Update 30 contains (LOCAL) policies that require board action before we can incorporate Update 30 into your college district’s Policy On Line manual.

Please notify Loretta Jeschke of your policy adoption by faxing this form to 512-467-3618, or 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.

101501 Lee College

Your Name: __________________________________________
Your E-mail: _________________________________________

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

Previous Updates

☐ I confirm that all updates prior to Update 30 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 30 Adoption Date: ________________________________

Status (please check one):

☐ Adopted as presented by TASB—place online immediately

☐ Adopted with further changes, described below*

________________________________________________________________________
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________________________________________________________________________
________________________________________________________________________

* If you have changes to the listed policies that you have not already sent to your policy consultant, please attach the policies to this form or e-mail them to your consultant to ensure they are processed as a Local District Update. Your policy consultant, Amy Kadlecik, may contact you about these policies, if necessary.

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

TASB Policy Service  Fax: 512-467-3618
Lee College

Update 30 to your localized policy manual includes clarification of existing materials and new legal materials arising from administrative action and legislation over the past year that affect the governance and management of Texas community colleges. The update also includes changes resulting from the third and final phase of a comprehensive review of the manual intended to better reflect the current state of the law applying to community colleges, to enhance readability, and to reflect common practices across colleges. This final phase focused on the sections of the manual covering basic college district foundations (A), local governance (B), business and support services (C), and community and governmental relations (G).

Of particular significance in this update are policy revisions/additions that address:

- College District Legal Status and History
- Geographic Boundaries and Service Areas
- Institutional Effectiveness
- Board Legal Status
- Board Member Eligibility/Qualifications
- Board Member Elections
- Board Member Authority
- Board Officers and Officials
- Board Meetings
- Chief Executive Officer
- Administrative Rules and Regulations
- Depository of Funds
- Accounting
- Purchasing and Acquisition
- Security
- Records Management
- Employee Grievances
- Employee Standards of Conduct
- Student Welfare
- Public Information Program
Further, recognizing that the legally referenced policies are intended to be a compilation of relevant federal and state legal authority that guides local decision making but that are not adopted by the board, the update reflects a shift away from the “personalization” of the (LEGAL) policies in the manual. Previously, language in a statute reflecting the entity to which the statute applies, such as “junior college” or “institution of higher education,” was changed to read “college district” or “board,” as appropriate, during the updating process. Beginning with Update 28, the (LEGAL) policies reflect the statutory wording for greater accuracy and clarity in application. As a housekeeping matter, we have also made numerous editorial and citation adjustments throughout this update to more closely track the law.

Please bear in mind that the (LEGAL) policies reflect the ever-changing legal context for governance and management of the college district. They should NOT be adopted but, rather, should inform local decision making. The (LOCAL) policy recommendations in this update will need close attention by both the administration and the board to ensure that they reflect the practices of the college district and the intentions of the board. Board action is needed to adopt, revise, or repeal (LOCAL) policy.

Please note:

Log in to http://www.myTASB.tasb.org and open Policy Service Resource Library: Local Manual Updates to download a PDF of this update packet, annotated copies of the (LOCAL) policies, editable (LOCAL) text, and more.

This Update 30 packet contains:

- **INSTRUCTIONS** . . . providing specific directions on which policies have been revised, added, or deleted at this update;
- **EXPLANATORY NOTES** . . . summarizing and pointing out changes occurring within each policy code; and
- **UPDATED POLICIES** . . . reflecting new or replacement materials included in this update.
Regarding board action on Update 30 . . .

- Board action on Localized Update 30 must occur within an open meeting of the board and may be addressed on the agenda posting as “Review updated (LEGAL) policies and act on (LOCAL) policies (see attached list).” Using the INSTRUCTION SHEET as a guide, create and attach to the posting a list of the (LOCAL) policy codes and the titles/subtitles of those policies.

- An appropriate motion for board action on Localized Update 30 is as follows:

  “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 30 [with the following changes:]”

- The board’s action on Localized Update 30 must be reflected in board minutes. The INSTRUCTION SHEET—annotated to reflect any changes made by the board—and the EXPLANATORY NOTES for the update should be filed with the board minutes where they comprise the authoritative historical record of your Localized Policy Manual. Also include in the historical record a copy of the (LOCAL) policies replaced or rescinded. Notify your policy consultant of any changes made by the board so that Policy Service records correctly reflect your manual.

Regarding manual maintenance and administrative regulations . . .

- The update should be incorporated into each of the college district’s Localized Policy Manuals as soon as practicable. If the college district uses Policy On Line, please notify Policy Service of the board’s action on Update 30 so that this action may be reflected in your Localized Policy Manual as it appears on TASB’s web server.

  Policy On Line support staff can be reached by phone (800-580-7529 or 512-467-0222), fax (512-467-3618; see the form enclosed), e-mail (pol-support@tasb.org), or Internet feedback form (https://www.tasb.org/apps/PolicyAdmin).

- Administrative procedures and documents—including formal (REGULATIONS), handbooks, and guides—that may be affected by Update 30 policy changes should be inspected and revised as needed. If the college district routinely submits (REGULATIONS) to Policy Service for processing or desires that the updated (REGULATIONS) be included in the Policy On Line manual, please submit these changes to your policy consultant at your earliest convenience.

If you have any questions concerning this update, please call Amy Kadlec or Kristin McGuire, TASB Policy Consultants and Community College Liaisons, at 800-580-7529 or Amy Magee, Senior Attorney for Community Colleges, at 800-580-5345.

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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Explanatory Notes
Community College Localized Policy Manual Update 30

District: Lee College

A25 (INDEX) CROSS-INDEX

The cross-index—shared by the TASB Policy Reference Manual and all community college districts using TASB for maintenance of their localized policy manuals—has been updated to reflect new terminology and topic relationships established by the reorganization and policy title changes made with this update.

The cross-index is a key element used in searching Policy On Line. Please bear in mind that the cross-index is “generic” and presents a structure that serves all manuals; not every manual will address all of the topics shown or include all of the policies indicated.

AA (LEGAL) COLLEGE DISTRICT LEGAL STATUS AND HISTORY

We have updated this legally referenced policy on legal status to more prominently state the legal basis from which college districts are established and to more closely track the statutory provisions of the Education Code. Removed from this policy is a statement that a public junior college is defined as an institution of higher education, as this designation varies by statute.

AB (LEGAL) COLLEGE DISTRICT NAME AND DEFINITIONS

This legally referenced policy has been updated to include existing statutory provisions related to designating or changing the name of a college district and to consolidate references regarding a college district’s responsibility to file with the Coordinating Board a duly adopted resolution changing the name of the college district.

AC (LEGAL) GEOGRAPHIC BOUNDARIES AND SERVICE AREAS

We have revised this legally referenced policy addressing boundaries and service areas to more closely track statute and to add existing statutory provisions regarding annexation and extension of college district boundaries.

ACA (LEGAL) GEOGRAPHIC BOUNDARIES AND SERVICE AREAS
BRANCH CAMPUSES

Minor revisions have been made to this legally referenced policy on branch campuses to more closely mirror current statutory language.

AD (LEGAL) EDUCATIONAL ROLE, MISSION, PURPOSE, AND RESPONSIBILITY

We have adjusted provisions within this legally referenced policy on educational role and mission to more closely reflect the wording in current statute.
Explanatory Notes
Community College Localized Policy Manual Update 30

AD (LOCAL) EDUCATIONAL ROLE, MISSION, PURPOSE, AND RESPONSIBILITY

The college district is required by law to develop a statement regarding the purpose, role, and mission of the institution reflecting the three missions of higher education: teaching, research, and public service. As that statement should be tailored to the needs and approach of the institution, our standard text at STATEMENT OF ETHICS and CODE OF ETHICS FOR COLLEGE EMPLOYEES is recommended for deletion. Please contact your policy consultant if you would like assistance with updating your existing language addressing the college district’s mission statement and philosophy.

AF (LEGAL) INSTITUTIONAL EFFECTIVENESS

In addition to adjusting language within this legally referenced policy on institutional effectiveness to more closely track statute, we have added an existing statutory provision excepting from public disclosure the documents involved in the Coordinating Board’s review of a college district’s budgets and operations until such review has been completed.

AFA (LEGAL) INSTITUTIONAL EFFECTIVENESS PERFORMANCE AND INSTITUTION REPORTS

To provide greater context to the provisions associated with INSTITUTIONAL AND FINANCIAL ASSISTANCE INFORMATION beginning on page 5, more specific information has been added from existing provisions within the U.S. Code. In addition, text throughout this legally referenced policy has been revised to more closely track statute.

B (LEGAL) LOCAL GOVERNANCE

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

BA (LEGAL) BOARD LEGAL STATUS

Revisions have been made to this legally referenced policy on the board’s legal status to reflect current provisions from the Education Code.

BAA (LEGAL) BOARD LEGAL STATUS POWERS, DUTIES, RESPONSIBILITIES

This legally referenced policy on the board’s powers and responsibilities has been reformatted for clarity and to more closely track statute.
In addition to adjustments made to more closely mirror statute, we have reorganized for clarification provisions throughout this legally referenced policy on board member qualifications.

At GENERAL ELECTION DATES on page 2, we have added text to reference elections held by political subdivisions on the second Saturday in May of even-numbered years. Additional information associated with the CONTENTS of an ELECTION NOTICE has also been added beginning on page 6. The offense committed by election officers when they knowingly post at a polling place material that is not authorized by law has been added at POSTING SIGNS PROHIBITED on page 12.

Finally, we have made adjustments throughout this legally referenced policy to more closely track statute and to remove references to statutory information that does not pertain specifically to community colleges.

We have updated the link to the Secretary of State Elections Division website in this exhibit on elections and have adjusted the text for consistency with policy style.

This legally referenced policy on reporting campaign funds has been revised to more closely track statute and to update citations.

This legally referenced policy regarding election ethics has been revised to more closely track current statutory language.

We have rearranged for clarity the order of provisions in this legally referenced policy addressing vacancies and removal from office and have adjusted text throughout to more closely mirror current statute.
BOARD MEMBERS
ORIENTATION AND TRAINING

Provisions addressing training requirements of board members have been revised to better track current statutory language.

BOARD MEMBERS
AUTHORITY

For greater clarification, we have added existing statutory information regarding access to college district records, including the criminal offenses related to destruction of and tampering with records and distribution of confidential records. We have also adjusted other provisions within this legally referenced policy to more closely track statute.

BOARD MEMBERS
ETHICS

We have added this legally referenced policy on ethics that includes existing statutory language allowing board members to serve on the board of nonprofit organizations as long as they do not receive compensation for their service.

ETHICS
CONFLICT OF INTEREST DISCLOSURES

In addition to making numerous nonsubstantive revisions to more closely track current statutory language, we have added, at BUSINESS ENTITY on page 2, clarification from attorney general opinions that public entities, including institutions of higher education, are not business entities for the purpose of conflict of interest disclosures.

ETHICS
CONFLICT OF INTEREST DISCLOSURES

We have revised for clarity and consistency with policy style the required disclosures for board members who have a substantial interest in a business entity or real property or a legal or equitable interest in property.
Explanatory Notes
Community College Localized Policy Manual Update 30

BBFB (LEGAL) ETHICS PROHIBITED PRACTICES

Revisions have been made to this legally referenced policy on prohibited practices to align the existing text with current statute and to add, on page 4, provisions regarding MISUSE OF OFFICIAL INFORMATION and OFFICIAL OPPRESSION. We have also rearranged the order of provisions slightly to include a DEFINITIONS section related to nepotism, on page 5.

BBG (LEGAL) BOARD MEMBERS COMPENSATION AND EXPENSES

Minor revisions have been made to this legally referenced policy addressing compensation and expenses for clarification and to reflect current statutory wording.

BBI (LEGAL) BOARD MEMBERS TECHNOLOGY RESOURCES AND ELECTRONIC COMMUNICATIONS

To emphasize that a board member’s creation or receipt of an electronic record pertaining to college district business meets the definition of a local government record, we have added information at ELECTRONIC RECORDS RETENTION to reiterate that such records must be retained in accordance with the Local Government Records Act and the college district’s records retention schedule. Also added with this provision is a list of items that the law does not consider to be local government records.

BCA (LEGAL) BOARD INTERNAL ORGANIZATION BOARD OFFICERS AND OFFICIALS

We have updated the text within this legally referenced policy on board officers to more closely track current statute.

BCAB (LEGAL) BOARD OFFICERS AND OFFICIALS DUTIES AND REQUIREMENTS OF BOARD PRESIDENT

This legally referenced policy addressing the duties of the board president has been revised for consistency with policy style and to reflect current statutory language.

BCAD (LEGAL) BOARD OFFICERS AND OFFICIALS DUTIES AND REQUIREMENTS OF SECRETARY

As at BCAB(LEGAL), above, we have revised this legally referenced policy addressing the duties of the board secretary for consistency with policy style and to more closely track current statutory language.
BCB (LEGAL) BOARD INTERNAL ORGANIZATION
BOARD COMMITTEES

Citations have been updated in this legally referenced policy regarding board committees.

BD (LEGAL) BOARD MEETINGS

This legally referenced policy regarding board meetings has been revised to more closely track current statutory language and for clarity.

BD (LOCAL) BOARD MEETINGS

Recommended changes to this local policy are to simplify the policy and make it more flexible to accommodate variations from the board’s normal meeting practices. At MEETING PLACE AND TIME, the policy language indicates that the notice shall reflect the date, time, and location of the meeting. This notice requirement applies whether the meeting is a regular, special, or emergency meeting. The policy also clarifies that when determined necessary and for the convenience of board members, the chairperson of the board may change the date, time, or location of REGULAR MEETINGS with proper notice.

The text at AGENDA, SUBMISSION OF TOPICS clarifies the day by which agenda items must be submitted. Recommended text regarding PREPARATION of the AGENDA has also been revised for clarity.

We recommend deletion of your locally developed text addressing RECONVENED MEETINGS as this provision is addressed in law and noted in the corresponding legally referenced policy.

Other recommended changes are for clarification and to conform to policy style.

Please contact your policy consultant if you have any questions or need further revisions to this policy.

BDA (LEGAL) BOARD MEETINGS
CLOSED MEETINGS

The existing exceptions of the Open Meetings Act to allow a board to conduct a closed meeting have been clarified by more closely aligning the provisions of this legally referenced policy with current statutory wording.

BDB (LEGAL) BOARD MEETINGS
PUBLIC PARTICIPATION

This legally referenced policy addressing public participation in board meetings has been revised to more closely mirror current statute.
BE (LEGAL) POLICY AND BYLAW DEVELOPMENT
We have revised this legally referenced policy on development of policies and bylaws to reflect current statutory wording.

BF (LEGAL) CHIEF EXECUTIVE OFFICER
This legally referenced policy has been retitled to encompass colleges that have either a president or chancellor and has been revised so that its language more closely mirrors statute. We have also added a cross-reference to GAA, the policy on access to public information.

BFA (LEGAL) CHIEF EXECUTIVE OFFICER QUALIFICATIONS AND DUTIES
Revisions have been made to this legally referenced policy on qualifications and duties of the chief executive officer for clarification and consistency with policy style and to reflect the new title for this series of policy codes.

BFB (LEGAL) CHIEF EXECUTIVE OFFICER CONTRACT
We have added to this legally referenced policy text from the Education Code referencing ADMINISTRATOR CONTRACTS, since the college president or chancellor, as applicable, would be considered an administrator to which these subsections of the Education Code applies. This information is also repeated at policy DCA(LEGAL), not included in this update.

BFC (LEGAL) CHIEF EXECUTIVE OFFICER TERMINATION OF EMPLOYMENT
The provisions in this legally referenced policy have been relocated from BFCA(LEGAL) and BFCB(LEGAL), addressing dismissal and nonrenewal, respectively. Minor revisions have been made for consistency with policy style.

BFCA (LEGAL) COLLEGE PRESIDENT DISMISSAL
The provisions in this legally referenced policy have been moved to BFC(LEGAL) to reflect the broader context of termination of employment. BFCA is no longer an active code.
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BFCB  (LEGAL)  COLLEGE PRESIDENT
NONRENEWAL

As at BFCA(LEGAL), above, we have moved to BFC(LEGAL) information previously in this legally referenced policy regarding continued employment of the chief executive officer beyond the term of the contract. BFCB is no longer an active code.

BFCC  (LOCAL)  COLLEGE PRESIDENT
RETIREMENT OR RESIGNATION

Provisions addressing resignation of the chief executive officer of the college district have been moved to BFD; BFCC is no longer an active policy code.

BFD  (LOCAL)  CHIEF EXECUTIVE OFFICER
RETIREMENT OR RESIGNATION

The enclosed policy addressing the resignation of the chief executive officer is recommended for inclusion in the college district’s policy manual.

BFE  (LOCAL)  CHIEF EXECUTIVE OFFICER
EVALUATION

Provisions addressing evaluation of the college district's chief executive officer are now addressed at this code rather than at BFD. The title and subtitle of this code have been updated accordingly.

The recommended policy incorporates existing text previously at BFD regarding the board’s commitment to evaluate the chief executive officer at least annually. Recommended revisions are to require the board to adopt a written evaluation instrument that is based on the chief executive officer’s job description and performance goals and to clarify the evaluation objectives. For ease of reference, language addressing INFORMAL EVALUATIONS has been set apart from the WRITTEN EVALUATION.

BH  (LOCAL)  ADMINISTRATIVE RULES AND REGULATIONS

This policy is recommended for inclusion in your policy manual to clarify that the college district’s chief executive officer or a designee is responsible for developing and enforcing administrative regulations. The provisions include the authority to revise regulations when necessary. As the chief executive officer is charged with ensuring that regulations are consistent with board policy, a statement is included that these documents are subject to board review but not adoption.
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CAA (LEGAL) APPROPRIATIONS AND REVENUE SOURCES
STATE
This legally referenced policy on state appropriations has been revised to more closely track current statute, including Coordinating Board rules, and to remove references about restrictions of the General Appropriations Act. In its place, a note has been added that includes a link to the current General Appropriations Act.

CAB (LEGAL) APPROPRIATIONS AND REVENUE SOURCES
FEDERAL
This legally referenced policy on federal appropriations has been revised to more closely track language from the Government Code as it relates to state retirement contributions when an employee is paid from federal funds or grants.

CAD (LEGAL) APPROPRIATIONS AND REVENUE SOURCES
BOND ISSUES
We have revised this legally referenced policy on bond issues to more closely mirror current statutory language.

CAE (LEGAL) APPROPRIATIONS AND REVENUE SOURCES
TIME WARRANTS
Because community colleges issue interest-bearing time warrants, we have revised this legally referenced policy to include the full context of the relevant provisions of the Education Code describing the use of these warrants.

CAF (LEGAL) APPROPRIATIONS AND REVENUE SOURCES
CERTIFICATES OF INDEBTEDNESS
To provide clarification regarding interest-bearing certificates of indebtedness, we have revised this legally referenced policy to include the language from the relevant sections of the Education Code authorizing this practice.

CAG (LEGAL) APPROPRIATIONS AND REVENUE SOURCES
REVENUE BONDS AND OBLIGATIONS
The existing provisions in this legally referenced policy on revenue bonds and obligations have been revised to more closely track current statutory language.
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CAH (LEGAL) APPROPRIATIONS AND REVENUE SOURCES
LOANS AND NOTES

We have revised this legally referenced policy to more closely track current statutory language from Education Code Chapter 45. Because Chapter 45 refers to school districts specifically, we have also included a reference to Education Code 130.084(a), which provides for a college district to be governed in the establishment, management, and control of a public junior college by the general law governing independent school districts as applicable.

CAI (LEGAL) APPROPRIATIONS AND REVENUE SOURCES
AD VALOREM TAXES

This legally referenced policy has been significantly revised to more closely track relevant statutory language and to remove provisions that are outdated or not applicable to community colleges.

CAIA (LEGAL) AD VALOREM TAXES
SELECTION AND DUTIES OF CHIEF TAX OFFICIALS

The provisions in this legally referenced policy regarding selection and duties of chief tax officials have been revised to mirror current statutory language.

CAIB (LEGAL) AD VALOREM TAXES
APPRASIAL DISTRICT

This legally referenced policy has been revised to more closely track current statutory language in regards to appraisal districts.

CAK (LEGAL) APPROPRIATIONS AND REVENUE SOURCES
INVESTMENTS

This legally referenced policy on investments has been revised for clarification and to more closely track current statutory language.

CAL (LEGAL) APPROPRIATIONS AND REVENUE SOURCES
SALE, TRADE, OR LEASE OF COLLEGE-OWNED PROPERTY

We have revised the existing provisions in this legally referenced policy to more closely track current statutory language relevant to the sale, trade, or lease of college-owned property.
Deleted from this legally referenced policy are provisions related to conditional gifts, which stems from the repeal of Education Code sections 51.571–572 through the passage of SB 59 in the 83rd Legislative Session. The remaining provisions have been revised to reflect the current language of relevant statute.

This legally referenced policy addressing rentals and service charges has been revised to more closely track current statutory language.

This legally referenced policy has been updated to clarify the authorization, purpose, and use of public facilities corporations.

We have revised the language in this legally referenced policy on depositories to more closely mirror current statute.

This legally referenced policy has been revised to reflect changes in Coordinating Board rules, effective February 26, 2014. We have deleted references to the requirement that salaries and emoluments for faculty and staff be listed in the college district’s annual budget, and, at ADOPTION, we have revised the information related to the format and number of copies of the college district’s budget that must be submitted to various entities.

We have also removed an Education Code reference referring to a board member committing a misdemeanor offense when he or she votes to approve an expenditure not appropriated in the adopted or any supplemental or amended budget, as this reference specifically addresses independent school districts.

Other changes have been made to more closely align with existing statutory language.

This legally referenced policy regarding accounting has been revised to more closely track current statutory language.
Based on the history of instructions given in the General Appropriations Bill and as confirmed with the Coordinating Board, we have deleted provisions from Government Code 2101.011 and Education Code 51.005 and have added a more general statement from rider 14 in the General Appropriations Act that requires community colleges to submit financial data using the content and format prescribed by the Coordinating Board.

The PUBLICATION AND FILING provisions have been revised to clarify what is specifically required for community colleges.

Other revisions are to reflect current numbering of the Government Code and to more closely align with current statutory language.

This legally referenced policy addressing inventories has been revised to more closely track current statutory language and to update citations.

We have revised this legally referenced policy on required audits to more closely track the language used in current statute. A link has also been added to the current Coordinating Board requirements for annual financial reporting.

In addition to revising the existing provisions to more closely track current statutory language, we have added an existing requirement from the Education Code to deduct the cost of an English proficiency course. See item 10 on page 2.

In addition to updating a cross-reference in the final bulleted item on page 1, minor revisions to conform to current policy style are recommended.
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CE (LEGAL) BONDED EMPLOYEES AND OFFICERS
Provisions addressing campus security personnel have been moved to CHA(LEGAL); this policy has been deleted.

