on the cost of the physical operation of the facilities, as well as any applicable personnel costs for supervision, custodial services, food services, security, and technology services.

EXCEPTION

Fees shall not be charged when College District buildings are used for public meetings sponsored by state or local governmental agencies.

REQUIRED
CONDUCT

Community members and organizations using College District facilities shall:

1. Conduct business in an orderly manner;
2. Provide identification when requested to do so by a College District representative;
3. Abide by all laws, policies, and procedures, including, but not limited to, those prohibiting the use, sale, or possession of alcoholic beverages, illegal drugs, and firearms, and the use of tobacco products or e-cigarettes on College District property; [See CHF and GDA]
4. Make no alteration, temporary or permanent, to College District property without prior written consent from the College President; and
5. Be responsible for the cost of repairing any damages incurred during use and shall be required to indemnify the College District for the cost of any such repairs.

DISTRIBUTION OF
LITERATURE

Written or printed materials, handbills, photographs, pictures, films, tapes, or other visual or auditory materials not sponsored by the College District shall not be sold, circulated, distributed, or posted on any College District premises by any community member or organization, including a College District support organization except in accordance with this policy.

The College District shall not be responsible for, nor shall the College District endorse, the contents of any nonschool literature distributed by a community member or organization.

COMMUNITY USE OF COLLEGE DISTRICT FACILITIES

GD
(LOCAL)

[See CHE regarding use of the College District's internal mail system and FLA regarding distribution of literature by students and registered student organizations]

LIMITATIONS ON
CONTENT

Nonschool literature shall not be distributed by a community member or organization on College District property if:

1. The materials are obscene;
2. The materials contain defamatory statements about public figures or others;
3. The materials advocate imminent lawless or disruptive action and are likely to incite or produce such action;
4. The materials are considered prohibited harassment [see DIA series and FFD series];
5. The materials constitute unauthorized solicitation [see USE OF COLLEGE DISTRICT FACILITIES, above]; or
6. The materials infringe upon intellectual property rights of the College District [see CT].

TIME, PLACE, AND
MANNER
RESTRICTIONS

The College President shall designate times, locations, and means by which nonschool literature that is appropriate for distribution, as provided in this policy, may be made available or distributed by community members or organizations to students or others at College District facilities.

Distribution of the nonschool literature shall be conducted in a manner that:

1. Is not disruptive [see FLB];
2. Does not impede reasonable access to College District facilities;
3. Does not result in damage to College District property;
4. Does not coerce, badger, or intimidate a person;
5. Does not interfere with the rights of others; and
6. Does not violate local, state, or federal laws or College District policies and procedures.

The distributor shall clean the area around which the literature was distributed of any literature that was discarded or leftover.

POSTING OF
SIGNS

For the purposes of this policy, "sign" shall be defined as a billboard, decal, notice, placard, poster, banner, or any kind of hand-

COMMUNITY USE OF COLLEGE DISTRICT FACILITIES

GD
(LOCAL)

held sign; and “posting” shall be defined as any means used for displaying a sign.

No signs may be posted on College District property by a community member or organization, except for political signs that are permitted under state law and this policy at the times that the College District is serving as a polling place.

EXCEPTION A College District support organization may post a sign with prior approval of the College President or designee in accordance with the procedures developed for that purpose.

IDENTIFICATION A community member or organization distributing materials on campus shall provide identification when requested to do so by a College District representative.

VIOLATIONS OF POLICY Failure to comply with the policy and procedures regarding community use of College District facilities or distribution of literature shall result in appropriate administrative action, including but not limited to, the suspension of the individual’s or organization’s use of College District facilities and the confiscation of nonconforming materials.

APPEALS Decisions made by the administration in accordance with this policy may be appealed in accordance with GB(LOCAL).