CF (LEGAL) PURCHASING AND ACQUISITION
We have updated this legally referenced policy on purchasing to more closely track the language in current statute and have removed references that are typically not applicable to college districts. Citations have also been updated throughout the policy.

CF (LOCAL) PURCHASING AND ACQUISITION
Under Texas law, a board may accept bids or proposals submitted electronically but only if the board adopts rules to ensure the identification, security, and confidentiality of the electronic bids or proposals and to ensure that the electronic bids or proposals remain effectively unopened until the proper time. The recommended text at ELECTRONIC BIDS OR PROPOSALS ensures that college districts have appropriate policy provisions in place for any bids or proposals that the college district chooses to accept electronically. The text does not obligate the college district to accept bids or proposals electronically but does require that any such submission be administered in accordance with board-adopted rules that address the legal requirements. References to board-adopted rules for electronic bids and proposals have also been added at COMPETITIVE BIDDING and COMPETITIVE SEALED PROPOSALS so it is clear that any board rules on electronic submissions will apply to electronic bids or proposals.

A recommended revision at RESPONSIBILITY FOR DEBTS clarifies that debts made in the name of the college district must be consistent with the adopted budget, law, board policy, and the college district’s purchasing procedures.

To increase flexibility, at PURCHASE COMMITMENTS, the specific reference to purchase documents was replaced with a reference to the college district’s administrative procedures including any college district purchasing procedures, where the college district should outline the circumstances for when purchase documents are required.

At PERSONAL PURCHASES, the prohibition on employees making purchases for personal use was broadened to apply to all purchases, not just purchases of supplies or equipment.

CFE (LEGAL) PURCHASING AND ACQUISITION
VENDOR RELATIONS
Details from existing Local Government Code provisions have been incorporated into this legally referenced policy regarding vendor relationships.
CFF  (LEGAL)  PURCHASING AND ACQUISITION
PAYMENT PROCEDURES

Revisions have been made to this legally referenced policy on payment procedures to more closely track current statutory language.

CFG  (LEGAL)  PURCHASING AND ACQUISITION
REAL PROPERTY AND IMPROVEMENTS

Deleted from this legally referenced policy is the requirement, which expired on December 31, 2012, for college districts to submit to the comptroller a letter expressing the authority to exercise the power of eminent domain.

We have revised the remaining provisions to more closely mirror statutory language and to update citations.

CFH  (LEGAL)  PURCHASING AND ACQUISITION
FINANCING PERSONAL PROPERTY PURCHASES

This legally referenced policy addressing financing of personal property has been revised to more closely track language used in current statute.

CG  (LEGAL)  SAFETY PROGRAM

We have revised this legally referenced policy on the college district's safety program to more closely align with current statutory language.

CGA  (LEGAL)  SAFETY PROGRAM
INSPECTIONS

We have revised this legally referenced policy to more closely track the language used in the Occupations Code and Administrative Code regarding asbestos-related activities.

CGC  (LEGAL)  SAFETY PROGRAM
EMERGENCY PLANS AND ALERTS

Additional detail regarding FIRE ESCAPES has been added to this legally referenced policy on emergency plans and alerts, while revisions have been made to existing provisions to more closely align with current statutory language.
We have updated this legally referenced policy to include an existing exception to the requirement for a college district to establish a goal to reduce electric consumption if the college district already had an energy conservation plan approved by the State Energy Conservation Office prior to September 1, 2007.

The remaining provisions have been revised to more closely track current statutory language and to remove references that do not apply to college districts.

Moved from CE(LEGAL) is a statement that any officer assigned to duty and commissioned must take and file the oath required of peace officers; see CAMPUS PEACE OFFICERS on page 1.

Revisions have been made throughout this legally referenced policy to more closely track current statutory language and to update citations.

This local policy on security personnel is recommended for inclusion in the college district's policy manual. This new policy includes the following components:

- The board’s decision to employ and commission police officers;
- As determined by the board, the jurisdiction of the college district’s officers and the list of the officers’ authority, which must include protecting the safety and welfare of persons within the college district’s jurisdiction and protecting the property of the college district;
- Authorization for officers to operate within another law enforcement agency’s jurisdiction when temporarily assigned to that agency and coordination with other law enforcement agencies as established in the relevant memorandums of understanding;
- Limitations on outside employment;
- Use of video equipment in a police car and clarification that those recordings are considered law enforcement records;
- Provisions on officer training and creation of a police department regulations manual, which must address racial profiling, high-speed pursuit, and use of force; and
- A provision referencing the unique COMPLAINT process required by law for a college district police officer and appeals regarding that specific complaint process.

If the college district does not currently commission peace officers or if any of the provisions in the enclosed policy are not reflective of the college district’s police force, please contact your policy consultant for appropriate revisions.

The existing provisions in this legally referenced policy addressing maintenance have been revised to more closely track statutory language.
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CHC (LEGAL) SITE MANAGEMENT
TRAFFIC AND PARKING CONTROLS

Detail from existing statutory material has been added for clarification at PARKING PRIVILEGES OF DISABLED VETERANS. Additional revisions have been made throughout this legally referenced policy to mirror language found in current statute.

CHE (LEGAL) SITE MANAGEMENT
MAIL AND DELIVERY

Revisions have been made to this legally referenced policy regarding mail systems to more closely track statutory language, including added detail regarding POLITICAL ADVERTISING.

CI (LEGAL) EQUIPMENT AND SUPPLIES MANAGEMENT

The existing provision in this legally referenced policy regarding the adoption of a memorandum of understanding between the Department of Public Safety and the Coordinating Board for the reporting of information related to CONTROLLED SUBSTANCES AND LABORATORY EQUIPMENT has been revised to more closely align with language of the relevant statute. A link to the current memorandum of understanding has also been added.

CIA (LEGAL) EQUIPMENT AND SUPPLIES MANAGEMENT
RECORDS MANAGEMENT

Significant detail has been added from the Local Government Code regarding the college district’s obligations under records management. This includes information related to the designation of a records management officer, retention schedules, the manner in which records may be destroyed, the alienation of records, and a college district’s right to recover certain records. Existing provisions have been revised to more closely track current statutory language.

CIA (LOCAL) EQUIPMENT AND SUPPLIES MANAGEMENT
RECORDS MANAGEMENT

Minor revisions for policy style and to update a Government Code citation regarding the officer for public information are recommended for this policy on records management.
CIB (LEGAL) EQUIPMENT AND SUPPLIES MANAGEMENT
DISPOSAL OF PROPERTY

We have revised this legally referenced policy on property disposal to more closely track the language used in current statute.

CJ (LEGAL) TRANSPORTATION MANAGEMENT

An existing provision from the Transportation Code has been added regarding the TRANSPORTATION OF PUBLIC SCHOOL STUDENTS on buses operated by a community college. The remaining provisions have been adjusted to more closely align with current statutory language.

CJA (LEGAL) TRANSPORTATION MANAGEMENT

MAINTENANCE OF VEHICLES

Significant detail has been added to this legally referenced policy reflecting provisions in the Transportation Code that require college-owned vehicles to meet certain standards and to be properly inspected.

CK (LEGAL) INSURANCE AND ANNUITIES MANAGEMENT

In addition to revisions to more closely align with current statutory language, we have deleted a provision from the Insurance Code that does not apply to community colleges.

CKB (LEGAL) INSURANCE AND ANNUITIES MANAGEMENT

LIABILITY INSURANCE

Citations have been updated in this legally referenced policy on liability insurance and revisions made to more closely align the existing text with current statute.

CKC (LEGAL) INSURANCE AND ANNUITIES MANAGEMENT

DEFERRED COMPENSATION AND ANNUITIES

Information regarding deferred compensation plans, including the Texa$aver plan, has been added to this legally referenced policy. Note that because community colleges are considered institutions of higher education under Government Code Chapter 609, references to both Subchapter B and C are included in the policy.

In addition, citations have been updated and revisions have been made to more closely align with current statute.
Details have been added to this legally referenced policy reflecting health insurance requirements UPON TERMINATION OR OTHER QUALIFYING EVENT (COBRA), including the definition of QUALIFYING EVENT and the required PERIODS OF COVERAGE.

Information related to PREEXISTING CONDITION exclusions has been adjusted to remove previously allowable exceptions, as amended by the Affordable Care Act.

The remaining provisions have been significantly altered to more closely align the language with current statute and to update citations.

This legally referenced policy on workers’ compensation has been significantly revised to more closely track current statutory language and requirements, including provisions from both the Labor Code and Administrative Code. An existing Administrative Code requirement on maintaining a RECORD OF INJURIES has also been added, as well as the addition of an existing Administrative Code requirement to post notices so that employees are able to make REPORTS OF SAFETY VIOLATIONS.

Significant revisions have been made to more closely mirror current statute and to add provisions from the relevant sections of the Labor Code to this legally referenced policy on unemployment insurance.

The provisions related to required accessibility standards for facilities have been significantly revised in this legally referenced policy to more closely track the language used in both current federal regulations and state law. Note that because the Americans with Disabilities Act (ADA) rules encompass all public facilities and the U.S. Department of Education (DOE) rules apply only when federal financial assistance is received, the bulk of the accessibility standards as they relate to individuals with disabilities have been revised to focus more on the ADA standards. The ADA standards are similar to the DOE rules but are more broadly written.

This legally referenced policy describing construction-related contracts has been revised to more closely track the language used in current statute.
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CM (EXHIBIT) FACILITIES CONSTRUCTION
Rather than listing the exact language from the Administrative Code regarding workers’ compensation coverages that must be used by community colleges when entering into a building or construction project, a link has been added to the Secretary of State webpage that houses these required statements.

CMA (LEGAL) FACILITIES CONSTRUCTION
COMPETITIVE BIDDING
Citations have been adjusted in this legally referenced policy on competitive bidding and revisions made to the existing provisions to more closely mirror current statutory language.

CMB (LEGAL) FACILITIES CONSTRUCTION
COMPETITIVE SEALED PROPOSALS
Citations have been adjusted in this legally referenced policy on competitive sealed proposals and revisions made to the existing provisions to more closely mirror current statutory language.

CMC (LEGAL) FACILITIES CONSTRUCTION
CONSTRUCTION MANAGER-AGENT
We have revised the existing provisions in this legally referenced policy on construction manager-agent to more closely track current statutory language.

CMD (LEGAL) FACILITIES CONSTRUCTION
CONSTRUCTION MANAGER-AT-RISK
We have revised the existing provisions in this legally referenced policy on construction manager-at-risk to more closely track current statutory language.

CME (LEGAL) FACILITIES CONSTRUCTION
DESIGN-BUILD
We have revised the existing provisions in this legally referenced policy on design-build to more closely track current statutory language.
CMF  (LEGAL)  FACILITIES CONSTRUCTION
JOB ORDER CONTRACTS

The provisions in this legally referenced policy on job order contracts have been altered to more closely track language used in current statute.

CQ  (LEGAL)  COLLEGE DISTRICT AUXILIARY ENTERPRISES

Revisions have been made to this legally referenced policy to more closely track current statutory language. In addition, rather than list every detail of Education Code Chapter 153 that authorizes community colleges to establish CENTERS FOR TECHNOLOGY TRANSFER, the existing details that were previously included have been deleted; the full content of Chapter 153 should be referenced if a college district wishes to pursue this endeavor.

CR  (LEGAL)  TECHNOLOGY RESOURCES

A Fifth Circuit case, Garcia v. City of Laredo, replaces references to both an older Fifth Circuit case and a Third Circuit case, at the definition of ELECTRONIC STORAGE and at a new definition for FACILITY. The Garcia case affirmed that cell phones and computers are not considered facilities in regard to the application of law when determining whether a device, or information stored on a device, may be searched under the Stored Wire and Electronic Communication and Transactional Records Access Act. In addition, revisions have been made to more closely mirror language used in the relevant statute.

CRA  (LEGAL)  TECHNOLOGY RESOURCES
WEBSITE POSTINGS

Minor revisions have been made to this legally referenced policy on website postings to more closely track statutory language.

CS  (LEGAL)  INFORMATION SECURITY

The definition of a FINANCIAL INSTITUTION from federal regulations has been added to this legally referenced policy as it relates to the requirement of colleges to adopt and implement an information security program. Revisions have also been made to the remaining provisions to more closely align the language with current state and federal statute.

D  (LEGAL)  PERSONNEL

We have updated the table of contents for the personnel section to incorporate a new code under Employee Standards of Conduct: DHC, Child Abuse and Neglect Reporting. See the note for that policy below.
DAA (LEGAL) EMPLOYMENT OBJECTIVES
EQUAL EMPLOYMENT OPPORTUNITY

Added to this legally referenced policy are existing provisions addressing acts that constitute prohibited discrimination based on a protected characteristic and references to related enforcement provisions from the Administrative Code. See STATE LAW beginning on page 11.

DGBA (LOCAL) PERSONNEL-MANAGEMENT RELATIONS
EMPLOYEE GRIEVANCES

In an effort to clarify the intent of the existing provisions in this policy, the following changes are recommended:

- NOTICE TO EMPLOYEES requires college districts to inform employees of the policy through appropriate college district publications.
- Revisions at OTHER COMPLAINT PROCESSES clarify that employees must initiate some complaints by following the specific complaint processes in the listed policies. However, appeals stemming from those complaint processes may need to be submitted in accordance with DGBA.
- New text at FILING explains that complaint forms and appeal notices may be filed by electronic communication, including e-mail and fax, by close of business on the deadline. Likewise, college district responses can be sent by electronic communication to the employee’s e-mail address of record.
- SCHEDULING CONFERENCES states that the college district shall make reasonable attempts to schedule conferences at a mutually agreeable time. However, if the employee fails to appear at a scheduled conference, the college district can hold the conference without the employee.

Please note: The rest of your locally developed policy remains unchanged

Similar changes have been made to FLD(LOCAL), addressing student and parent complaints, and GB(LOCAL), addressing complaints by the public. See the explanatory notes for those policies.

DHC (LEGAL) EMPLOYEE STANDARDS OF CONDUCT
CHILD ABUSE AND NEGLECT REPORTING

We have added this legally referenced policy to address child abuse and neglect reporting requirements, including a policy and employee training requirement for institutions of higher education resulting from SB 939 passed during the 83rd Legislative Session.

DK (LEGAL) PROFESSIONAL DEVELOPMENT

A note referring to DHC for training requirements related to recognizing and reporting child abuse and neglect has been added to this legally referenced policy regarding professional development.
EFAB (LEGAL) INSTRUCTIONAL PROGRAMS AND COURSES
CAREER TECHNICAL/WORKFORCE COURSES

In addition to changes to conform to current policy style, citations and certain terminology were updated to reflect Administrative Code amendments, effective September 4, 2014.

EFB (LEGAL) CURRICULUM DESIGN
DEGREES AND CERTIFICATES

Substantive revisions have been made to this legally referenced policy to incorporate changes in the Administrative Code. These revisions include:

- Clarifying acronyms and renumbering of existing rule provisions, effective September 4, 2014;
- The requirement, applicable to students enrolling beginning with the fall 2015 semester, that institutions of higher education must provide compelling reasons to the Coordinating Board if more than 60 SEMESTER CREDIT HOURS will be required to obtain an academic associate’s degree;
- The process by which new associate degree or certificate programs may be approved, also effective with students who enroll in an institution of higher education beginning with the fall 2015 semester [see NEW ACADEMIC ASSOCIATE DEGREE PROGRAMS and CAREER TECHNICAL/WORKFORCE DEGREE AND CERTIFICATE PROGRAMS]; and
- Effective November 24, 2013, requirements related to requests for new BACCALAUREATE DEGREE PROGRAMS.

EFCB (LEGAL) SPECIAL PROGRAMS
ADULT BASIC AND SECONDARY EDUCATION

Added to this legally referenced policy are references to the Texas Workforce Commission (TWC) Administrative Code rules addressing adult education and literacy (AEL) and DEFINITIONS of the AEL services overseen by the TWC. These rules were effective February 24, 2014.

EFCC (LEGAL) SPECIAL PROGRAMS
ELEMENTARY AND SECONDARY STUDENTS

We have updated the citation information in this policy and added a reference to Chapter 100 of the Administrative Code to point to commissioner of education rules related to the approval and operation of junior college charter schools.
EI (LEGAL) TESTING PROGRAMS

Revisions to this legally referenced policy include amendments to the Administrative Code, effective November 21, 2013, reflecting statutorily required developmental education reform efforts. Specifically, these revisions include:

- A change to the course number for Government at “ENTRY-LEVEL COURSE” on page 1;
- Clarification related to cut scores for adult basic education at MINIMUM STANDARDS on page 2; and
- Revised language associated with the ESOL WAIVER on page 9.

Additional revisions include Administrative Code amendments, effective September 4, 2014, that address:

- The definition of mathematics pathway models, mandatory counseling regarding the consequences of successful completion of a mathematics pathway model, and the optional requirement of additional preparatory coursework and interventions for Algebra intensive courses. See DEFINITIONS, “MATHEMATICS PATHWAY MODELS” on page 1; FAILURE TO MEET MINIMUM STANDARDS on page 4; and item 5 at COLLEGE LEVEL EXPERIENCE on page 8;
- At DETERMINATION OF READINESS on page 6, how student readiness in mathematics must be indicated on student transcripts; and
- The period of the Texas Success Initiative exemption for completion of COLLEGE PREP COURSES and the application of the exemption to an institution of higher education other than the institution that developed the course in partnership with the school district.

F (LEGAL) STUDENTS

The F section table of contents has been updated to reflect a title change at policy code FFE.

FA (LEGAL) EQUAL EDUCATIONAL OPPORTUNITY

We have added federal regulations, amended to be effective July 1, 2015, that provide detailed requirements addressing the CLERY ACT – CAMPUS SEXUAL ASSAULT PROGRAMS. The college district is required to include in its Clery Act annual security report a statement of policy regarding the college district’s programs to prevent dating violence, domestic violence, sexual assault, and stalking as well as the investigation, discipline, notification, and related procedures that the college district will follow upon receiving a report alleging that one of the listed crimes occurred. The new requirements are in addition to existing requirements under Title IX and other federal and state laws regarding policies and procedures addressing sexual violence and harassment.

We have also included existing federal regulations related to DISCRIMINATION ON THE BASIS OF AGE to provide more guidance on the requirements associated with providing equal educational opportunities.
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FAA  (LEGAL)  EQUAL EDUCATIONAL OPPORTUNITY
SERVICE ANIMALS

Included in this legally referenced policy are provisions related to the prohibition by the Fair Housing Act of discrimination against any person in situations where persons with disabilities use, or seek to use, an assistance animal in housing where the provider forbids pets and other animals. See FAIR HOUSING ACT ASSISTANCE ANIMAL. We have also clarified that the definition of service animal used at the beginning of the policy is from the Americans with Disabilities Act.

FFD  (LEGAL)  STUDENT WELFARE
FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION

As noted above at FA(LEGAL), we have added provisions to provide additional guidance on the prohibition of AGE DISCRIMINATION.

FFD  (LOCAL)  STUDENT WELFARE
FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION

Consistent with the changes at FA(LEGAL) and FFD(LEGAL) regarding age discrimination, we have clarified that the college district prohibits discrimination on the basis of age and updated the definitions of DISCRIMINATION and PROHIBITED HARASSMENT accordingly. Also at PROHIBITED HARASSMENT, as well as SEXUAL HARASSMENT and GENDER-BASED HARASSMENT, we have clarified that, for harassment to be actionable, it must limit or deny a student’s ability to participate in or benefit from the college district’s educational program. Acting to limit a student’s conduct based on expressive conduct that is merely offensive may constitute a violation of the First Amendment.

The U.S. Department of Education Office for Civil Rights (OCR) has issued new guidance on Title IX and, as described at FA(LEGAL), regulations addressing the Clery Act. The following provisions have been amended accordingly:

- At STUDENT REPORT, the list of individuals to whom a student should report allegations of prohibited conduct has been changed to focus on responsible employees, a term used by OCR when determining if the college district is expected to act on the report. A corresponding definition of RESPONSIBLE EMPLOYEE has been added. The college district should review the list of responsible employees to ensure it includes all employees who meet the definition.

- At EMPLOYEE REPORT, because OCR has expressed a preference for students to have a resource who is not required to disclose the personal information related to a report of prohibited conduct and in acknowledgement of the confidentiality requirements related to a professional counselor’s license, we have added EXCEPTIONS to the required employee disclosures.

- We have clarified that the COLLEGE DISTRICT INVESTIGATION into a report of prohibited conduct must be conducted by a person who has received appropriate training.
We have clarified the requirements to provide ACCESS TO POLICY, PROCEDURES, AND RELATED MATERIALS, to specify that educational and resource materials shall be distributed through various outlets as part of the college district's ongoing prevention efforts and that the policy and related procedures shall be distributed to a student who makes a report of prohibited conduct.

Note, though the changes were prompted by OCR action in the area of sexual violence and harassment, the changes to local policy are intended to apply to all harassment reports as they strengthen the reporting and investigation processes. Additionally, these changes address only the concerns that impact board-level policy. We recommend that the college district review its administrative procedures adopted under this local policy to ensure that the procedures meet the legal requirements.

Finally, at COLLEGE DISTRICT ACTION – PROHIBITED CONDUCT, the policy has been amended to clarify that any disciplinary or corrective action must be taken in accordance with college district policy and procedures, including policies FM and FMA.

FG (LEGAL) STUDENT HOUSING

We have added to this legally referenced policy existing federal requirements related to a college district's obligations to have MISSING STUDENT NOTIFICATION POLICIES AND PROCEDURES.

FLAA (LOCAL) STUDENT EXPRESSION

STUDENT USE OF COLLEGE DISTRICT FACILITIES

Recommended for deletion from this policy on student use of college district facilities are provisions related to designating free speech areas for students and registered student organizations. The college district may establish areas where students may gather to engage in expressive activities when they otherwise would first be required to obtain approval from the college district. Such designations are more appropriately described in administrative regulations. Note, the designations should not imply that student free speech protected by the First Amendment is in any way limited. The designation should be intended, and therefore crafted, as an extension of rights within the scope of the language in the corresponding legally referenced policy at this code.

FLD (LOCAL) STUDENT RIGHTS AND RESPONSIBILITIES

STUDENT COMPLAINTS

In an effort to clarify the intent of the existing provisions in this policy related to student grievances, the following changes are recommended:

- Revisions at OTHER COMPLAINT PROCESSES clarify that students must initiate some complaints by following the specific complaint processes in the listed policies. However, appeals stemming from those complaint processes may need to be submitted in accordance with FLD.

- NOTICE TO STUDENTS requires college districts to inform students of the policy through appropriate college district publications.

- New text at FILING explains that complaint forms and appeal notices may be filed by electronic communication, including e-mail and fax, by close of business on the deadline. Likewise, college district responses can be sent by electronic communication to the student's e-mail address of record.
• SCHEDULING CONFERENCES states that the college district shall make reasonable attempts to schedule conferences at a mutually agreeable time. However, if the student fails to appear at a scheduled conference, the college district can hold the conference without the student.

Please note: The remainder of your locally developed text has been retained, with minor editing for clarification.

Similar changes have been made to DGBA(LOCAL), addressing employee complaints, and GB(LOCAL), addressing complaints by the public. See the explanatory notes for those policies.

GAA (LEGAL) PUBLIC INFORMATION PROGRAM ACCESS TO INFORMATION

To improve readability, we have rearranged provisions at this code into three broad sections and created a corresponding table of contents. The entire legally referenced policy has also been revised to reflect current statutory wording, and the following provisions have been added:

• An introductory statement referencing the Public Information Act;
• An existing statutory provision regarding CONFIDENTIAL INVESTMENT INFORMATION, on page 7;
• Existing statutory language regarding a VICTIM IMPACT STATEMENT, found on page 9; and
• At Section III, Information Excepted from Public Disclosure, two existing provisions related to books, manuscripts, or other papers. See RARE BOOKS AND ORIGINAL MANUSCRIPTS and DOCUMENTS HELD FOR HISTORICAL RESEARCH on page 17.

GAB (LEGAL) PUBLIC INFORMATION PROGRAM REQUESTS FOR INFORMATION

Throughout this legally referenced policy, we have adjusted the provisions to more closely track the Government Code regarding requests for public information.

GAB (EXHIBIT) PUBLIC INFORMATION PROGRAM REQUESTS FOR INFORMATION

We have revised this exhibit to reflect current Administrative Code provisions designed for state agencies to recover the costs associated with providing copies of public information.

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

Significant revisions have been made to this legally referenced policy for clarification and to include additional statutory information from the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, as well as to reflect amendments, effective July 1, 2015, to the associated federal regulations. These provisions include:
DEFINITIONS of campus, campus security authority, Clery geography, hate crime, noncampus building or property, and public property;

Information about emergency response and missing student notification requirements at ANNUAL SECURITY REPORT;

At REPORTED CRIMES, details about reporting and recording crime statistics, such as the inclusion of gender identity and national origin in the categories of bias that qualify a crime as a hate crime, as well as obtaining crime statistics from local or state police agencies; and

EMERGENCY NOTIFICATION requirements.

Much of the detail related to the college district’s obligations regarding its CAMPUS SEXUAL ASSAULT PROGRAMS has been moved to FA(LEGAL). See the explanatory note for that policy above.

GB (LEGAL) PUBLIC COMPLAINTS AND HEARINGS

We have revised this legally referenced policy addressing public complaints to more closely track current statutory language.

GB (LOCAL) PUBLIC COMPLAINTS AND HEARINGS

In an effort to clarify the intent of the existing provisions in this policy related to grievances by members of the public, a recommended revision at INFORMAL PROCESS clarifies that participation in the informal grievance process does not extend any deadlines in the policy, except by mutual consent. This new text is consistent with the current requirement, at LEVEL ONE, that complaint forms must be filed within 15 days of the date the individual knew, or with reasonable diligence should have known, of the decision or action giving rise to the complaint. A conforming change at FORMAL PROCESS deletes reference to use of an informal conference before an individual may file a formal complaint.

The INFORMAL PROCESS encourages the individual to discuss concerns with an appropriate administrator. We have clarified that in the informal process an administrator with whom an individual discusses concerns must have the authority to address those concerns.

This policy includes several other recommended changes as follows:

• Complaint forms and appeal notices may be filed by electronic communication, including e-mail and fax, by close of business on the deadline. Likewise, college district responses can be sent by electronic communication to the individual’s e-mail address of record. See FILING and RESPONSE.

• At SCHEDULING CONFERENCES is a new provision stating that the college district shall make reasonable attempts to schedule conferences at a mutually agreeable time. However, if the individual fails to appear at a scheduled conference, the college district can hold the conference without the individual.

• LEVEL ONE and LEVEL TWO administrators must “schedule” rather than “hold” conferences within ten days of receiving the written complaint or appeal notice. This change gives administrators some flexibility when it is not possible to hold the conference within the ten-day period.

• Additional flexibility is also given to the LEVEL ONE administrator, allowing an exception to the requirement to provide a response within ten days of the conference when there are extenuating circumstances. This could apply, for example, when an extensive investigation is needed.
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- Revisions at LEVEL TWO and LEVEL THREE specify that the conferences are limited to the issues and documents at the previous conference, except as otherwise permitted at LEVEL THREE.

Similar changes have been made to DGBA(LOCAL), addressing employee complaints, and FLD(LOCAL), addressing complaints by students. See the explanatory notes for those policies.

GC (LEGAL) RELATIONS WITH BUSINESS AND COMMUNITY ORGANIZATIONS
Revisions have been made to this legally referenced policy to reflect current Coordinating Board rules, effective September 4, 2014, addressing CONTRACTUAL AGREEMENTS FOR INSTRUCTION.

GE (LEGAL) ADVERTISING AND FUND-RAISING
Provisions from the Occupations Code addressing charitable raffles and the types of organizations that can conduct raffles have been added to this legally referenced policy.

GE (LOCAL) ADVERTISING AND FUND-RAISING
Recommended for inclusion in your manual is the enclosed policy referencing promotional activities and advertising. The policy clarifies what is meant by the term advertising and states that the purpose of accepting advertising is solely for the purpose of generating revenue; the acceptance of advertising does not constitute endorsement or approval of any product, service, or organization by the college district.

GF (LEGAL) COMMUNITY USE OF COLLEGE DISTRICT FACILITIES
We have added provisions regarding the FIRST AMENDMENT and the FORUM ANALYSIS that reflect case law college districts would apply when determining use of college district facilities. This text replaces previous text addressing the general forum for communication and distribution of nonschool literature. Also added is the provision at PROTECTED SPEECH.

GF (LOCAL) COMMUNITY USE OF COLLEGE DISTRICT FACILITIES
Recommended for deletion from this policy on community use of college district facilities are provisions related to designating free speech areas for community members. The college district may establish areas where the public may gather to engage in expressive activities when they otherwise would first be required to obtain approval from the college district. Such designations are more appropriately described in administrative regulations. Note, the designations should not imply that free speech protected by the First Amendment is in any way limited. The designation should be intended, and therefore crafted, as an extension of rights within the scope of the language in the corresponding legally referenced policy at this code.

A policy code cross-reference has also been corrected at LIMITATIONS ON CONTENT.
GFA  (LEGAL)  COMMUNITY USE OF COLLEGE DISTRICT FACILITIES
     CONDUCT ON COLLEGE DISTRICT PREMISES
We have reorganized this legally referenced policy and have added details for clarification regarding
WITHDRAWAL OF CONSENT TO REMAIN ON CAMPUS. Other revisions have been made to more
closely mirror the wording of current statute.

GFA  (LOCAL)  COMMUNITY USE OF COLLEGE DISTRICT FACILITIES
     CONDUCT ON COLLEGE DISTRICT PREMISES
Recommended for inclusion in your policy manual is this policy regarding conduct on college district
premises as it relates to the prohibition on weapons, including an exception to the possession of prohib-
ited weapons when a handgun is properly stored in a vehicle in accordance with law.

GG  (LEGAL)  RELATIONS WITH GOVERNMENTAL AGENCIES AND AU-
     THORITIES
This legally referenced policy on relations with governmental agencies has been revised to more closely
track the wording of current statute.

GGB  (LEGAL)  RELATIONS WITH GOVERNMENTAL AGENCIES AND AU-
     THORITIES
     INTERLOCAL COOPERATION CONTRACTS
We have added details regarding what must be included in INTERLOCAL COOPERATION CONTRACTS
and have revised the existing provisions to more closely track statutory language.

GGE  (LEGAL)  RELATIONS WITH GOVERNMENTAL AGENCIES AND AU-
     THORITIES
     EMERGENCY MANAGEMENT
The DEFINITION of organized volunteer group has been added, and other revisions have been made to
more closely track statute.
In addition, we have removed from this legally referenced policy a provision regarding emergency man-
agement training that is no longer applicable.

GH  (LEGAL)  RELATIONS WITH SCHOOLS AND DISTRICTS
We have updated citations as well as reorganized and edited the text throughout this legally referenced
policy to more closely track statute and to clarify the provisions regarding relations with school districts.
Revisions include:
- Details addressing community colleges holding COLLEGE COURSES IN SCHOOL DISTRICT FA-
    CILITIES, on page 2;
Information regarding each school district implementing a COLLEGE CREDIT PROGRAM, on page 3; and

Provisions addressing the TUITION AND FUNDING for students enrolled in a remedial program or course, on page 12.

Beginning on page 6, the requirements for eligibility to enroll in a dual credit course, including workforce education dual credit courses, as they relate to a student’s CLASS YEAR STANDING have also been revised to reflect current Coordinating Board rules, effective August 19, 2014.

GI (LEGAL) RELATIONS WITH OTHER COLLEGES AND UNIVERSITIES

We have adjusted citations throughout this legally referenced policy and have updated the text related to INSTRUCTIONAL ARRANGEMENTS to mirror current Coordinating Board rules, effective September 4, 2014.

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

This legally referenced policy has been revised to add more detail regarding federal and state laws prohibiting discrimination in the granting of public access to programs, services, and activities. Included are provisions associated with religious freedom; discrimination based on sex, race, color, national origin, or disability; and retaliation.
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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drug use FLE
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A college district derives its legal status from the Constitution of the state of Texas and from the Texas Education Code as passed and amended by the Texas Legislature. *Texas Constitution, Art. VII*

By complying with the provisions of the appropriate sections of Education Code Chapter 130 a public junior college and/or district of any one of the following classifications may be established:

1. Independent school district junior college.
2. City junior college.
3. Union junior college.
4. County junior college.
5. Joint-county junior college.
6. Public junior college as a part or division of a regional college district.

*Education Code 130.004(a)*
The official name of a junior college district shall be the “_____________ Junior College District” unless the board of trustees of the district elects to call the district a community college district, in which event the official name of the junior college district shall be the “_____________ Community College District.” The board shall designate an appropriate and locally pertinent descriptive word or words to be filled in the appropriate blank (and may change such designation when deemed advisable) by resolution or order; provided that no two districts shall have the same or substantially similar names. A college district may change its name under Education Code 130.005 or 130.0051.

All resolutions or orders designating or changing names shall be filed immediately with the Coordinating Board and the first name filed shall have priority, and the district shall be advised of any previous filing of any identical or substantially similar name.

_Education Code 130.082(c)_

**CHANGE OF NAME**

The governing board of any public community or junior college district may by a duly adopted resolution change the name of the district by substituting the word “community” for the word “junior” in the name, or by eliminating the word “community” or “junior” from the name, unless the change would cause the district to have the same name as an existing district. A copy of the resolution duly certified by the secretary of the governing board shall be filed with the Coordinating Board. The name change shall become effective upon the filing of the resolution with the Coordinating Board and thereafter all references to the district shall be by use of the new name. _Education Code 130.005(b), .0051; 19 TAC 9.30_
“Services” means the courses and programs described in Education Code 130.0011 and 130.003(e). [See AD(LEGAL)]

“Service area” means:

1. The territory within the boundaries of the taxing district of a junior college district; and

2. The territory outside the boundaries of the taxing district of a junior college district in which the junior college district provides services.

Education Code 130.161

Note: For a description of each college district service area, see AC(EXHIBIT).

The establishment of any new public junior college campus within an existing junior college district or the establishment of any new junior college district shall be approved by the Legislative Budget Board if the establishment occurs during a time when the legislature is not in session. The legislature shall approve the establishment of any new public junior college campus within an existing junior college district or the establishment of any new junior college district if proposed during or within three months prior to a legislative session. Education Code 130.004(e)

If the junior college district annexes territory under Education Code Chapter 130, Subchapter D comprising all of a municipality or school district, the governing board by order may annex for junior college purposes any territory later annexed by or added to the municipality or school district. Education Code 130.066

Territory may be annexed to a junior college district by contract under Education Code 130.064 or election under Education Code 130.065, if the territory:

1. Is contiguous to the annexing junior college district; or

2. Is located in the service area of the annexing district established under Education Code Chapter 130, Subchapter J.

Territory may be annexed to a junior college district as provided by Education Code 130.063 only if the territory is located wholly within a single school district, county, or municipality. This provision does not prohibit a junior college district from conducting annexation elections or other annexation procedures for more than one territory at the same time.
A junior college district may not annex territory under Section 130.063 that is included in the boundaries of another junior college district.

A junior college district may not annex territory under Section 130.063 if a campus of the Texas State Technical College System is located:

1. Within the county in which the territory is located; and
2. Outside the junior college district.

This section does not prevent a junior college district from annexing territory located in Brown County.

*Education Code 130.063*

**BY CONTRACT**

If the annexation is by contract, a petition shall be presented to the governing board of any junior college district, executed by all property owners of all property situated in the territory proposed for annexation. The petition shall contain a legally sufficient description of the territory proposed for annexation. The governing board of the junior college district, if it deems the annexation to be in the best interest of the district, may effect the annexation by:

1. Entering its order authorizing the annexation of the territory by contract; and
2. Then entering into a written agreement duly executed and acknowledged by all persons, corporations, and entities owning property within the territory.

*Education Code 130.064*

**BY ELECTION**

On presentation to the governing board of a junior college district of a petition proposing the annexation of territory to the district, the governing board may call an election on the question of annexing the territory. The petition must:

1. Contain an accurate description of the territory proposed for annexation; and
2. Be signed by a number of registered voters in the territory proposed to be annexed equal to at least five percent of the registered voters in that territory as of the most recent general election for state and county officers.

*Education Code 130.065(a)*

**HEARING**

Before the governing board of the junior college district may order an annexation election, the board must hold a public hearing within the territory proposed for annexation. The hearing must be held
not earlier than the 45th day and not later than the 30th day before the date the board issues the order for the election. *Education Code 130.065(b)*

**SERVICE PLAN**

Not later than the 30th day before the date of a public hearing, the board shall complete and publish a service plan for the territory proposed for annexation. The service plan is informational only and must include:

1. The maximum property tax rate that the board may adopt;
2. The most recent property tax rate adopted by the board and any tax rate increase proposed or anticipated to occur after the annexation;
3. The tuition rate that would apply after annexation for a student who resides in the district;
4. The tuition and fees that would apply under Education Code 130.0032(d) for a student who resides outside the district;
5. Plans for providing educational services in the territory, including proposed or contemplated campus and facility expansion in the territory;
6. Plans for cooperation with local workforce agencies; and
7. Any other elements consistent with Education Code Chapter 130, Subchapter D prescribed by rule of the Coordinating Board.

*Education Code 130.065(c)*

The governing board shall issue an order for an election to be held in the territory proposed for annexation on a uniform election date that is not less than 45 days after the date of the order and that affords enough time to hold the election in the manner provided by law. The board shall give notice of the election in the manner provided by law for notice by the county judge of a general election.

*Education Code 130.065(d)*

The governing board shall conduct the election in accordance with the Election Code. The election shall be held only in the territory proposed for annexation, and only those registered voters residing in that territory are permitted to vote.

The ballot shall be printed to provide for voting for or against the proposition: "Approving the annexation by the _________ (name of junior college district) of the following territory: __________ (with the blank filled in with a description of the territory proposed for annexation), and authorizing the imposition of an ad valorem
tax for junior college purposes, which is currently set at a rate of __________ (with the blank filled in with the ad valorem tax rate of the district for the current year or, if that rate has not been adopted, the tax rate for the preceding year) per $100 valuation of taxable property."

*Education Code 130.065(e)–(g)*

**ADOPTED MEASURE**

The measure is adopted if the measure receives a favorable vote of a majority of those voters voting on the measure.

If the measure is adopted, the governing board of the district shall enter an order declaring the result of the election and that the territory is annexed to the junior college district on the date specified in the order.

If the proposition is adopted and the governing board is elected from single-member districts, the governing board in the annexation order shall assign the new territory to one or more of the current single-member districts.

The annexation of territory and any resulting change in the single-member districts from which members of the governing board are elected does not affect the term of a member of the governing board serving on the date the annexation or redistricting takes effect. The governing board shall provide that each member of the governing board representing a single-member district who is holding office on the date the annexation takes effect serve the remainder of the member's term and represent a single-member district in the expanded junior college district for that term regardless of whether the member resides in that single-member district.

*Education Code 130.065(h)–(k)*

**FAILED MEASURE**

If the measure is not adopted at the election, another election to annex all or part of the same territory may not be held earlier than one year after the date of the election at which the measure is not adopted. *Education Code 130.065(l)*

**EXTENSION OF BOUNDARIES BASED ON STUDENT ENROLLMENT**

The governing board of a junior college district may order an election on the question of establishing expanded boundaries for the junior college district to encompass all of the territory located within the district’s service area established by Education Code Chapter 130, Subchapter J [see AC(EXHIBIT)], other than territory located in the service area of another junior college district, if more than 35 percent of the total number of students who enrolled in the junior college district in the most recent academic year resided outside of the existing junior college district.
The governing board of a junior college district may order an election on the question of establishing expanded boundaries for the junior college district to encompass part of the territory located within the district’s service area established by Subchapter J, other than territory located in the service area of another junior college district, if more than 15 percent of the high school graduates for each of the preceding five academic years in the territory proposed to be added to the district have enrolled in the junior college district.

Except as otherwise provided by Education Code 130.068, Education Code 130.065 [see BY ELECTION, above] applies to an action taken under this section, including the provisions of Section 130.065 requiring a petition to be submitted before an election may be called.

A junior college district may not adopt new boundaries for the district under Section 130.068 that extend within the service area of another junior college district.

*Education Code 130.068*

**OTHER BOUNDARY CHANGES**

College district territory may also be expanded or disannexed as allowed by Education Code Chapter 130, Subchapter D. *Education Code 130, Subchapter D*

**NOTICE TO VOTER REGISTRAR**

A political subdivision, including a college district, that changes its boundaries or the boundaries of districts used to elect members to the governing body of the political subdivision shall not later than the 30th day after the date the change is adopted:

1. Notify the voter registrar of the county in which the area subject to the boundary change is located of the adopted boundary change; and

2. Provide the voter registrar with a map of an adopted boundary change in a format that is compatible with the mapping format used by the registrar’s office.

*Election Code 42.0615*
BRANCH CAMPUSES, CENTERS, EXTENSION FACILITIES

The board of trustees of a junior college district may establish and operate branch campuses, centers, or extension facilities within the junior college district’s service area provided that each branch campus, center, or extension facility, and each course or program offered in such locations, is subject to the prior and continuing approval of the Coordinating Board.

Before any course may be offered by a public junior college within the service area of another operating public junior college, it must be established that the second public junior college is not capable of or is unable to offer the course. After the need is established and the course is not locally available, then the first public junior college may offer the course when approval is granted by the Coordinating Board.

Notwithstanding Education Code, Chapter 130, Subchapter J [regarding junior college district service areas], the service area of a junior college district does not include territory within the boundaries of the taxing district of another junior college district. If a branch campus, center, or extension facility operated by a junior college district outside its taxing district becomes located within the taxing district of another junior college district when the other district is established or annexes the territory that includes the campus, center, or facility, the junior college district operating the campus, center, or facility must discontinue the campus, center, or facility within a reasonable period, not to exceed one academic year. The junior college district in which the campus, center, or facility is located must fairly compensate the junior college district that discontinues the campus, center, or facility for any capital improvements that the discontinuing district acquired or constructed for the campus, center, or facility, to the extent the discontinuing district is otherwise unable to recover the current value of its investment in that capital improvement, as determined by the Coordinating Board.

*Education Code 130.086(a), (d), (f)*

DEFINITIONS

"BRANCH CAMPUSES"

"Branch campuses" operate as out-of-district units of existing community college districts and provide programs as defined in Texas Education Code Chapter 130 and set out in 19 Administrative Code 8.25 on an ongoing and permanent basis. *19 TAC 8.1(3)*

"EXTENSION CENTER OR EXTENSION FACILITY"

An "extension center or extension facility” is any single or multiple location, other than the main campus of a community college district, and is outside the boundaries of the taxing authority of a community college district. Extension centers and extension facilities are subject to 19 Administrative Code Chapter 4, Subchapter E relating to approval of distance education and off-campus instruction. *19 TAC 8.1(7) [See EBA(LEGAL)]*
CONVERSION OPTION

The governing board of a community college district may establish and operate a branch campus through conversion of an extension center or extension facility, provided that each course and program has been approved and is subject to the continuing approval of the Coordinating Board.

The governing board of a community college district requesting authority to convert an out-of-district center/facility to a branch campus must submit a Letter of Application to the commissioner.

19 TAC 8.73, .74(a)

SELF-STUDY

A self-study must be performed by the district to assess whether the proposed branch campus meets the criteria outlined below. The self-study and the extension center or extension facility shall be reviewed by a Coordinating Board-appointed team, a majority of which should be community college presidents, for the purposes of documenting that it meets the standards and criteria described below for quality instruction and support services, as required by the Commission on Colleges of the Southern Association of Colleges and Schools and Coordinating Board rules and regulations.

19 TAC 8.74(b)

ROLE, MISSION AND PURPOSE

In its program aspects, a branch campus is equivalent to a public community college; therefore, it must provide:

1. Technical programs up to two years in length leading to associate degrees or certificates;
2. Vocational programs leading directly to employment in semi-skilled and skilled occupations;
3. Freshman and sophomore courses in arts and sciences, including the state-mandated core curriculum;
4. Continuing adult education programs for occupational or cultural upgrading;
5. Compensatory education programs designed to fulfill the commitment of an admissions policy allowing enrollment of disadvantaged students;
6. A continuing program of counseling and guidance designed to assist students in achieving their individual educational goals;
7. Workforce development programs designed to meet local and statewide needs;
8. Adult literacy and other basic skills programs for adults; and
9. Such other purposes as may be prescribed by the Coordinating Board, or local governing boards, in the best interest of postsecondary education in Texas.

_Education Code 130.086(b); 19 TAC 8.74(b)(1)_

**PROGRAMS AND COURSES**

All courses, programs, and degrees shall be offered in the name of the parent district and shall be subject to the following criteria:

1. Courses and programs must meet the role, mission, and purposes as described herein;

2. Courses and programs must be developed and operated with the ongoing assistance and involvement of the parent district faculty and staff; and

3. Instructional faculty credentials, full-time/part-time faculty ratios, teaching loads, faculty performance evaluation and effectiveness, student accessibility to faculty, etc., must be reviewed to ensure that these elements contribute to the quality of courses and programs offered.