COMMUNITY USE OF COLLEGE DISTRICT FACILITIES
CONDUCT ON COLLEGE DISTRICT PREMISES

GDA
(LEGAL)

TRESPASS AND
DAMAGES

It is unlawful for any person to trespass on the grounds of any state institution of higher education of this state, including a college district, or damage or deface any of the buildings, statues, monuments, memorials, trees, shrubs, grasses, or flowers on the grounds of any state institutions of higher education. *Education Code 51.204*

DISRUPTIVE
ACTIVITIES

A person commits an offense if the person, alone or in concert with others, intentionally engages in disruptive activity on the campus or property of an institution of higher education, including a college district. For purposes of this section, disruptive activity is:

1. Obstructing or restraining the passage of persons in an exit, entrance, or hallway of any building without the authorization of the administration of the school.
2. Seizing control of a building or portion of a building to interfere with an administrative, educational, research, or other authorized activity.
3. Preventing or attempting to prevent by force or violence or the threat of violence a lawful assembly authorized by the school administration so that a person attempting to participate in the assembly is unable to participate due to the use of force or violence or due to a reasonable fear that force or violence is likely to occur.
4. Disrupting by force or violence or the threat of force or violence a lawful assembly in progress.
5. Obstructing or restraining the passage of a person at an exit or entrance to the campus or property or preventing or attempting to prevent by force or violence or by threats of force or violence the ingress or egress of a person to or from the property or campus without the authorization of the administration of the school.

An offense under this section is a Class B misdemeanor.

Education Code 37.123(b), 51.935(a)–(c)

PERIODS OF
DISRUPTION

A period of disruption is any period in which it reasonably appears that there is a threat of destruction to institutional property, injury to human life on the campus or facility, or a threat of willful disruption of the orderly operation of the campus or facility. *Education Code 51.231*

IDENTIFICATION OF
PERSONS ON
CAMPUS

During periods of disruption, as determined by the chief administrative officer of a state-supported institution of higher education, the chief administrative officer, or an officer or employee of the institu-

COMMUNITY USE OF COLLEGE DISTRICT FACILITIES
CONDUCT ON COLLEGE DISTRICT PREMISES

GDA
(LEGAL)

tion designated by the chief administrative officer to maintain order on the campus or facility of the institution, may require that any person on the campus or facility present evidence of identification, or if the person is a student or employee of the institution, the student or employee official institutional identification card or other evidence of the person's relationship with the institution.

If any person refuses or fails upon request to present evidence of identification, or if the person is a student or employee of the institution, the person's student or employee official identification card, or other evidence of relationship with the institution, and if it reasonably appears that the person has no legitimate reason to be on the campus or facility, the person may be ejected from the campus or facility.

Education Code 51.232

WITHDRAWAL OF
CONSENT TO
REMAIN ON
CAMPUS

During periods of disruption, the chief administrative officer of a campus or other facility of a state-supported institution of higher education, or an officer or employee of the institution designated by the chief administrative officer to maintain order on the campus or facility, may notify a person that consent to remain on the campus or facility has been withdrawn whenever there is reasonable cause to believe that the person has willfully disrupted the orderly operation of the campus or facility and that the person's presence on the campus or facility will constitute a substantial and material threat to the orderly operation of the campus or facility.

In no case shall consent be withdrawn for longer than 14 days from the date on which consent was initially withdrawn. Whenever consent is withdrawn by any authorized officer or employee other than the chief administrative officer, the officer or employee shall submit a written report to the chief administrative officer within 24 hours, unless the authorized officer or employee has reinstated consent for the person to remain on the campus. The report must contain all of the following:

1. The description of the person from whom consent was withdrawn, including, if available, the person's name, address, and phone number; and
2. A statement of the facts giving rise to the withdrawal of consent.

If the chief administrative officer or, in his absence, a person designated by the officer for this purpose, upon reviewing the written report described in Education Code 51.235, finds that there was reasonable cause to believe that the person has willfully disrupted the orderly operation of the campus or facility, and that the person's

COMMUNITY USE OF COLLEGE DISTRICT FACILITIES
CONDUCT ON COLLEGE DISTRICT PREMISES

GDA
(LEGAL)

presence on the campus or facility will constitute a substantial and material threat to the orderly operation of the campus or facility, the officer or designee may enter written confirmation upon the report of the action taken by the officer or employee.