_19 TAC 8.74(b)(2)_

**DESCRIPTION OF STAFFING PLAN**

There must be sufficient academic and student support staff to meet the needs of faculty and students at the branch campus.

_19 TAC 8.74(b)(3)_

**FUNDING**

The branch campus shall be supported either by means of a branch campus maintenance tax as set forth in 19 Administrative Code Chapter 8, Subchapter E (relating to Branch Campus Maintenance Tax, see CAI), or by local sources of community and/or economic support.

If a local tax is not levied, local sources of support must be furnished at a level sufficient to provide adequate facilities needed at the proposed branch campus location. “Facilities” include the operation and maintenance of the physical plant including any rehabilitation and repairs. Local sources of support may be “in kind.”

Appropriate accounts that comply with generally accepted accounting principles for the branch campus must be kept and financial reports submitted as required for community college districts.

State aid shall be earned according to appropriated formula rates.

_19 TAC 8.74(b)(4)_
The regional higher education council within which the proposed branch campus is to be located must review the branch campus request only if the proposed branch campus is within a shared services area designated by statute. Member institutions must discuss the proposal with all councils affected and the minutes shall reflect the discussions. If appropriate, a recommendation for approval or disapproval shall be submitted to the commissioner but shall not be binding on the commissioner or the Coordinating Board. 

19 TAC 8.74(b)(5)

The Coordinating Board’s Committee on Institutional Effectiveness and Excellence may conduct one or more public hearings on the proposed branch campus to:

1. Assess public sentiment regarding the proposed branch campus;

2. Determine whether programs in the proposed branch campus will create unnecessary duplication or seriously harm programs in existing community college districts or other institutions of higher education in the area; and

3. Assess the potential impact of the proposed branch campus on existing community colleges or other institutions of higher education in the area and on the state of Texas.

19 TAC 8.74(c)

After the self-study has been reviewed and a site visit conducted by Coordinating Board staff, a report from the Coordinating Board staff shall be submitted to the commissioner indicating whether the criteria as set out in 19 Administrative Code 8.74(b) [see SELF-STUDY, above] have been met. The report shall include a recommendation for approval or denial of the request for the establishment of the proposed branch campus but shall not be binding on the commissioner or the Coordinating Board. 

19 TAC 8.74(d)

Coordinating Board action on the request for approval for establishment of the branch campus shall be taken at the next regularly scheduled quarterly Coordinating Board meeting. In making its decision, the Coordinating Board shall consider the needs of the district, the needs of the community served by the proposed branch campus, the potential impact on other institutions of higher education, and the welfare of the state as a whole.

Branch campus designation shall be used only upon approval by the Coordinating Board.

If the Coordinating Board approves establishment of a branch campus, the governing board of the community college district may
accept or acquire by purchase or rent, land and facilities in the name of the said institution.

Coordinating Board-approved branch campus sites shall be considered as auxiliary locations for the purposes of the Coordinating Board's distance learning rules and regulations as outlined under 19 Administrative Code Chapter 4, Subchapter E, relating to approval of distance education and off-campus instruction for public colleges and universities. [See EBA]

19 TAC 8.75(a), (c)–(e)

WITHDRAWAL OF APPROVAL

The Coordinating Board may withdraw approval for a branch campus whenever the Coordinating Board:

1. Approves the establishment of a community college district that includes the site of the branch campus;

2. Approves the merger of the out-of-district area that includes the site of the branch campus with the parent district; or

3. Determines that the community college district has failed to maintain the standards and criteria of Coordinating Board rules and regulations at the branch campus.

19 TAC 8.76
ROLE AND MISSION

Texas public junior colleges shall be two-year institutions primarily serving their local taxing districts and service areas in Texas and offering vocational, technical, and academic courses for certification or associate degrees. Continuing education, remedial and compensatory education consistent with open-admission policies, and programs of counseling and guidance shall be provided. Each institution shall insist on excellence in all academic areas—instruction, research, and public service. Faculty research, using the facilities provided for and consistent with the primary function of each institution is encouraged. Funding for research should be from private sources, competitively acquired sources, local taxes, and other local revenue. *Education Code 130.0011*

PURPOSE

The purpose of each public community college shall be to provide:

1. Technical programs up to two years in length leading to associate degrees or certificates.
2. Vocational programs leading directly to employment in semi-skilled and skilled occupations.
3. Freshman and sophomore courses in arts and sciences.
4. Continuing adult education programs for occupational or cultural upgrading.
5. Compensatory education programs designed to fulfill the commitment of an admissions policy allowing the enrollment of disadvantaged students.
6. A continuing program of counseling and guidance designed to assist students in achieving their individual educational goals.
7. Work force development programs designed to meet local and statewide needs.
8. Adult literacy and other basic skills programs for adults.
9. Such other purposes as may be prescribed by the Coordinating Board or local governing boards in the best interest of post-secondary education in Texas.

*Education Code 130.003(e)*

Each public two-year college must develop a statement regarding the purpose, role, and mission of the institution reflecting the three missions of higher education: teaching, research, and public service.

Each public community college shall include in its role and mission statement the purpose of the community college as prescribed under Education Code 130.003(e), that it shall primarily serve its local
taxing district and service area, offering career technical/workforce, and academic courses for certificates or associate degrees. Continuing education, remedial and compensatory education consistent with open admission policies, and a program of counseling and guidance shall also be provided.

Each public two-year college must publish its purpose, role, and mission statement in its official publication for students, generally the college district catalog.

19 TAC 9.53–.54

In addition to specific responsibilities imposed by the Education Code or other law, each institution of higher education, including each college district, has the general responsibility to serve the public and, within the institution's role and mission, to:

1. Transmit culture through general education.
2. Extend knowledge.
3. Teach and train students for professions.
4. Provide for scientific, engineering, medical, and other academic research.
5. Protect intellectual exploration and academic freedom.
7. Provide educational opportunity for all who can benefit from postsecondary education and training.
8. Provide continuing education opportunities.

*Education Code 51.354*
MISSION STATEMENT

The primary purpose of College District is to provide quality instruction for its students. Through a variety of programs and services, the College District prepares students for success in higher education or employment. The College District also provides a broad-based program of extension courses, adult education, continuing education, and community service.

PHILOSOPHY

The College District is committed to the personal and cultural growth of students and to the enrichment of the community. Through instruction at a competitive price, the College District seeks to create an atmosphere in which students may develop their career potential, leadership qualities, intellects, talents, and skills. Likewise, the College District provides an environment in which its students, faculty, staff, and administrators can participate in college governance. The College District is committed to offering competitive salaries and benefits along with a full range of professional development activities for faculty and staff.
"Compliance program" means a process to assess and ensure compliance by the officers and employees of an institution of higher education with applicable laws, rules, regulations, and policies, including matters of:

1. Ethics and standards of conduct;
2. Financial reporting;
3. Internal accounting controls; or
4. Auditing.

*Education Code 51.971(a)(1)*

An institution of higher education, including a college district, that maintains a compliance program may establish procedures, such as a telephone hotline, to permit private access to the compliance program office and to preserve the confidentiality of communications and the anonymity of a person making a compliance report or participating in a compliance investigation.

Unless the information relates to an individual who consents to disclosure of the information, 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 investigation, the office determines the report to be unsubstantiated or without merit.

Information is excepted from disclosure under Government Code Chapter 552 if it is collected or produced in a compliance program investigation and releasing the information would interfere with an ongoing compliance investigation.

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 who is responsible under institutional policy for a compliance program investigation or for reviewing a compliance program investigation.

*Education Code 51.971(b)–(f)* [See GAA]

**CONSERVATOR FOR GROSS FISCAL MISMANAGEMENT**

On the governor’s request, the Coordinating Board with the advice and assistance of the state auditor shall determine if a condition of gross fiscal mismanagement exists at a public junior college.

If the Coordinating Board finds a condition of gross fiscal mismanagement of a public junior college, the governor by proclamation may appoint a conservator for the college.

Except as otherwise provided by Government Code Chapter 2104, Subchapter D, herein, a conservator shall act as conservator of a public junior college in the manner provided by Government Code Chapter 2104 for conservatorship of state agencies by a conservator.

*Gov't Code 2104.031*

“**GROSS FISCAL MISMANAGEMENT**”

“Gross fiscal mismanagement” includes:

1. Failure to keep adequate fiscal records;
2. Failure to maintain proper control over assets;
3. Failure to discharge fiscal obligations in a timely manner; and

*Gov't Code 2104.001(2)*

**DURATION**

A conservatorship of a public junior college continues until the earlier of:

1. The governor’s issuing of a proclamation declaring that the condition of gross fiscal mismanagement no longer exists and that the conservatorship is dissolved; or
2. The Coordinating Board’s finding and certifying to the governor that the condition of gross fiscal mismanagement no longer exists, in which case the conservatorship is dissolved.

*Gov't Code 2104.033*

**REVIEW OF BUDGET AND OPERATIONS**

The Coordinating Board may periodically review the effectiveness and efficiency of the budgets and operations of public junior colleg-
es. A review may be initiated by the Coordinating Board or at the request of the governor or the public junior college.

A review may be initiated by a public junior college only at the request of the president of the college or by a resolution adopted by a majority of the governing body of the college. If a review is initiated by a public junior college, the college shall pay 25 percent of the cost incurred in conducting the review.

The Coordinating Board shall:

1. Prepare a report showing the results of each review conducted under this section;

2. File the report with:
   a. The chief executive officer of the public junior college that is the subject of the report;
   b. The governor;
   c. The lieutenant governor;
   d. The speaker of the house of representatives;
   e. The chairs of the standing committees of the senate and of the house of representatives with primary jurisdiction over higher education; and
   f. The commissioner; and

3. Make the entire report and a summary of the report available to the public on the Internet.

Until the Coordinating Board has completed the review, all information, documentary or otherwise, prepared or maintained in conducting the review or preparing the review report, including intra-agency and interagency communications and drafts of the review report or portions of those drafts, is excepted from required public disclosure as audit working papers under Government Code 552.116. [See GAA] This provision does not affect whether information described by this provision is confidential or excepted from required public disclosure under a law other than Section 552.116.

Gov't Code 322.0165
As soon as practicable after the end of each academic year, a junior college district shall prepare an annual performance report for that academic year. The report shall be prepared in a form that would enable any interested person, including a prospective student, to understand the information in the report and to compare the information to similar information for other junior college districts. A junior college district shall make the report available to any person on request.

The report must include the following information for the junior college district for the academic year covered by the report:

1. The rate at which students completed courses attempted;
2. The number and types of degrees and certificates awarded;
3. The percentage of graduates who passed licensing exams related to the degree or certificate awarded, to the extent the information can be determined;
4. The number of students or graduates who transfer to or are admitted to a public university;
5. The passing rates for students required to be tested under Education Code 51.306;
6. The percentage of students enrolled who are academically disadvantaged;
7. The percentage of students enrolled who are economically disadvantaged;
8. The racial and ethnic composition of the district’s student body; and
9. The percentage of student contact hours taught by full-time faculty.

The Legislative Budget Board (LBB) shall be responsible for recommending standards for reports under this section, in consultation with junior college districts, the Coordinating Board, the governor’s Office of Budget and Planning (OBP), and the state auditor.

\textit{Education Code 130.0035}

Not later than June 1 of each even-numbered year, a state agency, including a junior college district, shall report on the information described below to the LBB and the governor’s OBP.

A state agency shall create an inventory of external customers for each budget strategy listed in the General Appropriations Act for that agency.
Each agency shall gather information from customers using survey or focus groups or other appropriate methods approved by the governor’s OBP and the LBB regarding the quality of service delivered by that agency. The information requested shall be as specified by the governor’s OBP and the LBB and may include evaluations of the agency’s:

1. Facilities, including the customer’s ability to access that agency, the office location, signs, and cleanliness;

2. Staff, including employee courtesy, friendliness, and knowledgeability, and whether staff members adequately identify themselves to customers by name, including the use of name plates or tags for accountability;

3. Communications, including toll-free telephone access, the average time a customer spends on hold, call transfers, access to a live person, letters, and electronic mail;

4. Internet site, including the ease of use of the site, information on the location of the site and the agency, and information accessible through the site such as a listing of services and programs and whom to contact for further information or to complain;

5. Complaint-handling process, including whether it is easy to file a complaint and whether responses are timely;

6. Ability to timely serve its customers, including the amount of time a customer waits for service in person, by phone, by letter, or at a website; and

7. Brochures or other printed information, including the accuracy of that information.

Gov’t Code 2114.002

A state agency shall appoint a customer relations representative. The representative shall:

1. Coordinate the state agency’s customer service performance measurement under Government Code Chapter 2114;

2. Gather information and evaluations from the public about an agency’s customer service;

3. Respond to customer concerns; and

4. Establish the agency’s Compact With Texans.

Each state agency shall create a “Compact With Texans.” The compact must be approved by the governor’s OBP and the LBB.
Each Compact With Texans shall set customer service standards and describe customer service principles for that agency and address:

1. The agency’s procedures for responding to public contacts and complaints;
2. Applicable licensing and certification procedures; and
3. Customer waiting time for access and service delivery and responses to complaints.

Each agency that maintains a website shall publish its Compact With Texans on that website.

Gov’t Code 2114.006

AFFORDABILITY AND ACCESS

Not later than November 1 of each year, the chief executive officer of each institution of higher education, including each college district, shall provide to the governing board of the institution a report for the preceding fall, spring, and summer semesters that examines the affordability and access of the institution.

The report must include:

1. Statistical information on the percentage of gross family income required for a student who is a resident of this state to pay tuition and required fees charged by the institution;
2. The criteria used by the institution to admit students;
3. An analysis of the criteria used to admit students and to award financial assistance to students, considering the mission of the institution and the purposes of higher education in this state;
4. An analysis of the manner in which the above factors relate to:
   a. The regions of this state in which students reside;
   b. The race or ethnicity of students;
   c. The gender of students; and
   d. The level of education achieved by the parents of students; and
5. Comparisons of the institution with peer institutions in this state and in other states with respect to affordability and access.
For purposes of the report, a student who applies for admission to or enrolls in an institution and applies for financial aid from the institution may be required to provide documentation necessary for the institution to complete the report.

An institution’s report must be in the form prescribed by the Coordinating Board in consultation with the institution.

_Education Code 51.4031_

Each institution of higher education, including each college district, shall:

1. Submit to the Coordinating Board any information requested by the Coordinating Board as necessary for the Coordinating Board to include information or calculate data required to be included in the institution’s resume, described in Education Code Chapter 51A, Subchapter C; and

2. Ensure that the first frame of the institution’s Internet website home page includes, in a font that is larger than the font of the majority of the text on the home page, an accessible link to the institution’s online resume maintained on the Coordinating Board’s Internet website.

_Education Code 51A.003_

An institution may satisfy a requirement of Education Code Chapter 51A relating to student loan, grant, or scholarship information by linking the online resume of the institution to that information as it appears on the website known as "College Navigator," or a successor or related website, maintained by the National Center for Education Statistics of the U.S. Department of Education. _Education Code 51A.004_

In the form and manner and at the times required by the Coordinating Board, a junior college district shall report to the Coordinating Board on the enrollment status of students of the junior college district. The report must include information on:

1. Students seeking a degree;
2. Students seeking a certificate;
3. Students enrolled in workforce continuing education courses;
4. Students enrolled in college credit courses who are not seeking a degree or certificate;
5. Students enrolled in courses for credit to transfer to another institution;
6. Students enrolled in developmental education courses by course level; and

7. Enrollment in other categories as specified by the Coordinating Board.

*Education Code 130.0036(a)*

Each institution of higher education, including each college district, that offers an undergraduate degree or certificate program shall prominently display on the institution's Internet website the cost of attendance for a first-time entering full-time student in accordance with the uniform standards prescribed by the commissioner. These standards may be updated on an annual basis. In addition, each institution must provide a link to the Free Application for Federal Student Aid (FAFSA) website.

The institution shall conform to the uniform standards prescribed by the commissioner in any electronic or printed materials intended to provide information regarding the cost of attendance to prospective undergraduate students.

The uniform standards prescribed by the commissioner shall also be considered by institutions when providing information regarding the cost of attendance for nonresident students or students enrolled in professional programs.

Institutions shall provide the Coordinating Board, upon request at least annually, any information necessary for the Coordinating Board staff to calculate the net cost of attendance for a first-time entering full-time student.

*Education Code 61.0777(c)–(d); 19 TAC 21.2222(a)–(d)*

In accordance with 20 U.S.C. 1092(a), each eligible institution participating in any program under 20 U.S.C. Chapter 28, Subchapter IV and 42 U.S.C. Chapter 34, Subchapter I shall carry out information dissemination activities for prospective and enrolled students (including those attending or planning to attend less than full time) regarding the institution and all financial assistance under 20 U.S.C. Chapter 28, Subchapter IV and 42 U.S.C. Chapter 34, Subchapter I. The information required by this section shall be produced and be made readily available upon request, through appropriate publications, mailings, and electronic media, to an enrolled student and to any prospective student. Each eligible institution shall, on an annual basis, provide to all enrolled students a list of the information that is required to be provided by institutions to students by this section and 20 U.S.C. 1232g, together with a statement of the procedures required to obtain such information. The information required by this section shall accurately describe:
1. The student financial assistance programs available to students who enroll at such institution;

2. The methods by which such assistance is distributed among student recipients who enroll at such institution;

3. Any means, including forms, by which application for student financial assistance is made and requirements for accurately preparing such application;


5. The cost of attending the institution, including tuition and fees, books and supplies, estimates of typical student room and board costs or typical commuting costs, and any additional cost of the program in which the student is enrolled or expresses a specific interest;

6. A statement of the requirements of any refund policy with which the institution is required to comply; the requirements under 20 U.S.C. 1091b for the return of grant or loan assistance provided under 20 U.S.C. Chapter 28, Subchapter IV and 42 U.S.C. Chapter 34, Subchapter I; and the requirements for officially withdrawing from the institution;

7. The academic program of the institution, including the current degree programs and other educational and training programs, the instructional, laboratory, and other physical plant facilities which relate to the academic program, the faculty and other instructional personnel, and any plans by the institution for improving the academic program of the institution;

8. Each person designated under 20 U.S.C. 1092(c), and the methods by which and locations in which any person so designated may be contacted by students and prospective students who are seeking the information required by 20 U.S.C. 1092(a);

9. Special facilities and services available to students with disabilities;

10. The names of associations, agencies, or governmental bodies which accredit, approve, or license the institution and its programs, and the procedures under which any current or prospective student may obtain or review upon request a copy of the documents describing the institution’s accreditation, approval, or licensing;
11. The standards which the student must maintain in order to be considered to be making satisfactory progress, pursuant to 20 U.S.C. 1091(a)(2);

12. The completion or graduation rate of certificate- or degree-seeking, full-time, undergraduate students entering such institutions;

13. The terms and conditions of the loans that students receive under 20 U.S.C. Chapter 28, Subchapter IV, Parts B, C, and D;

14. That enrollment in a program of study abroad approved for credit by the home institution may be considered enrollment in the home institution for purposes of applying for Federal student financial assistance;

15. The campus crime report prepared by the institution pursuant to 20 U.S.C. 1092(f), including all required reporting categories;

16. Institutional policies and sanctions related to copyright infringement, including:
   a. An annual disclosure that explicitly informs students that unauthorized distribution of copyrighted material, including unauthorized peer-to-peer file sharing, may subject the students to civil and criminal liabilities;
   b. A summary of the penalties for violation of federal copyright laws; and
   c. A description of the institution's policies with respect to unauthorized peer-to-peer file sharing, including disciplinary actions that are taken against students who engage in unauthorized distribution of copyrighted materials using the institution's information technology system;

17. Student body diversity at the institution, including information on the percentage of enrolled, full-time students who:
   a. Are male;
   b. Are female;
   c. Receive a Federal Pell Grant; and
   d. Are a self-identified member of a major racial or ethnic group;

18. The placement in employment of, and types of employment obtained by, graduates of the institution's degree or certificate
programs, gathered from such sources as alumni surveys, student satisfaction surveys, the National Survey of Student Engagement, the Community College Survey of Student Engagement, state data systems, or other relevant sources;

19. The types of graduate and professional education in which graduates of the institution's four-year degree programs enrolled, gathered from such sources as alumni surveys, student satisfaction surveys, the National Survey of Student Engagement, state data systems, or other relevant sources;

20. The fire safety report prepared by the institution pursuant to 20 U.S.C. 1092(i);

21. The retention rate of certificate- or degree-seeking, first-time, full-time, undergraduate students entering such institution; and

22. Institutional policies regarding vaccinations.

The term "prospective student" means any individual who has contacted an eligible institution requesting information concerning admission to that institution.

20 U.S.C. 1092(a)

In accordance with Education Code 7.040, the Texas Education Agency (TEA) shall prepare information comparing institutions of higher education in this state and post the information on the agency's Internet website. Each institution of higher education, including each college district, shall include on its Internet website, in a prominent location that is not more than three hyperlinks from the website's home page, a link to the information posted on the TEA's Internet website. Education Code 7.040(a), (c)
SECTION B: LOCAL GOVERNANCE

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SECTION B: LOCAL GOVERNANCE

BG ADMINISTRATIVE ORGANIZATION PLAN
BGA Organization Charts
BGB Line and Staff Relations
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BH ADMINISTRATIVE RULES AND REGULATIONS
BI REPORTS
The official name of the governing board of the junior college district shall be the board of trustees. *Education Code 130.082(b)*

The board of trustees shall constitute a body corporate and shall have the exclusive power to manage and govern the college district. *Education Code 1.001(a), 130.082(d), .084; Texas Ass'n of Steel Importers, Inc. v. Tex. Highway Comm'n, 372 S.W.2d 525 (Tex. 1963)*

All authority not vested by Education Code Chapter 130 or by other laws of the state in the Coordinating Board or in the Texas Education Agency is reserved and retained locally in each of the respective public junior college districts or the governing board of such junior colleges as provided in the laws applicable. *Education Code 130.002*
It is the policy of this state that the governing boards of institutions of higher education, including college districts, being composed of lay members, shall exercise the traditional and time-honored role for such boards as their role has evolved in the United States and shall constitute the keystone of the governance structure. In this regard, each governing board:

1. Is expected to preserve institutional independence and to defend its right to manage its own affairs through its chosen administrators and employees.

2. Shall enhance the public image of each institution under its governance.

3. Shall interpret the community to the campus and interpret the campus to the community.

4. Shall nurture each institution under its governance to the end that each institution achieves its full potential within its role and mission.

5. Shall insist on clarity of focus and mission of each institution under its governance.

Education Code 51.352(a)

All authority not vested by Education Code Chapter 130 or by other laws of the state in the Coordinating Board or in the Texas Education Agency shall be reserved and retained locally in each of the respective public junior college districts or the governing board of such junior colleges as provided in the laws applicable. Education Code 130.002

State statute assigns specific powers and duties to a college district board of trustees. Examples of these powers and duties are described below.

The governing board of an institution of higher education shall provide the policy direction for each institution of higher education under its management and control. Said board shall act and proceed by and through resolutions or orders adopted or passed by the board and the affirmative vote of a majority of all members of the board shall be required to adopt or pass a resolution or order, and the board shall adopt such rules, regulations, and bylaws as it deems advisable, not inconsistent with this section. Education Code 51.352(b), 130.082(d)

The governing board of a junior college district shall be governed in the establishment, management, and control of a public junior college in the district by the general law governing the establishment,
'Neill College
101501

BOARD LEGAL STATUS
POWERS, DUTIES, RESPONSIBILITIES

management, and control of independent school districts insofar as the general law is applicable. *Education Code 130.084(a)*

**ESTABLISH GOALS**

Each governing board shall establish, for each institution under its control and management, goals consistent with the role and mission of the institution. *Education Code 51.352(d)* [See AD and AE]

**TAXES AND BONDS**

The governing board of each junior college district, annually shall cause the taxable property in its district to be assessed for ad valorem taxation and the ad valorem taxes in the district to be collected, in accordance with any one of the methods set forth in Education Code 130.121, and any method adopted shall remain in effect until changed by the board.

The governing board of each junior college district and each regional college district for and on behalf of its junior college division, 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 the same come due, and to levy annual ad valorem taxes for the further maintenance of its public junior college or junior colleges.

*Education Code 130.121(a), .122(a)* [See CAD and CAI]

**TUITION AND FEES**

The governing board of a junior college district may set and collect with respect to a public junior college in the district any amount of tuition, rentals, rates, charges, or fees the board considers necessary for the efficient operation of the college district, except that a tuition rate set under this provision must satisfy the requirements of Education Code 54.051(n). The governing board may set a different tuition rate for each program, course, or course level offered by the college, including a program, course, or course level to which a provision of Section 54.051 applies, as the governing board considers appropriate to reflect course costs or to promote efficiency or another rational purpose. *Education Code 130.084(b)* [See FD]

**MANAGEMENT OF COLLEGE DISTRICT FUNDS**

Each member of a governing board has the legal responsibilities of a fiduciary in the management of funds under the control of institutions subject to the board’s control and management. *Education Code 51.352(e)*

**ANNUAL BUDGET**

The governing board of each institution shall approve an itemized current operating budget on or before September 1 of each year. *19 TAC 13.42* [See CC]

**ANNUAL AUDIT**

The board must have the accounts of the college district audited in accordance with the approved financial reporting system. *Education Code 61.065* [See CDC]
ENDOWMENT FUND The board of trustees of a public junior college may establish an endowment fund outside the state treasury in a depository selected by the board of trustees. *Education Code 130.007*

DEPOSITORY The governing board of each institution may select one or more depositories as places of deposit for the funds enumerated in Education Code 51.002. *Education Code 51.003* [See CB]

ELECTIONS Each election shall be called by resolution or order of the board. *Education Code 130.082(f), .122(b)*

EMINENT DOMAIN A board may, by the exercise of the right of eminent domain, acquire the fee simple title to real property on which to construct school buildings or for any other public use necessary for the district. *Education Code 11.155, 130.084; Atty. Gen. Op. M-700 (1970) [See CFG]*

APPOINT AND EVALUATE CHIEF EXECUTIVE OFFICER Each governing board shall appoint the president or other chief executive officer of each institution under the board's control and management and evaluate the chief executive officer of each component institution and assist the officer in the achievement of performance goals. *Education Code 51.352(d), 130.082(d)* [See BF series]

EMPLOYMENT OF PERSONNEL The board shall be authorized to appoint or employ such agents, employees, and officials as deemed necessary or advisable to carry out any power, duty, or function of said board; and to employ a dean or other administrative officer, and upon the president's recommendation to employ faculty and other employees of the College District. *Education Code 130.082(d)* [See BF series]

RENTALS, RATES, AND CHARGES Each board shall be authorized to fix and collect rentals, rates, charges, and/or fees, including student union fees, from students and others for the occupancy, use, and/or availability of all or any of its property, buildings, structures, activities, operations, or facilities, of any nature, in such amounts and in such manner as may be determined by such board. *Education Code 130.123(c)*

REAL PROPERTY The governing body of a governmental agency may execute, perform, and make payments under a contract under the Public Property Finance Act for the use or purchase or other acquisition of real property or an improvement to real property. *Local Gov't Code 271.004* [See CFG]

PERSONAL PROPERTY The governing body of a governmental agency may execute, perform, and make payments under a contract with any person for the use or the purchase or other acquisition of any personal property, or the financing thereof. *Local Gov't Code 271.005* [See CFH]
<table>
<thead>
<tr>
<th>LAWSUITS</th>
<th>The board may sue and be sued. <em>Education Code 11.151(a); 130.084</em></th>
</tr>
</thead>
<tbody>
<tr>
<td>COMMUNICATE WITH COORDINATING BOARD</td>
<td>Each governing board shall ensure that its formal position on matters of importance to the institutions under its governance is made clear to the Coordinating Board when such matters are under consideration by the Coordinating Board. <em>Education Code 51.352(d)</em></td>
</tr>
<tr>
<td>STUDENT ADMISSIONS</td>
<td>Each governing board shall set campus admission standards consistent with the role and mission of the institution and considering admission standards of similar institutions nationwide having a similar role and mission, as determined by the Coordinating Board. <em>Education Code 51.352(d)</em> [See FB]</td>
</tr>
</tbody>
</table>
ELIGIBILITY

To be eligible to be a candidate for, or elected or appointed to, a public elective office in this state, including a college district board member, a person must:

1. Be a United States citizen.

2. Be 18 years of age or older on the first day of the term to be filled at the election or on the date of appointment, as applicable.

3. Have not been determined by a final judgment of a court exercising probate jurisdiction to be:
   a. Totally mentally incapacitated — a person determined to be totally mentally incapacitated by a court exercising probate jurisdiction is not subject to a voting disability or candidacy disqualification under this code if, subsequent to that determination, the person’s mental capacity has been completely restored by a final judgment of a court exercising probate jurisdiction; or
   b. Partially mentally incapacitated without the right to vote — a person determined to be partially mentally incapacitated without the right to vote by a court exercising probate jurisdiction is not subject to a voting disability or candidacy disqualification under this code if, subsequent to that determination, the person’s guardianship has been modified to include the right to vote or the person’s mental capacity has been completely restored by a subsequent final judgment of a court exercising probate jurisdiction.

4. Have not been finally convicted of a felony from which the person has not been pardoned or otherwise released from the resulting disabilities.

5. Have resided continuously in the state for 12 months and in the territory from which the office is elected for six months immediately preceding the following date:
   a. For an independent candidate, the date of the regular filing deadline for a candidate’s application for a place on the ballot.
   b. For a write-in candidate, the date of the election at which the candidate's name is written in.
   c. For an appointee to an office, the date the appointment is made.

*Tex. Const. Art. XVI, Sec. 14; Election Code 1.020, 141.001(a); Education Code 130.082(d), (g); Att’y Gen. Op. GA-555 (2007)*
QUALIFIED VOTER Each member of the board shall be a resident, qualified voter. *Education Code* 130.082(d)

“Qualified voter” means a person who:

1. Is 18 years of age or older;
2. Is a United States citizen;
3. Has not been determined by a final judgment of a court exercising probate jurisdiction to be:
   a. Totally mentally incapacitated — a person determined to be totally mentally incapacitated by a court exercising probate jurisdiction is not subject to a voting disability or candidacy disqualification under this code if, subsequent to that determination, the person’s mental capacity has been completely restored by a final judgment of a court exercising probate jurisdiction; or
   b. Partially mentally incapacitated without the right to vote — a person determined to be partially mentally incapacitated without the right to vote by a court exercising probate jurisdiction is not subject to a voting disability or candidacy disqualification under this code if, subsequent to that determination, the person’s guardianship has been modified to include the right to vote or the person’s mental capacity has been completely restored by a subsequent final judgment of a court exercising probate jurisdiction;
4. Has not been finally convicted of a felony or, if so convicted, has:
   a. Fully discharged the person’s sentence, including any term of incarceration, parole, or supervision or completed a period of probation ordered by any court; or
   b. Been pardoned or otherwise released from the resulting disability to vote.

A person is not considered to have been finally convicted of an offense for which the criminal proceedings are deferred without an adjudication of guilt.

5. Is a resident of this state; and
6. Is a registered voter.

*Election Code* 1.020, 11.002
| SINGLE-MEMBER DISTRICTS | A candidate for trustee representing a single-member district must be a resident of the trustee district the candidate seeks to represent. A trustee vacates the office if the trustee ceases to reside in the trustee district the trustee represents. *Education Code 130.0822(h)* |
| "RESIDENCE" DEFINED | “Residence” means domicile, that is, one’s home and fixed place of habitation to which one intends to return after any temporary absence. A person does not lose the person’s residence by leaving the person’s home to go to another place for temporary purposes only. A person does not acquire a residence in a place to which the person has come for temporary purposes only and without the intention of making that place the person's home. Residence shall be determined in accordance with the common-law rules, as enunciated by the courts of this state, except as otherwise provided by the Election Code. *Election Code 1.015(a)–(d)*  
| **Note:** The issue of whether a candidate has satisfied residency requirements should be judicially determined. *State v. Fischer*, 769 S.W.2d 619 (Tex. App.—Corpus Christi 1989, writ dism’d w.o.j) |
| OFFICIAL OATHS | Each member of the board shall take the proper oath of office before taking up the duties of office. *Education Code 130.082(d)* |
This introductory page outlines the contents of the elections policy. See the following sections for statutory provisions on:

SECTION I  Elections Generally  pages 2–5

1. Election dates
2. Methods of election, membership, and terms
3. Boundary change notice
4. Election records
5. Voting rights hotline
6. Election documents

SECTION II  Conducting an Election  pages 6–15

1. Election services
2. Election order and notices
3. Filing information
4. Election of unopposed candidate
5. Ballot
6. Election judges and clerks
7. Polling places
8. Bilingual materials
9. Voting systems
10. Early voting
11. Conducting elections

SECTION III  Post-Election Procedures  pages 16–18

1. Determination of results
2. Canvass returns
3. Certificate of election
4. Officer’s statement
5. Oath of office
SECTION I: ELECTIONS GENERALLY

GENERAL ELECTION DATES
Each general or special election in this state, including each election of members of a college district board of trustees, shall be on one of the following dates:

1. The second Saturday in May in an odd-numbered year.
2. The second Saturday in May in an even-numbered year, for an election held by a political subdivision other than a county.
3. The first Tuesday after the first Monday in November.

Election Code 41.001

JOINT ELECTIONS ADMINISTRATOR
A political subdivision, including a college district, may seek to create the position of joint elections administrator under Election Code Chapter 31, Subchapter F. Election Code 31.152

MEMBERSHIP
The number of members or trustees of the governing board shall be either seven or nine, in accordance with the laws applicable to the junior college district on the effective date of the Education Code or on the date of the creation of a new district or a new board.

Education Code 130.082

INCREASE IN MEMBERSHIP
Any seven-member board may be increased to nine, and the two additional members shall be appointed by resolution or order of the board for terms of office as prescribed in Education Code 130.082(e).

Education Code 130.082(d)

TERMS
The basic term of office of a member of the board shall be six years. Education Code 130.082(e)

METHODS OF ELECTION
Election of board members shall be by at-large positions, except as otherwise provided. Education Code 130.082(f), (h)

AT-LARGE POSITIONS
One-third of the members of the board shall be elected at large in the college district at regular elections in accordance with Education Code 130.082(e)–(g), provided that with a seven-member board two members shall be elected in two consecutive even-numbered years and three members shall be elected in the following even-numbered year. Education Code 130.082(e)–(g)

SINGLE-MEMBER DISTRICTS GENERALLY
The board of trustees of a junior college district may order that all or a majority of the trustees of the district be elected from single-member trustee districts. The order must be entered not later than the 120th day before the day of the first election of trustees from single-member trustee districts. Education Code 130.0822(a)–(b)
If the board orders that trustees shall be elected from single-member trustee districts, the board shall divide the junior college district into the appropriate number of trustee districts, based on the number of members of the board that are to be elected from single-member districts, and shall number each trustee district.

The trustee districts must be compact and contiguous and must be as nearly as practicable of equal population according to the last preceding federal census. Trustee districts must be drawn not later than the 90th day before the day of the first election of trustees from single-member districts.

The board may provide for trustees holding office on the date of the initial election of trustees from single-member districts to serve the remainder of their terms and to represent a trustee district for that term without having residency in that trustee district.

Unless the board has made provision for trustees to complete their term, as described above, residents of each trustee district are entitled to elect one trustee to the board. A candidate for trustee must be a resident of the trustee district the candidate seeks to represent. The trustee vacates the office if the trustee ceases to reside in the trustee district the trustee represents.

Education Code 130.0822(d)–(h)

Not later than the 90th day before the day of the first regular junior college trustee election at which trustees may officially recognize and act on the last preceding federal census, the board shall redivide the district into the appropriate number of trustee districts if the census data indicates that the population of the most populous district exceeds the population of the least populous district by more than ten percent. Redivision of the district shall be in the manner provided for the initial division of the district.

After each redistricting, all positions on the board shall be filled unless the board of trustees determines that trustees shall be elected from the new trustee districts as provided by Education Code 130.0826. The trustees then elected shall draw lots for staggered terms as provided by Education Code 130.082.

Education Code 130.0822(j)–(k)

The board of trustees of any junior college district that elects some or all of its members from single-member districts and in which the trustees serve staggered terms may provide for the trustees in office at the first election after the junior college district is redistricted to serve for the remainder of their terms in accordance with Education Code 130.0826.
If the board of trustees provides for the trustees in office to serve for the remainder of their terms in accordance with Education Code 130.0826, the trustee districts established by the redistricting plan shall be filled as the staggered terms of trustees in office expire. When the board of trustees adopts a redistricting plan, the board shall determine from which new trustee district the position of each trustee in office will be filled as it becomes vacant.

Education Code 130.0826 does not authorize a trustee of a junior college district to continue in office after a redistricting plan takes effect if the member no longer resides in the district from which the board member was elected.

*Education Code 130.0826*

**APPLICABILITY**

This method of election does not apply to a junior college district to which Education Code 130.081, 130.083, 130.0821, or 130.088 applies, or to a junior college district required by other law to elect trustees from single-member districts. This method of election does not apply to the election of trustees in any district in which the election of trustees is governed by a court order so long as that order remains in effect. *Education Code 130.0822(l)*

**SINGLE-MEMBER DISTRICTS IN CERTAIN COUNTIES**

The members of the governing board of a countywide community college district that contains a city with a population of more than 384,500 residents shall be elected from single-member districts in accordance with Education Code 130.0821. *Education Code 130.0821(a)*

**ELECTION BY POSITION**

The governing board of a junior college that elects a governing board of seven members, with four members elected from respective commissioner precincts and three members elected at large, may order that the board members elected at large be elected instead by position. The order must be entered not later than the 120th day before the first election of a trustee by position. The board may provide for trustees holding office on the date of the initial election of board members by position to serve the remainder of their terms and to represent a position for that term. *Education Code 130.0823*

The board of trustees of a district with a population greater than one million may require that an application filed by a person desiring election to a numbered position on the board be accompanied by a filing fee not to exceed $200 or, instead of the filing fee, a petition signed by a number of registered voters of the district not to exceed 200 as determined by the board. *Education Code 130.044(g)*
BOUNDARY CHANGE NOTICE

A political subdivision, including a college district, that changes its boundaries or the boundaries of districts used to elect members to the governing body of the political subdivision shall not later than the 30th day after the date the change is adopted:

1. Notify the voter registrar of the county in which the area subject to the boundary change is located of the adopted boundary change; and

2. Provide the voter registrar with a map of an adopted boundary change in a format that is compatible with the mapping format used by the registrar’s office.

Election Code 42.0615

NOTICE OF VOTING RIGHTS

The secretary of state shall adopt rules providing for publicizing voters’ rights as prescribed by Election Code 62.0115. The rules must require that a notice of those rights be publicized by being posted by an election officer in a prominent location at each polling place, on the Internet website of the secretary of state, through material published by the secretary of state, or in another manner designed to give voters notice of their rights.

The secretary of state shall prescribe the form and content of the notice. A notice informing voters of the secretary of state’s toll-free telephone number to allow a person to report an existing or potential abuse of voting rights and the purpose for the number shall be included in the notice of voters’ rights.

Election Code 31.0055, 62.0115

DELIVERY OR SUBMISSION OF ELECTION DOCUMENTS

Unless otherwise provided by the Election Code, when the Election Code provides for delivery, submission, or filing of an application, notice, report, or other document or paper with an authority having administrative responsibility under the Election Code, a delivery, submission, or filing with an employee of the authority at the authority’s usual place for conducting official business constitutes filing with the authority. The authority to whom a delivery, submission, or filing is required by the Election Code to be made may accept the document or paper at a place other than the authority’s usual place for conducting official business.

A delivery, submission, or filing of a document or paper under the Election Code may be made by personal delivery, mail, telephonic facsimile machine, or any other method of transmission.

Election Code 1.007
SECTION II: CONDUCTING AN ELECTION

ELECTION SERVICES

If requested to do so by a political subdivision, including a college district, a county elections administrator shall enter into a contract to furnish the election services requested, as set forth at Election Code Chapter 31, Subchapter D. A county elections administrator is not required to enter into a contract to furnish election services for an election held on the second Saturday in May in an even-numbered year. *Election Code 31.093(a), 41.001(d)*

ELECTION ORDER

The governing body of a political subdivision, including a college district board of trustees, shall order the election. For an election to be held on:

1. The date of the general election for state and county officers (the November uniform election date of even-numbered years), the election shall be ordered not later than the 78th day before election day; and

2. A uniform election date other than the date of the general election for state and county officers, the election shall be ordered not later than the 71st day before election day.

*Election Code 3.004, .005(c)*

Each election order must state the date of the election; the offices or measures to be voted on; the location of the main early voting polling place; the date that early voting will begin if the early voting period is to begin later than the prescribed date; the dates and hours that early voting will be conducted; the dates and hours that early voting on Saturday and Sunday is ordered to be conducted; and the early voting clerk’s official mailing address, except for an election in which a county clerk or city secretary is the early voting clerk under Election Code 83.002 or 83.005. The authority ordering an election shall preserve the order, proclamation, or other document ordering the election, in an election involving a federal office, for at least 22 months after election day in accordance with federal law or, in an election not involving a federal office, for at least six months after election day. *Election Code 3.006, .008, 66.058(a), 83.010, 85.004, .007*

FAILURE TO ORDER AN ELECTION

Failure to order a general election does not affect the validity of the election. *Election Code 3.007*

ELECTION NOTICE CONTENTS

The notice of a general or special election must state:

1. The nature and date of the election;

2. The location of each polling place;

3. The hours the polls will be open;
4. For early voting:
   a. The location of the main early voting polling place, as determined under Election Code 85.002;
   b. The date that early voting will begin if under Education Code 85.001(d) the early voting period is to begin later than the prescribed date;
   c. The regular dates and hours that early voting will be conducted;
   d. The dates and hours that voting on Saturday and Sunday is ordered to be conducted; and
   e. The early voting clerk’s official mailing address.

5. The numbers of the positions to be filled;

6. The candidates for each position; and

7. Any other matters deemed necessary or advisable.

*Election Code 4.004(a), 83.010, 85.004, .007; Education Code 130.082(f)*

**NOTICE OF SPECIAL ELECTION**

The notice of a special election must also state each office to be filled or the proposition stating each measure to be voted on. *Election Code 4.004(b)*

**PUBLICATION**

Notice of the election shall be given by publishing the notice at least once, not earlier than the 30th day or later than the tenth day before election day in a newspaper published in the territory that is covered by the election and is in the jurisdiction of the authority responsible for giving the notice or in a newspaper of general circulation in the territory if none is published in the jurisdiction of the authority responsible for giving the notice.

If notice of an election is given by publication, the authority responsible for giving the notice shall retain a copy of the published notice that contains the name of the newspaper and the date of publication. The records shall be preserved by the authority to whom they are distributed for at least six months after election day.

*Election Code 4.003(a)(1), .005(a), 66.058(a); Education Code 130.082(f)*

**POSTING**

In addition to the notice described above, not later than the 21st day before election day, the authority responsible for giving notice of the election shall post a copy of the notice, which must include the location of each polling place, on the bulletin board used for posting notices of the meetings of the governing body of the politi-
cal subdivision that the authority serves. The notice must remain posted continuously through election day. The notice must include the location of each polling place. The person posting the notice shall make a record at the time of posting stating the date and place of posting. The person shall sign the record and deliver it to the authority responsible for giving the election notice after the last posting is made. \textit{Election Code 4.003(b), .005(b)}

| NOTICE TO COUNTY CLERK AND VOTER REGISTRAR | The governing body of a political subdivision, other than a county, that orders an election shall also 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. \textit{Election Code 4.008(a)} |
| NOTICE TO ELECTION JUDGE | Not later than the 15th day before election day or the seventh day after the date the election is ordered, whichever is later, the authority responsible for giving notice of the election shall deliver to the presiding judge of each election precinct in which the election is to be held in the authority’s jurisdiction a written notice of: |
| 1. The nature and date of the election; | |
| 2. The location of the polling place for the precinct served by the judge; | |
| 3. The hours that the polls will be open; | |
| 4. The judge’s duty to hold the election in the precinct specified by the notice; and | |
| 5. The maximum number of clerks that the judge may appoint for the election. | |
| \textit{Election Code 4.007} | |
| FAILURE TO GIVE NOTICE OF ELECTION | Failure to give notice of a general election does not affect the validity of the election. \textit{Election Code 4.006} |
| FILING INFORMATION NOTICE TO CANDIDATES | The authority with whom an application for a place on the ballot must be filed shall post notice of the dates of the filing period in a public place in a building in which the authority has an office not later than the 30th day before the last day on which a candidate may file the application. This requirement does not apply to an office filled at the general election for state and county officers (the November uniform election date of even-numbered years). \textit{Election Code 141.040} |
| GENERAL ELECTION | An application for a place on the ballot may not be filed earlier than the 30th day before the date of the filing deadline. Any resident, qualified elector of a junior college district may have his or her |
name placed as a candidate on the official ballot for any position to be filled at each regular election by filing a written application, signed by the candidate, with the secretary of the board not later than 5:00 p.m. of:

1. The 78th day before election day, if the election is to be held on the date of the general election for state and county officers (the November uniform election date of even-numbered years); or

2. The 71st day before election day, if the election is to be held on any other uniform election date.

*Education Code 130.082(g); Election Code 144.005*

**SPECIAL ELECTION**

An application for a place on a special election ballot may not be filed before the election is ordered.