If the chief administrative officer, or in his absence, the person designated by the officer, does not confirm the action of the officer or employee within 24 hours after the time that consent was withdrawn, the action of the officer or employee shall be deemed void and of no force or effect, except that any arrest made during the period shall not for this reason be deemed not to have been made for probable cause.

Education Code 51.233, .235-.236

NOTICE

When the chief administrative officer of a campus or other facility of a state-supported institution of higher education, or an officer or employee of the institution designated by him to maintain order on the campus or facility, decides to withdraw consent for any person to remain on the campus or facility, he shall notify that person in writing that consent to remain is withdrawn. The written notice must contain all of the following:

1. That consent to remain on the campus has been withdrawn and the number of days for which consent has been withdrawn, not to exceed 14;
2. The name and job title of the person withdrawing consent, along with an address where the person withdrawing consent can be contacted during regular working hours;
3. A brief statement of the activity or activities resulting in the withdrawal of consent; and
4. Notification that the person from whom consent has been withdrawn is entitled to a hearing on the withdrawal not later than three days from the date of receipt by the chief administrative officer of a request for a hearing.

Education Code 51.234

REQUEST FOR A
HEARING

A person from whom consent has been withdrawn may submit a written request for a hearing on the withdrawal to the chief administrative officer within the 14-day period. The written request must state the address to which notice of hearing is to be sent. The chief administrative officer shall grant a hearing not later than three days from the date of receipt of the request and shall immediately mail a written notice of the time, place, and date of the hearing to the person.

COMMUNITY USE OF COLLEGE DISTRICT FACILITIES
CONDUCT ON COLLEGE DISTRICT PREMISES

GDA
(LEGAL)

The hearing shall be held before a duly designated discipline committee or authorized hearing officer of the institution in accordance with Education Code 51.243. In no instance shall the person issuing the withdrawal notice or causing it to be issued serve on any committee where the validity of his order of withdrawal is in question.

Education Code 51.237

HEARING
PROCEDURES

A person from whom consent to remain on the campus of a state-supported institution of higher education has been withdrawn is entitled, in addition to the procedures set out in Education Code 51.234, to the following:

1. To be represented by counsel;
2. To the right to call and examine witnesses and to cross-examine adverse witnesses;
3. To have all matters upon which the decision may be based introduced into evidence at the hearing in the person's presence;
4. To have the decision based solely on the evidence presented at the hearing;
5. To prohibit the introduction of statements made against the person unless the person has been advised of their content and the names of the persons who made them, and has been given the opportunity to rebut unfavorable inferences that might otherwise be drawn; and
6. To have all findings made at the hearing be final, subject only to the person's right to appeal to the president and the governing board of the institution.

Education Code 51.243

REINSTATEMENT
OF CONSENT TO
REMAIN ON
CAMPUS

The chief administrative officer shall reinstate consent whenever he has reason to believe that the presence of the person from whom consent was withdrawn will not constitute a substantial and material threat to the orderly operation of the campus or facility. *Education Code 51.238*

ENTERING OR
REMAINING ON
CAMPUS AFTER
WITHDRAWAL OF
CONSENT

Any person who has been notified by the chief administrative officer of a campus or facility of a state-supported institution of higher education, or by an officer or employee designated by the chief administrative officer to maintain order on the campus or facility, that consent to remain on the campus or facility has been withdrawn pursuant to Education Code 51.233, who has not had consent reinstated, and who willfully and knowingly enters or remains

COMMUNITY USE OF COLLEGE DISTRICT FACILITIES
CONDUCT ON COLLEGE DISTRICT PREMISES

GDA
(LEGAL)

upon the campus or facility during the period for which consent has been withdrawn, is guilty of a misdemeanor, and is subject to punishment as set out in Education Code 51.244.