An application must be filed not later than:

1. 5:00 p.m. of the 62nd day before election day if election day is on or after the 70th day after the election is ordered; or

2. 5:00 p.m. of the 45th day before election day if election day is on or after the 57th day and before the 70th day after the date the election is ordered.

*Education Code 201.054(a), (d), (f)*

**EXCEPTION**

For a special election to be held on the date of the general election for state and county officers (the November uniform election date of even-numbered years), the day of the filing deadline is the 75th day before election day.

*Education Code 201.054(a), (d), (f)*

**WRITE-IN CANDIDACY**

In a general or special election for members of the governing body of a junior college district, a write-in vote may not be counted for a person unless the person has filed a declaration of write-in candidacy with the secretary of the board of trustees in the manner provided for write-in candidates in the general election for state and county officers. A declaration of write-in candidacy must be filed not later than 5:00 p.m. of:

1. The 74th day before election day, if the election is to be held on the date of the general election for state and county officers (the November uniform election date of even-numbered years); or

2. The 71st day before election day, if the election is to be held on any other uniform election date.

*Education Code 130.0825(b); Election Code 146.054*
APPLICATION

The application must state the number of the position for which the person is a candidate or the name of the incumbent member of the board holding the position for which the person desires to run. The application shall include all statutorily required information, including that found at Election Code 141.031 and 141.039, such as an oath and a statement that the candidate is aware of the nepotism law. [See BBBB] The candidate shall be eligible to run for only one position at each election. Education Code 130.082(g); Election Code 31.0021, 141.031, .039

ELECTION OF UNOPPOSED CANDIDATE

The board may declare each unopposed candidate elected if each candidate for an office that is to appear on the ballot is unopposed.

For purposes of determining whether all offices on a ballot are unopposed, a special election of a political subdivision, including a college district, is considered to be a separate election with a separate ballot from:

1. A general election for officers of the political subdivision held at the same time as the special election; or

2. Another special election of the political subdivision held at the same time as the special election.

Election Code 2.051(a)

SINGLE-MEMBER DISTRICTS

In the case of an election in which any members of the political subdivision's governing body are elected from territorial units such as single-member districts, the unopposed candidate procedures apply to the election in a particular territorial unit if each candidate for an office that is to appear on the ballot in that territorial unit is unopposed and no at-large proposition or opposed at-large race is to appear on the ballot. Election Code 2.051(b)

PROCEDURE FOR CANCELING ELECTION

The authority responsible for having the official ballot prepared shall certify in writing that a candidate is unopposed for election to an office if, were the election held, only the votes cast for that candidate in the election for that office may be counted. The certification shall be delivered to the governing body of the political subdivision as soon as possible after the filing deadlines for placement on the ballot and list of write-in candidates.

On receipt of the certification, the governing body of the political subdivision by order or ordinance may declare each unopposed candidate elected to the office. If the board makes such a declaration, the election is not held.

If no election is to be held on election day by the political subdivision, a copy of the order shall be posted on election day at each polling place used or that would have been used in the election.
The ballots used at the separate election held at the same time as an election that would have been held if the candidates were not declared elected under this section shall include the offices and names of the candidates declared elected under this section listed separately after the measures or contested races in the separate election, under the heading "Unopposed Candidates Declared Elected." The candidates shall be grouped in the same relative order prescribed for the ballot generally. No votes are cast in connection with the unopposed candidates.

_Election Code 2.052, .053(a)–(c)_

**BALLOT**

The ballot shall be printed in the form required by law. _Election Code 52.061–.064, .069, .093–.094_

**BALLOT POSITION**

The location on the ballot of the names of the candidates for each position shall be chosen by lot by the board. The candidate shall be eligible to run for only one position in each election. _Education Code 130.082(g)_

**ELECTION JUDGES AND CLERKS**

The board shall appoint election judges and set the maximum number of election clerks. The judges and clerks shall be selected and serve in accordance with Election Code Chapter 32. _Election Code Chapter 32_

The nepotism prohibitions [see DBE] do not apply to appointment of an election clerk under Election Code 32.031 who is not related in the first degree by consanguinity or affinity to an elected official of the authority that appoints the election judges for that election. _Gov't Code 573.061(8)_

**POLLING PLACES**

The governing body of each political subdivision authorized to hold elections, other than a county, shall designate the location of the polling place for each of its election precincts. Each polling place shall be accessible to and usable by the elderly and persons with physical disabilities. _Election Code 43.004, .034_

If a political subdivision, including a college district, holds an election on the November uniform election date and is required to use the regular county election precincts, the political subdivision shall designate as the polling places for the election the regular county polling places in the county election precincts that contain territory from the political subdivision. _Election Code 42.002(a)(5), .0621, 43.004(b)_

**POLLING PLACE FOR EARLY VOTING**

The following provision applies to an election held by a political subdivision, other than a county, on the November uniform election date in which the political subdivision:
1. Is not holding a joint election with a county in accordance with Election Code Chapter 271; and

2. Has not executed a contract with a county elections officer under which the political subdivision and the county share early voting polling places for the election.

The political subdivision shall designate as an early voting polling place for the election any early voting polling place, other than a polling place established under Election Code 85.062(e) (temporary branch polling place), established by the county and located in the political subdivision.

A shared polling place established under this section that is designated as a main early voting polling place by any political subdivision must be open for voting for all political subdivisions the polling place serves for at least the days and hours required of a main early voting polling place under Election Code 85.002 for the political subdivision making the designation.

_Election Code 85.010_

**POSTING SIGNS PROHIBITED**

An election officer commits an offense if the officer knowingly posts at a polling place, including the area within 100 feet of an outside door through which a voter may enter the building in which the polling place is located, a sign, card, poster, or other similar material that is not authorized or required by law; or is in a form or contains information that is not authorized or required by law.

A person other than an election officer commits an offense if the person posts a sign, card, poster, or similar material at a polling place, including the 100-foot area described above.

_Election Code 62.013(a)–(b)_

**ELECTIONEERING**

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.

“Electioneering” includes the posting, use, or distribution of political signs or literature.

“Voting period” means the period beginning when the polls open for voting and ending when the polls close or the last voter has voted, whichever is later.

“Early voting period” is described at Election Code 85.001.
The entity that owns or controls a public building being used as a polling place or early voting polling place may not, at any time during the voting period or early voting periods, as applicable, 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, 85.036*

**USE OF CERTAIN DEVICES PROHIBITED**

A person may not use a wireless communication device within 100 feet of a voting station. A person may not use any mechanical or electronic means of recording images or sound within 100 feet of a voting station.

**EXCEPTION**

The prohibitions do not apply to:

1. An election officer in conducting the officer’s official duties;
2. The use of election equipment necessary for the conduct of the election; or
3. A person who is employed at the location in which a polling place is located while the person is acting in the course of the person’s employment.

*Election Code 61.014*

**BILINGUAL MATERIALS SPANISH**

Bilingual election materials shall be used in each election precinct situated wholly or partly in a county in which five percent or more of the inhabitants are persons of Spanish origin or descent according to the most recent federal decennial census that may be officially recognized or acted upon by the state or political subdivisions.

An election precinct may be exempted from the bilingual requirement if official census information or other information indicates that persons of Spanish origin or descent comprise less than five percent of the precinct’s inhabitants. To exempt an election precinct from the bilingual requirement, the presiding officer of the governing body of the political subdivision responsible for the expenses of an election, with the approval of the governing body, must file with the authority responsible for procuring the election supplies for the political subdivision’s elections the documentation described at Election Code 272.003. An exemption is effective on the 30th day after the date the certification and other required materials are filed. A precinct exempted under this section remains exempt until the precinct becomes subject to Election Code 272.002 as a result of a subsequent federal decennial census; or the effective date of a change in the precinct’s boundary.

*Election Code 272.002, .003(a)–(c), (e)*
If the director of the census determines under 42 U.S.C. 1973aa-1a that a political subdivision must provide election materials in a language other than English or Spanish, the political subdivision shall provide election materials in that language in the same manner in which the political subdivision would be required to provide materials in Spanish, to the extent applicable. Election Code 272.011(a); 42 U.S.C. 1973aa-1a

A voting system shall be selected and utilized in accordance with Election Code Title 8. Election Code Title 8

A voting system may not be used in an election if the system uses mechanical voting machines or a punch-card ballot or similar form of tabulating card. Election Code 122.001(d)

Each polling place must provide at least one voting station that complies with Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. 794) and its subsequent amendments, Title II of the federal Americans with Disabilities Act (42 U.S.C. 12131 et seq.) and its subsequent amendments and the requirements for accessibility under 42 U.S.C. 15481(a)(3) and its subsequent amendments, and provides a practical and effective means for voters with physical disabilities to cast a secret ballot. Election Code 61.012(a)

Upon providing the notice detailed in Election Code 61.013(d), for an election other than an election of a political subdivision that is held jointly with another election in which a federal office appears on the ballot, a political subdivision, including a college district, is not required to meet the requirements for accessibility under Election Code 61.012(a)(1)(C) if the political subdivision is located in a county:

1. With a population of less than 2,000;

2. With a population of 2,000 or more but less than 5,000, and the political subdivision provides at least one voting station that meets the requirements for accessibility under 42 U.S.C. 15481(a)(3) on election day;

3. With a population of 5,000 or more but less than 10,000, and the political subdivision provides at least one voting station that meets the requirements for accessibility under 42 U.S.C. 15481(a)(3) on election day and during the period for early voting by personal appearance;

4. With a population of 10,000 or more but less than 20,000, and the political subdivision:
a. Makes a showing in the manner provided by Election Code 61.103(c) that compliance with Section 61.012(a)(1)(C) constitutes an undue burden on the political subdivision;

b. Provides at least one voting station that meets the requirements for accessibility under 42 U.S.C. 15481(a)(3) on election day and during the period for early voting by personal appearance; and

c. Provides a mobile voting station that meets the requirements for accessibility under 42 U.S.C. 15481(a)(3) that during the period for early voting by personal appearance is deployed at least once at each polling place used for early voting by personal appearance.

For purposes of the above requirement, a political subdivision located in more than one county may choose:

a. To be considered located in the county that contains the greatest number of registered voters of the political subdivision; or

b. For each portion of the political subdivision located in a different county, to be considered a separate political subdivision.

Election Code 61.013(a), (e)

A political subdivision may use more than one type of voting system in a single polling place in order to provide a person with physical disabilities with a method of casting a secret ballot. 1 TAC 81.55 [See GL]

Voting System Malfunction

If no private vendor supports the political subdivision’s voting system, the political subdivision must give notice to the secretary of state within 24 hours of a malfunction of the political subdivision’s voting system software or equipment in an election. The notice may be verbal or in writing. 1 TAC 81.64(a)

Early Voting

A board shall provide for early voting in board elections by personal appearance at an early voting polling place and by mail in accordance with Election Code Title 7. Election Code 81.001

Conducting Elections

Elections shall be conducted in accordance with Election Code Title 6. Election Code Title 6
SECTION III: POST-ELECTION PROCEDURES

DETERMINATION OF RESULTS

A candidate receiving a majority of the votes cast for all candidates for a board member position shall be declared elected. Education Code 130.082(g); Atty. Gen. Op. M-1101 (1972)

MAJORITY

RUNOFF ELECTIONS

If no candidate receives such a majority, then the two candidates receiving the highest number of votes shall run against each other for the position. The runoff election for all positions shall be held not earlier than the 20th day or later than the 45th day after the date the final canvass of the main election is completed. Education Code 130.082(g); Election Code Chapter 2, Subchapter B

WRITE-IN VOTING

Election Code Chapter 146, Subchapter B applies to write-in voting in an election for members of the governing body except to the extent of a conflict with this section. In a general or special election for members of the governing body of a junior college district, a write-in vote may not be counted for a person unless the person has filed a declaration of write-in candidacy with the secretary of the board of trustees in the manner provided for write-in candidates in the general election for state and county officers. Education Code 130.0825(a), (c)

CANVASS RETURNS

Except as provided below, each local canvassing authority shall convene to conduct the local canvass at the time set by the canvassing authority’s presiding officer not earlier than the eighth day or later than the 11th day after election day. Election Code 67.003(a)

EARLY VOTING CANVASS—NOVEMBER ELECTION

For an election held on the date of the general election for state and county officers (November of even-numbered years), the time for the canvass of early voting results may be set not later than the 14th day after election day. Election Code 65.051(a-1), 67.003(c)

MAY ELECTION

For an election held on the uniform election date in May, the local canvass must occur not later than the 11th day after election day and not earlier than the later of:

1. The third day after election day;

2. The date on which the early voting ballot board has verified and counted all provisional ballots, if a provisional ballot has been cast in the election; or

3. The date on which all timely received ballots cast from addresses outside of the United States are counted, if a ballot to be voted by mail in the election was provided to a person outside of the United States.
Two members of the authority constitute a quorum for purposes of canvassing an election.

_Election Code 67.003(b), .004(a)_

After the completion of a canvass, the presiding officer of the local canvassing authority shall prepare a certificate of election for each candidate who is elected to an office for which the official result is determined by that authority’s canvass. A certificate of election must contain:

1. The candidate’s name;
2. The office to which the candidate is elected;
3. A statement of election to an unexpired term, if applicable;
4. The date of the election;
5. The signature of the officer preparing the certificate; and
6. Any seal used by the officer preparing the certificate to authenticate documents that the officer executes or certifies.

The authority preparing a certificate of election shall promptly deliver it to the person for whom it is prepared, subject to the submission of a recount petition.

The submission of a recount petition delays the issuance of a certificate of election and qualification for the office involved in the recount pending completion of the recount. A candidate may not qualify for an office involved in a recount before completion of the recount. The recount petition does not affect a candidate who has received a certificate of election and qualified for an office before the submission of a recount petition.

A certificate of election may not be issued to a person who has been declared ineligible to be elected to the office.

The presiding officer of the canvassing authority shall prepare a report of the precinct results as contained in the election register. The presiding officer shall deliver the report to the secretary of state as required by Election Code 67.017.

_Election Code 67.016–.017, 212.0331_

A certificate of election shall be issued to each unopposed candidate in the same manner and at the same time as provided for a candidate elected at the election. The candidate must qualify for the office in the same manner as provided for a candidate elected at the election. _Election Code 2.053(e)_.

 DATE ISSUED: 3/4/2015
 UPDATE 30
 BBB(LEGAL)-LJC
OFFICER'S STATEMENT

All elected and appointed officers, before taking the oath or affirmation of office and entering upon the duties of office, shall subscribe to the required officer’s statement. All other officers shall retain the signed statement with the official records of the office. *Tex. Const. Art. XVI, Sec. 1(b) [See BBB(EXHIBIT)]*

OATH OF OFFICE

All elected and appointed officers, before they enter upon the duties of their offices, shall take the oath or affirmation of office. *Tex. Const. Art. XVI, Sec. 1(a); Education Code 130.082(d) [See BBB(EXHIBIT)]*

An oath made in this state may be administered and a certificate of the fact given by the individuals listed at Government Code 602.002, including:

1. A judge, retired judge, or clerk of a municipal court.
2. A judge, retired judge, senior judge, clerk, or commissioner of a court of record.
3. A notary public.
4. A justice of the peace or clerk of a justice court.
5. An associate judge, magistrate, master, referee, or criminal law hearing officer.
6. The secretary of state or a former secretary of state.
7. The speaker of the house of representatives or a former speaker of the house of representatives.
8. The lieutenant governor or a former lieutenant governor.
9. The governor or a former governor.
10. A legislator or retired legislator.
11. The attorney general or a former attorney general.

*Gov't Code 602.002*
OFFICER’S STATEMENT

I, ___________________________, do solemnly swear (or affirm), that I have not directly or indirectly paid, offered, promised to pay, contributed, or promised to contribute any money or thing of value, or promised any public office or employment for the giving or withholding of a vote at the election at which I was elected or as a reward to secure my appointment or confirmation, whichever the case may be, so help me God.

*Tex. Const. Art. XVI, Sec. 1(b)*

OATH OF OFFICE

“I, ____________________________, do solemnly swear (or affirm), that I will faithfully execute the duties of the office of board trustee for the ___________ Junior/Community College District of the State of Texas, and will to the best of my ability preserve, protect, and defend the Constitution and laws of the United States and of this state, so help me God.”

*Tex. Const. Art. XVI, Sec. 1(a)*

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**Note:** For other election information, including election forms, calendars, and other election resources, see the Secretary of State Elections Division website at [http://www.sos.state.tx.us/elections/laws/other.shtml](http://www.sos.state.tx.us/elections/laws/other.shtml).
Candidates for membership on the board of trustees shall file the designation of a campaign treasurer and all required financial statements with the secretary of the board in accordance with applicable law and directives from the Texas Ethics Commission.  

*Election Code Title 15*

In accordance with Election Code 252.0131, the governing body of a political subdivision, including a college district board of trustees, by ordinance or order may adopt a process by which the secretary of the political subdivision may terminate the campaign treasurer appointment of an inactive candidate or political committee that is required to file a campaign treasurer appointment with the secretary.

A candidate or political committee is inactive if the candidate or committee:

1. Has never filed or has ceased to file reports under Election Code Chapter 254;

2. In the case of a candidate, has not been elected to an office for which a candidate is required to file a campaign treasurer appointment with the authority who is seeking to terminate the candidate’s campaign treasurer appointment; and

3. Has not filed a final report under Election Code 254.065 or 254.125, or a dissolution report under Election Code 254.126 or 254.159.

Before the secretary of a political subdivision may terminate a campaign treasurer appointment, the governing body of the political subdivision must consider the proposed termination in a regularly scheduled open meeting.

The termination of a campaign treasurer appointment under this section takes effect on the 30th day after the date of the meeting at which the governing body votes to terminate the appointment. Following that meeting, the secretary of the political subdivision shall promptly notify the affected candidate or political committee that the appointment has been terminated. The notice must state the effective date of the termination.

*Election Code 252.0131(a)–(b), (d)*
An officer or employee of a political subdivision, including a college district, may not knowingly spend or authorize the spending of public funds for political advertising. The prohibition does not apply to a communication that factually describes the purposes of a measure if the communication does not advocate the passage or defeat of such measure.

An officer or employee of a political subdivision may not spend or authorize the spending of public funds for a communication describing a measure if the communication contains information that:

1. The officer or employee knows is false; and
2. Is sufficiently substantial and important as to be reasonably likely to influence a voter to vote for or against the measure.

It is an affirmative defense to prosecution for an offense under this section or the imposition of a civil penalty for conduct under this section that an officer or employee of a political subdivision reasonably relied on a court order or an interpretation of this section in a written opinion issued by a court of record, the attorney general, or the Ethics Commission.

On written request of the governing body of a political subdivision that has ordered an election on a measure, the Ethics Commission shall prepare an advance written advisory opinion as to whether a particular communication relating to a measure does or does not comply with this section.

_Election Code 255.003_

A newsletter of a public officer of a political subdivision is not political advertising if:

1. It includes no more than two pictures of a public officer per page and if the total amount of area covered by the pictures is no more than 20 percent of the page on which the pictures appear;
2. It includes no more than eight personally phrased references, such as the public officer's name, "I," "me," "the city council member," on a page that is 8 1/2" x 11" or larger, with a reasonable reduction in the number of such personally phrased references in pages smaller than 8 1/2" x 11"; and
3. When viewed as a whole and in the proper context:
   a. Is informational rather than self promotional;
   b. Does not advocate passage or defeat of a measure; and
c. Does not support or oppose a candidate for nomination or election to a public office or office of political party, a political party, or a public officer.

1 TAC 26.2

NEPOTISM

A candidate shall not take any affirmative action to influence an employee or another officer of the governmental body to which the candidate seeks election, if the office the candidate seeks is one office of a multimember governmental body, regarding the appointment, reappointment, confirmation of the appointment or reappointment, employment, reemployment, change in status, compensation, or dismissal of another individual related to the candidate within a degree described by Government Code 573.002. [See DBE(EXHIBIT)] The prohibition does not apply to a candidate's actions taken regarding a bona fide class or category of employees or prospective employees. Gov't Code 573.042
RESIGNATION

To be effective, a public officer’s resignation or an officer-elect’s declination must be in writing and signed by the officer or officer-elect and delivered to the appropriate authority, the college district board of trustees, for acting on the resignation or declination. The resignation or declination may be delivered to the presiding officer of the body or to its clerk or secretary. The authority may not refuse to accept a resignation. *Election Code 201.001(a)–(b), .002*

EFFECTIVE DATE

If an officer submits a resignation, whether to be effective immediately or at a future date, a vacancy occurs on the date the resignation is accepted by the appropriate authority or on the eighth day after the date of its receipt by the authority, whichever is earlier. *Election Code 201.023*

HOLDOVER DOCTRINE

All public officers shall continue to perform the duties of their offices until their successors shall be duly qualified, i.e., sworn in. Until the vacancy created by a public officer’s resignation is filled by a successor, the public officer continues to serve and have the duties and powers of office and continues to be subject to the nepotism provision. A holdover public officer may not vote on the appointment of the officer’s successor. *Tex. Const. Art. XVI, Sec. 17; Atty. Gen. Ops. JM-636 (1987), DM-2 (1991), O-6259 (1945) [See DBE]*

RESIDENCY

A person elected to serve as a board member must remain a resident of the college district throughout the term of office. A board member who ceases to reside in the college district vacates his or her office. *Tex. Const. Art. XVI, Sec. 14; Whitmarsh v. Buckley, 324 S.W.2d 298 (Tex. Civ. App. — Houston 1959, no writ)*

SINGLE-MEMBER DISTRICTS

A trustee other than a trustee allowed to complete the remainder of the trustee’s term after the initial election from single-member districts vacates the office if the trustee ceases to reside in the trustee district the trustee represents. *Education Code 130.0822(g)–(h)*

RESIDENCE DEFINED

“Residence” means domicile, that is, one’s home and fixed place of habitation to which one intends to return after any temporary absence. A person does not lose the person’s residence by leaving the person’s home to go to another place for temporary purposes only. A person does not acquire a residence in a place to which the person has come for temporary purposes only and without the intention of making that place the person’s home. Residence shall be determined in accordance with the common-law rules, as enunciated by the courts of this state, except as otherwise provided by the Election Code. *Election Code 1.015(a)–(d)*
**Note:** The issue of whether a candidate has satisfied residency requirements should be judicially determined. *State v. Fischer*, 769 S.W.2d 619 (Tex. App.—Corpus Christi 1989, writ dism'd w.o.j)

**IN VOLUNTARY REMOVAL FROM OFFICE**

**QUO WARRANTO**

If grounds for the remedy exist, the attorney general or the county or district attorney of the proper county may petition the district court of the proper county or a district judge if the court is in vacation for leave to file an information in the nature of quo warranto. The attorney general or county or district attorney may file the petition on his or her own motion or at the request of an individual relator. An action in the nature of quo warranto is available if:

1. A person usurps, intrudes into, or unlawfully holds or executes a public office; or

2. A public officer does an act or allows an act that by law causes forfeiture of office.

*Civ. Prac. and Rem. Code 66.001–.002*

**REMOVAL BY PETITION AND TRIAL**

Any resident of this state who has lived for at least six months in the county in which the petition is to be filed and who is not currently under indictment in the county may file a petition to remove a public officer from office. A proceeding for removal is begun by filing a written petition for removal in a district court of the county in which the officer resides. *Local Gov't Code 87.015*

**REASONS FOR REMOVAL**

An officer may be removed for:

1. Incompetency. “Incompetency” means:
   a. Gross ignorance of official duties;
   b. Gross carelessness in the discharge of those duties; or
   c. Unfitness or inability to promptly and properly discharge official duties because of a serious physical or mental defect that did not exist at the time of the officer’s election.