This section does not apply to any person who enters or remains on the campus or facility for the sole purpose of applying to the chief administrative officer or authorized officer or employee for the reinstatement of consent or for the sole purpose of attending a hearing on the withdrawal.

Education Code 51.239

STUDENTS AND
EMPLOYEES
BARRED FROM
CAMPUS AFTER
SUSPENSION OR
DISMISSAL

Every student or employee who has been suspended or dismissed from a state-supported institution of higher education after a hearing, in accordance with procedures established by the institution, for disrupting the orderly operation of the campus or facility of the institution, as a condition of the suspension or dismissal, may be denied access to the campus or facility, or both, of the institution for the period of suspension, and in the case of dismissal, for a period not to exceed one year. A person who has been notified by personal service of the suspension or dismissal and condition and who willfully and knowingly enters upon the campus or facility of the institution to which the person has been denied access, without the express written permission of the chief administrative officer of the campus or facility, is guilty of a misdemeanor and is subject to punishment as set out in Section 51.244. *Education Code 51.241(a)–(b)*

REFUSING OR
FAILING TO LEAVE
BUILDING CLOSED
TO PUBLIC

No person may refuse or fail to leave a building under the control and management of a public agency, including a state-supported institution of higher education, during those hours of the day or night when the building is regularly closed to the public, upon being requested to do so by a guard, watchman, or other employee of a public agency, including a state-supported institution of higher education, controlling and managing the building or property, if the surrounding circumstances are such as to indicate that the individual or individuals have no apparent lawful business to pursue. *Education Code 51.242*

FIREWORKS

A person may not explode or ignite fireworks within 600 feet of an institution of higher education, including a college district, unless the person receives authorization in writing from that organization. *Occupations Code 2154.251(a)(1)*

Note: For information regarding the carry of firearms, see CHF.

Grayson College
091501

COMMUNITY USE OF COLLEGE DISTRICT FACILITIES
CONDUCT ON COLLEGE DISTRICT PREMISES

GDA
(LOCAL)

TOBACCO AND
E-CIGARETTES

The College District prohibits smoking and the use of tobacco products and e-cigarettes on College District property, in College District vehicles, and at College District-related activities.

RELATIONS WITH GOVERNMENTAL AGENCIES AND AUTHORITIES
STATE GOVERNMENTAL AUTHORITIES

GGC
(LEGAL)

CONFERENCE
CENTER IN OR NEAR
A STATE PARK

The Texas Parks and Wildlife Commission may enter into a joint agreement with the governing board of an institution of higher education, including a college district, to finance and build a conference center and other appropriate related facilities to be located in or near a state park. A facility built under this section must be operated cooperatively to provide benefits to the department and the institution of higher education in accomplishing the purposes of the department and the institution. The commission and an institution of higher education may use any funds, property, or other assets available to finance and build a facility under this section. *Parks and Wildlife Code 13.0046*

NOTICE TO LBB
REGARDING
CONTRACTS
EXCEEDING \$50,000

"Contract" includes a contract or grant or agreement, including an interagency grant or agreement or an interlocal grant agreement, purchase order, or other written expression of terms of agreement or an amendment, modification, renewal, or extension of such for the purchase or sale of goods or services that was entered into or paid for, either in whole or in part, by a state agency or institution of higher education, including a college district. A contract does not include a contract that has been reported to the Legislative Budget Board (LBB) under Government Code Section 2054.008, 2166.2551, 2254.006, or 2254.0301 or a contract with a value of less than or equal to \$50,000.

Before October 1 of each fiscal year, a state agency or institution of higher education shall report to the LBB in the manner prescribed by the LBB all contracts to which the agency or institution was a party during the prior fiscal year.

General Appropriations Act, 84th Leg., R.S., H.B. 1, IX-38

RESTRICTION ON
CONTRACTING WITH A
BUSINESS ENTITY

DEFINITIONS

"BUSINESS
ENTITY"

"Business entity" includes an entity through which business is conducted with a governmental entity or state agency, regardless of whether the entity is a for-profit or nonprofit entity. The term does not include a governmental entity or state agency. *Gov't Code 2252.908(a)(1); 1 TAC 46.3(b)*

"CONTROLLING
INTEREST"

"Controlling interest" means:

1. An ownership interest or participating interest in a business entity by virtue of units, percentage, shares, stock, or otherwise that exceeds ten percent;
2. Membership on the board of directors or other governing body of a business entity of which the board or other governing body is composed of not more than ten members; or
3. Service as an officer of a business entity that has four or fewer officers, or service as one of the four officers most highly compensated by a business entity that has more than four officers. This paragraph does not apply to an officer of a publicly held business entity or its wholly owned subsidiaries.

1 TAC 46.3(c)

"INTERESTED
PARTY"

"Interested party" means a person who has a controlling interest in a business entity with whom a governmental entity or state agency contracts or an intermediary. *Gov't Code 2252.908(a)(3), 1 TAC 46.3(d)*

"INTERMEDIARY"

"Intermediary" means, a person who actively participates in the facilitation of the contract or negotiating the contract, including a broker, adviser, attorney, or representative of or agent for the business entity who:

1. Receives compensation from the business entity for the person's participation;
2. Communicates directly with the governmental entity or state agency on behalf of the business entity regarding the contract; and
3. Is not an employee of the business entity or of an entity with a controlling interest in the business entity.

1 TAC 46.3(e)

RELATIONS WITH BUSINESSES AND THE COMMUNITY

GL
(LEGAL)

QUALIFYING
CONTRACT

This section applies only to a contract of a governmental entity or state agency, including a college district, that requires an action or vote by the governing body of the entity or agency before the contract may be signed or has a value of at least \$1 million. This section does not apply to:

1. A sponsored research contract of an institution of higher education;
2. An interagency contract of a state agency or an institution of higher education; or
3. A contract related to health and human services if:
 - a. The value of the contract cannot be determined at the time the contract is executed; and
 - b. Any qualified vendor is eligible for the contract.

A contract does not require an action or vote by the governing body of a governmental entity or state agency if:

1. The governing body has legal authority to delegate to its staff the authority to execute the contract;
2. The governing body has delegated to its staff the authority to execute the contract; and
3. The governing body does not participate in the selection of the business entity with which the contract is entered into.

Gov't Code 2252.908(b)–(c); 1 TAC 46.1

PROHIBITION

A governmental entity or state agency may not enter into a contract described by Government Code 2252.908(b) with a business entity unless the business entity, in accordance with this section and rules adopted by the Texas Ethics Commission (TEC) under this section, submits a disclosure of interested parties to the governmental entity or state agency at the time the business entity submits the signed contract to the governmental entity or state agency.

Gov't Code 2252.908(d)

DISCLOSURE

A disclosure of interested parties form must be filed on an electronic form prescribed by the TEC that contains the following:

1. The name of the business entity filing the form and the city, state, and country of the business entity's place of business;
2. The name of the governmental entity or state agency that is a party to the contract for which the form is being filed;

3. The name of each interested party and the city, state, and country of the place of business of each interested party;
4. The identification number used by the governmental entity or state agency to track or identify the contract for which the form is being filed and a short description of the services, goods, or other property used by the governmental entity or state agency provided under the contract; and
5. An indication of whether each interested party has a controlling interest in the business entity, is an intermediary in the contract for which the disclosure is being filed, or both.

The certification of filing and the completed disclosure of interested parties form generated by the TEC's electronic filing application must be printed, signed by an authorized agent of the contracting business entity, and submitted to the governmental entity or state agency that is the party to the contract for which the form is being filed.

A governmental entity or state agency that receives a completed disclosure of interested parties form and certification of filing shall notify the TEC, in an electronic format prescribed by the TEC, of the receipt of those documents not later than the 30th day after the date the governmental entity or state agency receives the disclosure.