2. Official misconduct. “Official misconduct” means intentional, unlawful behavior relating to official duties by an officer entrusted with the administration of justice or the execution of the law. The term includes an intentional or corrupt failure, refusal, or neglect of an officer to perform a duty imposed on the officer by law.

3. Intoxication on or off duty caused by drinking an alcoholic beverage. Intoxication is not grounds for removal if it appears
at the trial that the intoxication was caused by drinking an alcoholic beverage on the direction and prescription of a licensed physician practicing in this state.

4. The conviction of a board member by a jury for any felony or for misdemeanor official misconduct. The conviction of a public officer by a petit jury for any felony or for a misdemeanor involving official misconduct operates as an immediate removal from office of that officer.

5. Nonattendance of board meetings if the member is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year, not counting an absence for which the member is excused by a majority vote of the board.

Tex. Const. Art. V, Sec. 24; Local Gov't Code 87.011(2)–(3), .013, .031; Education Code 130.0845

REMOVAL FOR PURCHASING VIOLATIONS

A board member who is convicted of a purchasing offense under Education Code 44.032 [see CF(LEGAL), IMPERMISSIBLE PRACTICES] is considered to have committed official misconduct and is subject to removal under Local Government Code Chapter 87. Education Code 44.032

FILLING A VACANCY

Any vacancy occurring on the board through death, resignation, or otherwise, shall be filled by a special election ordered by the board or by appointment by resolution or order of the board. Education Code 130.082(d)

SPECIAL ELECTION

A special election to fill a board vacancy is conducted in the same manner as the district's general election except as provided by the applicable provisions of the Election Code. Education Code 130.082(d) [See BBB]

If a vacancy in office is to be filled by special election, the election shall be ordered as soon as practicable after the vacancy occurs. A special election to fill a vacancy shall be held on the first authorized uniform election date occurring on or after the 45th day after the date the election is ordered. For a vacancy to be filled by a special election to be held on the date of the general election for state and county officers (November of even-numbered years), the election shall be ordered not later than the 78th day before election day. Election Code 41.002, 201.051–.052

In all elections to fill vacancies of office in this state, it shall be to fill the unexpired term only. Tex. Const. Art. XVI, Sec. 27

APPOINTMENT

An appointment to the governing body of a local government shall be made as required by the law applicable to that local government.
and may be made with the intent to ensure that the governing body is representative of the constituency served by the governing body. A local government that chooses to implement this provision shall adopt procedures for the implementation. *Local Gov’t Code 180.005(b)–(c)*

To be eligible to be appointed to a public elective office, a person must meet the qualifications set forth at Election Code 141.001(a) and Education Code 130.082(d). *Election Code 141.001(a); Education Code 130.082(d)* [See BBA]

The person appointed to fill the unexpired term shall serve until the next regular election of members to the board, at which time the position shall be filled by election for a term appropriately shortened to conform with what regularly would have been the length of the term for that position. *Tex. Const. Art. XVI, Sec. 27; Education Code 130.082(d)*

**SINGLE-MEMBER DISTRICTS**

Except as provided in Education Code 130.0822(l), in single-member districts, any vacancy on the board shall be filled by appointment made by the remaining members of the board. The appointed person serves for the unexpired term. *Tex. Const. Art. XVI, Sec. 27; Education Code 130.082(d)*

**TEMPORARY REPLACEMENT OF BOARD MEMBER ON MILITARY ACTIVE DUTY**

An elected or appointed officer of the state or of any political subdivision, including a member of the college district board of trustees, who enters active duty in the armed forces of the United States as a result of being called to duty, drafted, or activated does not vacate the office held, but the appropriate authority may appoint a replacement to serve as a temporary active officer as provided by Texas Constitution Article XVI, Section 72 if the elected or appointed board member will be on active duty for longer than 30 days.

The officer who is temporarily replaced may recommend to the appropriate appointing authority the name of a person to temporarily fill the office. The appropriate authority shall appoint the temporary acting officer to begin service on the date specified in writing by the officer being temporarily replaced as the date the officer will enter active military service.

A temporary acting officer has all the powers, privileges, and duties of the office. A temporary acting officer shall perform the duties of office for the shorter period of:

1. The term of the active military service of the officer who is temporarily replaced; or
2. The term of office of the officer who is temporarily replaced.
“Armed Forces of the United States” means the U.S. Army, the U.S. Navy, the U.S. Air Force, the U.S. Marine Corps, the U.S. Coast Guard, any reserve or auxiliary component of any of those services, or the National Guard.

*Tex. Const. Art. XVI, Sec. 72*
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 two years 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. *Education Code 61.084(a); 19 TAC 1.9(a)*

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. *Education Code 61.084(b)*

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, and governance.

Topics covered by the training program may 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;
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; and
9. 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 seminar participants in an amount adequate to cover the costs incurred by the Coordinating Board and other state agencies 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 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)

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)
Because the board is a body corporate, members can perform no valid act except as a body at meetings properly convened and conducted. Toyah ISD v. Pecos-Barstow Indep. Sch. Dist., 466 S.W.2d 377 (Tex. App.—San Antonio, 1971, no writ); Buchele v. Woods, 528 S.W.2d 95 (Tex. App.—Tyler, 1975, no writ)

An individual board member has an inherent right of access to records maintained by the college district when the board member requests the records in his or her official capacity. Atty. Gen. Op. JM-119 (1983)

When there are competing confidentiality or security concerns, it may be proper for a board to establish reasonable procedures to preserve confidentiality, but the college district may not absolutely prohibit an individual board member from viewing records involving college district business that are otherwise properly available to the board as a governmental body. Atty. Gen. Op. GA-138 (2004)

An educational agency or institution may disclose personally identifiable information from an education record of a student without the written consent of the student required by 34 C.F.R. 99.30 if the disclosure is to other school officials, including teachers, within the agency or institution whom the agency or institution has determined to have legitimate educational interests. 34 C.F.R. 99.30, .31(a) [See FJ]

An officer, including a board member, or employee of a local government commits a criminal offense if the officer or employee knowingly or intentionally violates Local Government Code Title 6, Subtitle C or rules under it by destroying or alienating a local government record in contravention of Subtitle C or by intentionally failing to deliver records to a successor in office as provided by Local Government Code 201.006(a). Local Gov't Code 202.008

A person commits an offense if the person:

1. Knowingly makes a false entry in, or false alteration of, a governmental record;
2. Makes, presents, or uses any record, document, or thing with knowledge of its falsity and with intent that it be taken as a genuine governmental record;
3. Intentionally destroys, conceals, removes, or otherwise impairs the verity, legibility, or availability of a governmental record;
4. Possesses, sells, or offers to sell a governmental record or a blank governmental record form with intent that it be used unlawfully;
5. Makes, presents, or uses a governmental record with knowledge of its falsity; or

6. Possesses, sells, or offers to sell a governmental record or a blank governmental record form with knowledge that it was obtained unlawfully.

It is an affirmative defense to prosecution for possession under paragraph 6 that the possession occurred in the actual discharge of official duties as a public servant. It is a defense to prosecution under paragraph 1, 2, or 5 that the false entry or false information could have no effect on the government's purpose for requiring the governmental record.

Penal Code 37.10(a), (e)–(f)

A person commits an offense if the person willfully destroys, mutilates, removes without permission as provided by Government Code Chapter 552 (Public Information Act), or alters public information. Gov't Code 552.351(a)

DISTRIBUTION OF CONFIDENTIAL INFORMATION

A person commits an offense if the person distributes information considered confidential under the terms of Chapter 552. Gov't Code 552.352(a)

FIDUCIARY

Each member of a governing board has the legal responsibilities of a fiduciary in the management of funds under the control of institutions subject to the board's control and management. Education Code 51.352(e)

PROTECTIONS FOR ACTING ON A LEGISLATIVE MEASURE

To protect the independence of state and local officers acting in a legislative capacity, a state or local officer, whether elected or appointed, including a member of the governing body of a school district or other political subdivision of this state, may not be subject to disciplinary action or a sanction, penalty, disability, or liability for:

1. An action permitted by law that the officer takes in the officer's official capacity regarding a legislative measure;

2. Proposing, endorsing, or expressing support for or opposition to a legislative measure or taking any action permitted by law to support or oppose a legislative measure;

3. The effect of a legislative measure or of a change in law proposed by a legislative measure on any person; or

4. A breach of duty, in connection with the member's practice of or employment in a licensed or regulated profession or occupation, to disclose to any person information, or to obtain a waiver or consent from any person, regarding the officer's ac-
tions relating to a legislative measure; or the substance, effects, or potential effects of a legislative measure.

Gov’t Code 572.059
It shall be lawful for a local public official to serve as a member of the board of directors of private, nonprofit corporations when such officials receive no compensation or other remuneration from the nonprofit corporation or other nonprofit entity. *Local Gov’t Code 171.009; Att’y Gen. Op. DM-256(1993)*

“Local public official” means a member of the governing body or another officer, whether elected, appointed, paid, or unpaid, of any district (including a school district), county, municipality, precinct, central appraisal district, transit authority or district, or other local governmental entity who exercises responsibilities beyond those that are advisory in nature. *Local Gov’t Code 171.001(1)*
SUBSTANTIAL INTEREST AFFIDAVIT AND ABSTENTION

If a local public official, such as a member of a college district board of trustees, has a substantial interest in a business entity or in real property, the official shall file, before a vote or decision on any matter involving the business entity or the real property, an affidavit stating the nature and extent of the interest and shall abstain from further participation in the matter if:

1. In the case of a substantial interest in a business entity, the action on the matter will have a special economic effect on the business entity that is distinguishable from the effect on the public; or

2. In the case of a substantial interest in real property, it is reasonably foreseeable that an action on the matter will have a special economic effect on the value of the property, distinguishable from its effect on the public.

The affidavit must be filed with the official record keeper of the governmental entity.

Local Gov't Code 171.004

DEFINITIONS

"SUBSTANTIAL INTEREST"

A person has a substantial interest in a business entity if:

1. The person owns:
   a. Ten percent or more of the voting stock or shares of the business entity, or
   b. Either ten percent or more or $15,000 or more of the fair market value of the business entity; or

2. Funds received by the person from the business entity exceed ten percent of the person's gross income for the previous year.

A person has a substantial interest in real property if the interest is an equitable or legal ownership with a fair market value of $2,500 or more.

A local public official is considered to have a substantial interest if a person related to the official in the first degree by consanguinity or affinity, as determined under Government Code Chapter 573 [see DBE], has a substantial interest as defined above.

Local Gov't Code 171.002

"LOCAL PUBLIC OFFICIAL"

“Local public official” means a member of the governing body or another officer, whether elected, appointed, paid, or unpaid, of any district (including a school district), central appraisal district, or other local governmental entity, including a college district, who exer-
<table>
<thead>
<tr>
<th><strong>BUSINESS ENTITY</strong></th>
<th>“Business entity” means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, or any other entity recognized by law. Local Gov’t Code 171.001(2)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>MAJORITY CONFLICT</strong></td>
<td>A public entity, such as a city, school district, or state institution of higher education, that’s purpose is not to produce financial benefits for private persons is not a business entity. Atty. Gen. Op. GA-826 (2010), GA-31 (2003), DM-267 (1993), JM-852 (1988)</td>
</tr>
<tr>
<td><strong>SEPARATE VOTE ON BUDGET</strong></td>
<td>If a local public official is required to file and does file an affidavit, the official is not required to abstain from further participation in the matter requiring the affidavit if a majority of the members of the governmental entity of which the official is a member is composed of persons who are likewise required to file and do file affidavits of similar interests on the same official action. Local Gov’t Code 171.004(c)</td>
</tr>
<tr>
<td><strong>VIOLATIONS</strong></td>
<td>The governing body of a governmental entity shall take a separate vote on any budget item specifically dedicated to a contract with a business entity in which a member of the governing body has a substantial interest. The affected member may not participate in that separate vote. The member may vote on a final budget if the member has complied with Local Government Code Chapter 171, described herein, and the matter in which the member is concerned has been resolved. Local Gov’t Code 171.005</td>
</tr>
<tr>
<td><strong>VOIDABLE ACTIONS</strong></td>
<td>A local public official commits an offense if the official knowingly:</td>
</tr>
<tr>
<td></td>
<td>1. Violates Local Government Code 171.004, above;</td>
</tr>
<tr>
<td></td>
<td>2. Acts as surety for a business entity that has work, business, or a contract with the governmental entity; or</td>
</tr>
<tr>
<td></td>
<td>3. Acts as surety on any official bond required of an officer of the governmental entity.</td>
</tr>
</tbody>
</table>

Local Gov’t Code 171.003(a)

The finding by a court of a violation under Chapter 171 does not render an action of the governmental body voidable unless the measure that was the subject of an action involving a conflict of interest would not have passed the governing body without the vote of the person who violated the chapter. Local Gov’t Code 171.006
A local government officer shall file a conflicts disclosure statement with respect to a person who enters or seeks to enter into a contract with a local governmental entity or who is an agent of that person in the person's business with a local governmental entity if the person enters into a contract with the local governmental entity or the local governmental entity is considering entering into a contract with the person; and the person:

1. Has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds $2,500 during the 12-month period preceding the date that the officer becomes aware that a contract has been executed or the local governmental entity is considering entering into a contract with the person; or

2. Has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than $250 in the 12-month period preceding the date the officer becomes aware that a contract has been executed; or the local governmental entity is considering entering into a contract with the vendor.

A local government officer is not required to file a conflicts disclosure statement in relation to a gift accepted by the officer or a family member of the officer if the gift is:

1. Given by a family member of the person accepting the gift;

2. A political contribution as defined by Election Code Title 15; or

3. Food, lodging, transportation, or entertainment accepted as a guest.

A local government officer shall file the conflicts disclosure statement with the records administrator of the local governmental entity not later than 5:00 p.m. on the seventh business day after the date on which the officer becomes aware of the facts that require the filing of the statement.

The Texas Ethics Commission shall adopt the conflicts disclosure statement for local government officers.

Local Gov’t Code 176.002(a), .003(a)–(b), .004

A local government officer commits an offense if the officer knowingly violates this law. It is an exception to the application of the penalty that the person filed the required conflicts disclosure statement not later than the seventh business day after the date
the person received notice from the local governmental entity of the alleged violation. *Local Gov't Code 176.003(c)–(d)*

**DEFINITIONS**

**“LOCAL GOVERNMENT OFFICER”**

“Local government officer” means a member of the governing body of a local governmental entity, a director, superintendent, administrator, president, or other person designated as the executive officer of the local governmental entity; or an employee of a local governmental entity with respect to whom the local governmental entity has, in accordance with *Local Government Code 176.005*, extended the requirements of *Local Government Code 176.003* and 176.004. *Local Gov't Code 176.001(4)*

**“FAMILY MEMBER”**

“Family member” means a person related to another person within the first degree by consanguinity or affinity, as described by Government Code Chapter 573, Subchapter B except that the term does not include a person who is considered to be related to another person by affinity only as described by Government Code 573.024(b). *Local Gov't Code 176.001(2)*

**“RECORDS ADMINISTRATOR”**

“Records administrator” means the director, county clerk, municipal secretary, superintendent, or other person responsible for maintaining the records of the local governmental entity or another person designated by the local governmental entity to maintain statements and questionnaires filed under *Local Government Code Chapter 176* and perform related functions. *Local Gov't Code 176.001(5)* [See CIA]

**“INVESTMENT INCOME”**

“Investment income” means dividends, capital gains, or interest income generated from:

1. A personal or business:
   a. Checking or savings account;
   b. Share draft or share account; or
   c. Other similar account;

2. A personal or business investment; or

3. A personal or business loan.

*Local Gov't Code 176.001(2-b)*

**INTERNET POSTING REQUIREMENT**

A local governmental entity that maintains an Internet website shall provide access to the statements and questionnaires required to be filed under Chapter 176 on that website. *Local Gov't Code 176.009*
AFFIDAVIT DISCLOSING INTEREST IN PROPERTY

A public servant who has a legal or equitable interest in property that is to be acquired with public funds shall file an affidavit within ten days before the date on which the property is to be acquired by purchase or condemnation. The affidavit must:

1. State the name of the public servant;
2. State the public servant’s office, public title, or job designation;
3. Fully describe the property;
4. Fully describe the nature, type, and amount of interest in the property, including the percentage of ownership interest;
5. State the date when the person acquired an interest in the property;
6. Include a verification as follows: "I swear that the information in this affidavit is personally known by me to be correct and contains the information required by Section 553.002, Government Code" [see BBFA(EXHIBIT)]; and
7. Contain an acknowledgment of the same type required for recording a deed in the deed records of the county.

The affidavit must be filed with the county clerk of the county in which the public servant resides and the county clerk of each county in which the property is located.

Gov't Code 553.002

VIOLATIONS

A person commits an offense if the person violates Government Code 553.002, above and the person has actual notice of the acquisition or intended acquisition of the legal or equitable interest in the property. A person who violates Section 553.002 by not filing the affidavit required by that section is presumed to have the intent to commit an offense. Gov't Code 553.003(a)–(b)

DEFINITION OF "PUBLIC SERVANT"

“Public servant” means a person who is elected, appointed, employed, or designated, even if not yet qualified for or having assumed the duties of office, as:

1. A candidate for nomination or election to public office; or
2. An officer of government.

Gov't Code 553.001(2)
See the following pages for forms that may be used for compliance with disclosure requirements.

Exhibit A: Affidavit Disclosing Substantial Interest in a Business Entity or Real Property, as defined in Local Government Code 171.002 — 2 pages

Exhibit B: Affidavit Disclosing Interest in Property under Government Code, Chapter 553, Subchapter A — 1 page

ADDITIONAL DISCLOSURE: The conflicts disclosure statement required of members of the board and the chief executive officer by Local Government Code 176.003–.004 is available on the Texas Ethics Commission website at http://www.ethics.state.tx.us/forms/CIS.pdf. See DBD(LOCAL) to determine if the board has extended this filing requirement to other employees.
EXHIBIT A

AFFIDAVIT DISCLOSING SUBSTANTIAL INTEREST
IN A BUSINESS ENTITY OR REAL PROPERTY

STATE OF TEXAS
COUNTY OF _____________________

I, ________________________________ (name), as a local public official of the
__________________________________ College District, make this affidavit and on my oath state the
following:

1. I, or a person(s) related to me in the first degree, have a substantial interest as defined in Local Government Code 171.002 in:
   - a business entity, as defined in Local Government Code 171.001, that would experience a special economic effect distinguishable from its effect on the public by a vote or decision of the board.
   - real property for which it is reasonably foreseeable that the board’s action or my action will have a special economic effect on the value of the property distinguishable from its effect on the public.

2. The business entity or real property is:
   ________________________________________________________________

   (name/address of business or description of property)

   _______________________ ("I" or name of relative and relationship) (have)(has) a
   substantial interest in this business entity or real property as follows: (check all that apply)
   - Ownership of ten percent or more of the voting stock or shares of the business entity.
   - Ownership of ten percent or more of the fair market value of the business entity.
   - Ownership of $15,000 or more of the fair market value of the business entity.
   - Funds received from the business entity exceed ten percent of ________ (my, her, his) gross income for the previous year.
   - Real property is involved and ________ (I, she, he) (have)(has) an equitable or legal ownership with a fair market value of at least $2,500.

3. The statements in this affidavit are based on my personal knowledge and are true and correct.

4. Upon the filing of this affidavit with the board's official record keeper, I affirm that I shall abstain from participation in any decision involving this business entity or real property, unless permitted according to Local Government Code 171.004(c).
Signature of official ______________________________________
Title ______________________________________
Date ______________________________________

STATE OF TEXAS
COUNTY OF _____________________
Sworn to and subscribed before me on this ______ day of ____________________ (month),
______ (year).
_____________________________________, Notary Public, State of Texas
AFFIDAVIT DISCLOSING INTEREST IN PROPERTY

STATE OF TEXAS
COUNTY OF __________________________

I, ___________________________________ (name of affiant), (check one of the following:)

☐ as an officer of, or
☐ as a board candidate for,

______________________________________ College District make this affidavit and on my oath state the following:

1. I have a legal or equitable interest in property to be acquired with public funds, either by purchase or condemnation. The property is fully described as follows:

______________________________________________________________________________________________

2. The nature, type, and amount of interest, including percentage of ownership, I have in the property is:

______________________________________________________________________________________________

3. I acquired my interest in the property on ____________________ (date).

4. The information stated in this affidavit is personally known by me to be correct and contains the information required by Government Code 553.002.

Signature of affiant ______________________________________

Office or public title ________________________________

Date ______________________________________

Note: This affidavit must be filed with the county clerk(s) of the county or counties in which the property is located and of the county in which the public servant or candidate resides within ten days before the date on which the property is to be acquired by purchase or condemnation.
"Public servant" means a person elected, selected, appointed, employed, or otherwise designated as one of the following, even if the person has not yet qualified for office or assumed his or her duties:

1. An officer, employee, or agent of government; or
2. A candidate for nomination or election to public office.

*Penal Code 1.07(a)(41)*

**Bribery**

A person commits an offense if the person intentionally or knowingly offers, confers, or agrees to confer on another, or solicits, accepts, or agrees to accept from another:

1. Any benefit as consideration for the recipient's decision, opinion, recommendation, vote, or other exercise of discretion as a public servant;
2. Any benefit as consideration for the recipient's decision, vote, recommendation, or other exercise of official discretion in a judicial or administrative proceeding;
3. Any benefit as consideration for a violation of a duty imposed by law on a public servant;
4. Any benefit that is a political contribution as defined by Election Code Title 15 or that is an expenditure made and reported in accordance with Government Code Chapter 305, if the benefit was offered, conferred, solicited, accepted, or agreed to pursuant to an express agreement to take or withhold a specific exercise of official discretion if such exercise of official discretion would not have been taken or withheld but for the benefit.