The TEC shall make each disclosure of interested parties form filed with the TEC available to the public on the commission's Internet website not later than the seventh business day after the date the TEC receives the required notice. *Gov't Code 2252.908(e)-(f); 1 TAC 46.5*

CONTRACTUAL
AGREEMENTS FOR
INSTRUCTION
GENERALLY

General enrollment or contract training courses that are noncredit and do not result in the award of continuing education units (CEUs) are not eligible for any state apportionment funding, but a two-year college is free to market such noncredit or non-CEU training to business, industry, and government at whatever rate can be negotiated with the contracting organization. Exceptions regarding programs serving incarcerated students must be submitted to the Coordinating Board staff for review and approval.

Courses earning CEUs shall be subject to the guidelines published by the Southern Association of Colleges and Schools Commission on Colleges (SACSCOC) as a condition of eligibility for state appropriations.

All student enrollments for semester hour credit are subject to the provisions of the Texas Success Initiative as applicable.

Public two-year colleges providing courses to organizations for which semester hour credits or CEUs are earned must charge out-of-state tuition to nonresident students who are brought from out-of-state for such contract courses.

19 TAC 9.123

NONACCREDITED
ORGANIZATIONS

Contractual agreements for instruction by public two-year colleges with non-SACSCOC accredited organizations must comply with all current guidelines of SACSCOC. Courses and programs offered under contractual agreements must be consistent with the educational purpose, mission, and goals of the institution. Courses and programs offered and eligible for state appropriations must remain under the sole and direct control of the sponsoring public two-year college.

All programs and courses must be approved through the established procedures of the Coordinating Board.

Courses offered must remain under the sole and direct control of the sponsoring public two-year college, which exercises ultimate and continuing responsibility for the performance of the functions reflected in the contract. Instructors of courses must meet qualifications as stipulated by the public two-year college. The public two-year college must employ at least one full-time faculty member per degree program and specify in the contract the institutional procedures by which the contracted courses or programs meet the standards of regular programs as disclosed fully in the publications of the institution, specifically including the following:

1. Recruitment and counseling of students;
2. Admission of students to courses and/or to the sponsoring institution where certificate and associate degree programs are pursued;
3. Development and evaluation of the curriculum;
4. Evaluation of student progress;
5. Recordkeeping;
6. Tuition and/or fee charges, receipts and disbursement of funds, and refund policy;
7. Appointment, supervision, and evaluation of faculty; and
8. Instruction and learning resources.

The contractual agreement must be executed by designated officers of the public two-year college and their counterparts in the contracting organization. The contractual agreement shall establish a

definite understanding between the public two-year college and the contracting agency to include each of the items required by 19 Administrative Code 9.124(b), above. The agreement shall specify the work to be performed, the period of the agreement, and the conditions under which any renewal or renegotiation must occur.

19 TAC 9.124

STATE FUNDING

Contact hours for contract instruction eligible for state appropriations must be determined and reported in compliance with state law and Coordinating Board rules and policy.

No funds appropriated to any public two-year college may be expended for any course which has not been approved by the commissioner, even if such course is taught under a contractual agreement.

19 TAC 9.127-.128

SKILLS
DEVELOPMENT FUND

In accordance with Labor Code 303.003 and 40 Administrative Code 803.3, the skills development fund may be used by public community and technical colleges, community-based organizations, and the Texas Engineering Extension Service as start-up or emergency funds for the following job-training purposes:

1. Developing customized training programs for businesses and trade unions; and
2. Sponsoring small and medium-sized business networks and consortiums.

Labor Code 303.003(b); 40 TAC 803

WORKFORCE
TRAINING AND
SERVICES

A public community college shall promptly provide workforce training and services that are requested:

1. By a local workforce development board if the need for the training and services is based on the labor market information system available for the area;
2. By employers located in the college's taxing district when the request is presented directly to the college by the employers or through the local workforce development board; or
3. As part of economic development incentives designed to attract or retain an employer, including incentives offered under the skills development fund program under Labor Code Chapter 303.

Gov't Code 2308.308