*Penal Code 36.02(a)*

"Benefit" means anything reasonably regarded as pecuniary gain or pecuniary advantage, including benefit to any other person in whose welfare the beneficiary has a direct and substantial interest. *Penal Code 36.01(3)*

**Illegal Gifts**

A public servant who exercises discretion in connection with contracts, purchases, payments, claims, or other pecuniary transactions of government commits an offense if the public servant solicits, accepts, or agrees to accept any benefit from a person the public servant knows is interested in or likely to become interested in any contract, purchase, payment, claim, or transaction involving the exercise of his discretion. *Penal Code 36.08(d)*

A public servant who receives an unsolicited benefit that the public servant is prohibited from accepting under Penal Code 36.08 may
donate the benefit to a governmental entity that has the authority to accept the gift or may donate the benefit to a recognized tax exempt charitable organization formed for educational, religious, or scientific purposes. *Penal Code 36.08(i)*

**EXCEPTIONS**

Penal Code 36.08 does not apply to:

1. A fee prescribed by law to be received by a public servant or any other benefit to which the public servant is lawfully entitled or for which the public servant gives legitimate consideration in a capacity other than as a public servant;

2. A gift or other benefit conferred on account of kinship or a personal, professional, or business relationship independent of the official status of the recipient;

3. A benefit to a public servant required to file a statement under Government Code Chapter 572 or a report under Election Code Title 15 that is derived from a function in honor or appreciation of the recipient if:
   a. The benefit and the source of any benefit in excess of $50 is reported in the statement; and
   b. The benefit is used solely to defray the expenses that accrue in the performance of duties or activities in connection with the office which are nonreimbursable by the state or political subdivision;

4. A political contribution as defined by Election Code Title 15;

5. An item with a value of less than $50, excluding cash or a negotiable instrument as described by Business and Commerce Code 3.104;

6. An item issued by a governmental entity that allows the use of property or facilities owned, leased, or operated by the governmental entity;

7. Transportation and lodging expenses or meals in connection with a conference or similar event in which the public servant renders services, such as addressing an audience or engaging in a seminar, to the extent those services are more than merely perfunctory;

8. Complimentary legal advice or legal services relating to a will, power of attorney, advance directive, or other estate planning document rendered to a public servant who is a first responder; and through a program or clinic that is operated by a local bar association or the State Bar of Texas and approved by the
head of the agency employing the public servant, if the public servant is employed by an agency; or

9. Food, lodging, transportation, or entertainment accepted as a guest and, if the donee is required by law to report those items, reported by the donee in accordance with that law.

Penal Code 36.07(b), .10(a)–(b)

HONORARIA AND EXPENSES

A public servant commits an offense if the public servant solicits, accepts, or agrees to accept an honorarium in consideration for services that the public servant would not have been requested to provide but for the public servant’s official position or duties. This restriction does not prohibit a public servant from accepting transportation and lodging expenses in connection with a conference or similar event in which the public servant renders services, such as addressing an audience or engaging in a seminar, to the extent those services are more than merely perfunctory, or from accepting meals in connection with such an event. Penal Code 36.07(a)–(b)

ABUSE OF OFFICE

A public servant commits an offense if, with intent to obtain a benefit or with intent to harm or defraud another, the public servant intentionally or knowingly violates a law relating to the public servant’s office or misuses government property, services, personnel, or any other thing of value belonging to the government that has come into the public servant’s custody or possession by virtue of the public servant’s office or employment. Penal Code 39.02(a)

“Law relating to a public servant’s office” means a law that specifically applies to a person acting in the capacity of a public servant and that directly or indirectly imposes a duty on the public servant or governs the conduct of the public servant. Penal Code 39.01(1)

“Misuse” means to deal with property contrary to:

1. An agreement under which the public servant holds the property;

2. An oath of office of a public servant;

3. A law, including provisions of the General Appropriations Act specifically relating to government property, that prescribes the manner of custody or disposition of the property; or

4. A limited purpose for which the property is delivered or received.

Penal Code 39.01(2)
A public servant commits an offense if, in reliance on information to which he has access by virtue of the public servant’s office and that has not been made public, the public servant:

1. Acquires or aids another to acquire a pecuniary interest in any property, transaction, or enterprise that may be affected by the information;

2. Speculates or aids another to speculate on the basis of the information; or

3. As a public servant, including as a principal of a school, coerces another into suppressing or failing to report that information to a law enforcement agency.

A public servant commits an offense if with intent to obtain a benefit or with intent to harm or defraud another, the public servant discloses or uses information for a nongovernmental purpose that the public servant has access to by means of his office or employment and has not been made public.

"Information that has not been made public" means any information to which the public does not generally have access, and that is prohibited from disclosure under Government Code Chapter 552.

Penal Code 39.06(a)–(b), (d)

A public servant acting under color of his office or employment commits an offense if the public servant:

1. Intentionally subjects another to mistreatment or to arrest, detention, search, seizure, dispossession, assessment, or lien that he knows is unlawful;

2. Intentionally denies or impedes another in the exercise or enjoyment of any right, privilege, power, or immunity, knowing his conduct is unlawful; or

3. Intentionally subjects another to sexual harassment.

For purposes of this section, a public servant acts under color of the public servant’s office or employment if he acts or purports to act in an official capacity or takes advantage of such actual or purported capacity.

"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.

Penal Code 39.03(a)–(c)
NEPOTISM

A public official may not appoint, confirm the appointment of, or vote for the appointment or confirmation of the appointment of an individual to a position that is to be directly or indirectly compensated from public funds or fees of office if:

1. The individual is related to the public official within the third degree by consanguinity or within the second degree by affinity; or

2. The public official holds the appointment or confirmation authority as a member of a local board and the individual is related to another member of the board within the third degree by consanguinity or within the second degree by affinity.


The nepotism law governs the hiring of an individual, whether the individual is hired as an employee or an independent contractor. Atty. Gen. Op. DM-76 (1992)

A public official may not approve an account or draw or authorize the drawing of a warrant or order to pay the compensation of an ineligible individual if the official knows the individual is ineligible. Gov't Code 573.083


DEFINITIONS

"PUBLIC OFFICIAL"

"Public official" means:

1. An officer of this state or of a district, county, municipality, precinct, school district, or other political subdivision of this state; or

2. An officer or member of a board of this state or of a district, county, municipality, college district, or other political subdivision of this state.

Gov't Code 573.001(3)

"CONSANGUINITY"

Two individuals are related to each other by consanguinity if:

1. One is a descendant of the other; or

2. They share a common ancestor.

An adopted child is considered to be a child of the adoptive parent for this purpose.

Gov't Code 573.022
“AFFINITY”

Two individuals are related to each other by affinity if:

1. They are married to each other; or
2. The spouse of one of the individuals is related by consanguinity to the other individual.

The ending of a marriage by divorce or the death of a spouse ends relationships by affinity created by that marriage unless a child of that marriage is living, in which case the marriage is considered to continue as long as a child of that marriage lives.

Gov’t Code 573.024(a)-(b)

FORMER BOARD MEMBER EMPLOYMENT

A public junior college may not employ or contract with an individual who was a member of the board of trustees 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

INCOMPATIBILITY OF OFFICE

One person may not occupy two legally incompatible offices. Offices are legally incompatible when the faithful and independent exercise of one would necessarily interfere with the faithful and independent exercise of the other. A person may not serve in one branch of government while exercising any powers properly attached to either of the other branches of government. Tex. Const. Art. II, Sec. 1; Turner v. Trinity Indep. Sch. Dist., 700 S.W.2d 1 (Tex. App.—Houston (14th Dist.) 1983); Atty. Gen. Op. GA-786 (2010)

RESTRICTIONS ON PUBLIC SERVANTS—FEDERAL LAW

The term “public official” means a person acting for or on behalf of the United States, or any department, agency, or branch thereof, in any official function, under or by authority of any such department, agency, or branch of government.

The term “person who has been selected to be a public official” means any person who has been nominated or appointed to be a public official, or has been officially informed that such person will be so nominated or appointed.

18 U.S.C. 201(a)(1)–(2); Dixon v. U.S., 465 U.S. 482, 499 (1984) (holding that employees of a private organization that administered federal housing grants for city were “public officials” because they had some degree of official responsibility for carrying out a federal program or policy); U.S. v. Franco, 632 F.3d 880 (5th Cir. 2011)

A public official or person selected to be a public official commits an offense if the public official or person selected to be a public official, directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person or entity, in return for:

1. Being influenced in the performance of any official act;
2. Being influenced to commit or aid in committing, or to collude in, or allow, any fraud, or make opportunity for the commission of any fraud, on the United States; or

3. Being induced to do or omit to do any act in violation of the official duty of such official or person.

18 U.S.C. 201(b)(2)

The term “agent” means a person authorized to act on behalf of another person or a government and, in the case of an organization or government, includes a servant or employee, and a partner, director, officer, manager, and representative.

The term “government agency” means a subdivision of the executive, legislative, judicial, or other branch of government, including a department, independent establishment, commission, administration, authority, board, and bureau, and a corporation or other legal entity established, and subject to control, by a government or governments for the execution of a governmental or intergovernmental program.

If an organization, government, or agency receives, in any one year period, benefits in excess of $10,000 under a federal program involving a grant, contract, subsidy, loan, guarantee, insurance, or other form of federal assistance, an agent of an organization, or of a state or local government, commits an offense if the agent:

1. Embezzles, steals, obtains by fraud, or otherwise without authority knowingly converts to the use of any person other than the rightful owner or intentionally misapplies, property that:
   a. Is valued at $5,000 or more, and
   b. Is owned by, or is under the care, custody, or control of the organization, government, or agency; or

2. Corruptly solicits or demands for the benefit of any person, or accepts or agrees to accept, anything of value from any person, intending to be influenced or rewarded in connection with any business, transaction, or series of transactions of the district involving anything of value of $5,000 or more.

This provision does not apply to bona fide salary, wages, fees, or other compensation paid, or expenses paid or reimbursed, in the usual course of business.

18 U.S.C. 666
MEMBERS’ EXPENSES  
Members of a board shall not receive any remuneration or emolument of office, but they shall be entitled to reimbursement for their actual expenses incurred in performing their duties, to the extent authorized and permitted by the board. *Education Code 130.082(d)*

TRAVEL SERVICES  
An officer of a public junior college who is engaged in official business may participate in the comptroller’s contract for travel services. *Gov’t Code 2171.055(f); 34 TAC 20.301(b)(2)(E)*
Note: For employee, student, and community use of college district technology resources, see CR.

ONLINE MESSAGE BOARD

A communication or exchange of information between members of a governmental body, including a college district board of trustees, about public business or public policy over which the governmental body has supervision or control does not constitute a meeting or deliberation for purposes of Government Code Chapter 551 (Texas Open Meetings Act) if:

1. The communication is in writing;
2. The writing is posted to an online message board or similar Internet application that is viewable and searchable by the public; and
3. The communication is displayed in real time and displayed on the online message board or similar Internet application for no less than 30 days after the communication is first posted.

A governmental body may have no more than one online message board or similar Internet application to be used for the purposes described above. The online message board or similar Internet application must be owned or controlled by the governmental body, prominently displayed on the governmental body's primary Internet web page, and no more than one click away from the governmental body's primary Internet web page.

Gov't Code 551.006(a)–(b)

AUTHORIZED USERS

The online message board or similar Internet application described above may only be used by members of the governmental body or staff members of the governmental body who have received specific authorization from a member of the governmental body. In the event that a staff member posts a communication to the online message board or similar Internet application, the name and title of the staff member must be posted along with the communication.

Gov't Code 551.006(c)

RETENTION OF COMMUNICATIONS

If a governmental body removes from the online message board or similar Internet application a communication that has been posted for at least 30 days, the governmental body shall maintain the posting for a period of six years. This communication is public information and must be disclosed in accordance with Government Code Chapter 552 (Texas Public Information Act). Gov't Code 551.006(d)
RESTRICTIONS ON USE

The governmental body may not vote or take any action that is required to be taken at a meeting under Government Code Chapter 551 of the governmental body by posting a communication to the online message board or similar Internet application. In no event shall a communication or posting to the online message board or similar Internet application be construed to be an action of the governmental body. Gov’t Code 551.006(e)

ELECTRONIC RECORDS RETENTION

Electronic communications that are local governmental records must be preserved in accordance with the Texas Local Government Records Act, Local Government Code Title 6, Subtitle C, and the college district’s records retention schedule. [See CIA]

“Local government record” means any document, paper, letter, book, map, photograph, sound or video recording, microfilm, magnetic tape, electronic medium, or other information-recording medium, regardless of physical form or characteristic and regardless of whether public access to it is open or restricted under the laws of the state, created or received by a local government or any of its officers or employees pursuant to law, including an ordinance, or in the transaction of public business. The term does not include:

1. Extra identical copies of documents created only for convenience of reference or research by officers or employees of the local government.

2. Notes, journals, diaries, and similar documents created by an officer or employee of the local government for personal convenience.

3. Blank forms.

4. Stocks of publications.

5. Library and museum materials acquired solely for the purposes of reference or display.

6. Copies of documents in any media furnished to members of the public to which they are entitled under Government Code Chapter 552 (Public Information Act) or other state law.

Local Gov’t Code 201.003(8)
Officers of the board shall be elected at the first regular meeting of the board following the regular election of members of the board in even-numbered years, or at any time thereafter in order to fill a vacancy.

**PRESIDENT**
The board shall elect one of its members as president of the board.

**SECRETARY**
The board shall elect a secretary of the board who may or may not be a member of the board.

**OTHER OFFICERS**
The board shall be authorized to elect any other officers as deemed necessary or advisable.

*Education Code 130.082(d)*
The president shall preside at meetings of the board and perform such other duties and functions as are prescribed by the board.

The president of the board shall have a vote the same as the other members.

_Education Code 130.082(d)_
The secretary of the board shall be the official custodian of the minutes, books, records, and seal of said board, and shall perform such other duties and functions as are prescribed by the board. 

*Education Code 130.082(d)*
A committee that includes one or more members of the college district board of trustees and has supervision or control over public business or public policy is subject to the Open Meetings Act (OMA), Government Code Chapter 551, when it meets to discuss that public business or policy.

A committee that includes less than a quorum of board members is not subject to the OMA if it serves a purely advisory function, with no power to supervise or control public business. However, should the committee actually function as something more than a merely advisory body with the result that it in fact supervises or controls public business or policy, it must comply with the OMA to avoid depriving the public of access to the board’s actual decision-making process.

DEFINITIONS

"MEETING"

"Meeting" means a deliberation among a quorum of a governmental body, including a college district board of trustees, or between a quorum of a governmental body and another person, during which public business or public policy over which the governmental body has supervision or control is discussed or considered, or during which the governmental body takes formal action. "Meeting" also means a gathering:

1. That is conducted by the governmental body or for which the governmental body is responsible;

2. At which a quorum of members of the governmental body is present;

3. That has been called by the governmental body; and

4. At which the members receive information from, give information to, ask questions of, or receive questions from any third person, including an employee of the governmental body, about the public business or public policy over which the governmental body has supervision or control.

Gov't Code 551.001(3)–(4)

"DELIBERATION"

"Deliberation" means a verbal exchange during a meeting between a quorum of a governmental body, or between a quorum of a governmental body and another person, concerning an issue within the jurisdiction of the governmental body or any public business.

Gov't Code 551.001(2)

"QUORUM"

"Quorum" means a majority of a governmental body. Gov't Code 311.013(b), 551.001(6)

"RECORDING"

"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)

"VIDEOCONFERENCE CALL"

"Videoconference call" means a communication conducted between two or more persons in which one or more of the participants communicate with the other participants through duplex audio and video signals transmitted over a telephone network, a data network, or the Internet. Gov't Code 551.001(7)

"MEETING" EXCEPTIONS

SOCIAL FUNCTION OR CONVENTION

The term "meeting" does not include the gathering of a quorum of a governmental body, including a college district board of trustees, at a social function unrelated to the public business that is conducted by the body, or the attendance by a quorum of the governmental body at a regional, state, or national convention or workshop, ceremonial event, or press conference, if formal action is not taken.
and any discussion of public business is incidental to the social function, convention, workshop, ceremonial event, or press conference. *Gov't Code 551.001(4)*

**LEGISLATIVE COMMITTEE OR AGENCY MEETING**

The attendance by a quorum of a governmental body at a meeting of a committee or agency of the legislature is not considered to be a meeting of that governmental body if the deliberations at the meeting by the members of that governmental body consist only of publicly testifying at the meeting, publicly commenting at the meeting, and publicly responding at the meeting to a question asked by a member of the legislative committee or agency. *Gov't Code 551.0035(b)*

**ONLINE MESSAGE BOARD**

A communication or exchange of information between members of a governmental body about public business or public policy over which the governmental body has supervision or control does not constitute a meeting or deliberation for purposes of Government Code Chapter 551 if the communication is in writing and the writing is posted to an online message board or similar Internet application in accordance with Government Code 551.006. *Gov't Code 551.006(a) [See BBI(LEGAL)]*

**OPEN TO PUBLIC**

Every regular, special, or called meeting of a governmental body shall be open to the public, except as provided by Government Code Chapter 551. *Gov't Code 551.002 [See BD and BDA]*

**EXCLUSION OF A WITNESS**

A governmental body that is investigating a matter may exclude a witness from a hearing during the examination of another witness in an investigation. *Gov't Code 551.084*

**RECORDING BY ATTENDEES**

A person in attendance may record all or any part of an open meeting of a governmental body by means of a recorder, video camera, or any other means of aural or visual reproduction. A governmental body may adopt reasonable rules to maintain order at a meeting, including rules related to the location of recording equipment and the manner in which the recording is conducted. A rule adopted under this section may not prevent or unreasonably impair a person from exercising the right to record. *Gov't Code 551.023*

**MINUTES**

A governmental body shall prepare and keep minutes or make a recording of each open meeting of the body. The minutes must state the subject of each deliberation and indicate each vote, order, decision, or other action taken.

The minutes and recordings of an open meeting are public records and shall be available for public inspection and copying on request to the governmental body's chief administrative officer or the officer's designee. *Gov't Code 551.021-.022*
The governmental body shall give written notice of the date, hour, place, and subject of each meeting held by the governmental body. *Gov't Code 551.041*

Government Code 551.041 does not require a governmental body that recesses an open meeting to the following regular business day to post notice of the continued meeting if the action is taken in good faith and not to circumvent Chapter 551. If an open meeting is continued to the following regular business day and, on that following day, the board continues the meeting to another day, the governmental body must give the required written notice of the meeting continued to that other day. *Gov't Code 551.0411(a)*

If, at a meeting of a governmental body, a member of the public or of the governmental body inquires about a subject for which the required notice has not been given, the notice provisions do not apply to a statement of specific factual information given in response to the inquiry or a recitation of existing policy in response to the inquiry. Any deliberation of or decision about the subject of the inquiry shall be limited to a proposal to place the subject on the agenda of a subsequent meeting. *Gov't Code 551.042*

The notice of a meeting of a governmental body must be posted on a bulletin board at a place convenient to the public in the central administration office for at least 72 hours before the scheduled time of the meeting. The notice must be posted in a place readily accessible to the public at all times for at least 72 hours before the scheduled time of the meeting. *Gov't Code 551.043(a), .051; City of San Antonio v. Fourth Court of Appeals, 820 S.W.2d 762 (Tex. 1991)*

If the Open Meetings Act (OMA) specifically requires or allows a governmental body to post notice of a meeting on the Internet, the governmental body satisfies the requirement that the notice must be posted in a place readily accessible to the general public at all times by making a good-faith attempt to continuously post the notice on the Internet during the prescribed period.

The governmental body must still comply with any duty to physically post the notice at a particular location. If the governmental body makes a good-faith attempt to continuously post the notice on the Internet during the prescribed period, the notice physically posted on the location prescribed by the OMA must be readily accessible to the general public during normal business hours. *Gov't Code 551.043(b)*

This section applies only to a governmental body that maintains an Internet website or for which an Internet website is maintained. In
addition to the other place at which notice is required to be posted, the governing body of a junior college or junior college district, including a college or district that has changed its name in accordance with Education Code Chapter 130 must also concurrently post notice of a meeting on the Internet website of the governmental body.

The governing body of a junior college district, including a district that has changed its name in accordance with Chapter 130, that contains all or part of the area within the corporate boundaries of a municipality with a population of 48,000 or more must also concurrently post the agenda for the meeting on the Internet website of the governmental body.

The validity of a posted notice of a meeting or an agenda by a governmental body that made a good-faith attempt to comply with the Internet posting requirements is not affected by a failure to comply that is due to a technical problem beyond the control of the governmental body.

Gov't Code 551.056

The governing board of a junior college district with a total student enrollment of more than 20,000 in any semester of the preceding academic year, for any regularly scheduled meeting of the governing board for which notice is required under Government Code Chapter 551, shall post as early as practicable in advance of the meeting on the Internet website of the district any written agenda and related supplemental written materials provided by the district to the board members for the members’ use during the meeting. This requirement does not apply to written materials that the general counsel or other appropriate attorney for the district certifies are confidential or may be withheld from public disclosure under Government Code Chapter 552 (Texas Public Information Act).

The governing board of a junior college district is not required to comply with the requirements of this section if that compliance is not possible because of an act of God, force majeure, or a similar cause not reasonably within the governing board's control.

Gov't Code 551.1282

Agendas for all meetings shall be sufficiently specific to inform the public of the subjects to be deliberated at the meeting, setting out any special or unusual matters to be considered or any matter in which the public has a particular interest. Deliberations or actions pertaining to top administrators are of particular public interest, and notice of those subjects must be worded with such clarity that the public will understand what the board proposes to discuss or ac-
The terms “employee briefing” or “staff briefing” do not give adequate notice of the subject matter to be presented to the board by employees or staff members. Atty. Gen. Op. JC-169 (2000)

The subject of a report or update by college district staff or a member of the board must be set out in the notice in a manner that informs a reader about the subjects to be addressed. Atty. Gen. Op. GA-668 (2008)

In an emergency or when there is an urgent public necessity, the notice of a meeting or the supplemental notice of a subject added as an item to the agenda for a meeting for which the required notice has been posted is sufficient if it is posted for at least two hours before the meeting is convened.

An emergency or urgent public necessity exists only if immediate action is required of a governmental body because of an imminent threat to public health and safety or a reasonably unforeseeable situation. The governmental body shall clearly identify the emergency or urgent public necessity in the notice or supplemental notice.

The sudden relocation of a large number of residents from the area of a declared disaster to a governmental body’s jurisdiction is considered a reasonably unforeseeable situation for a reasonable period immediately following the relocation. Notice of an emergency meeting or supplemental notice of an emergency item added to the agenda of a meeting to address such a situation must be given to members of the news media as provided by Government Code 551.047 not later than one hour before the meeting.

Gov’t Code 551.045

A governmental body that is prevented from convening an open meeting that was otherwise properly posted under Section 551.041 because of a catastrophe may convene the meeting in a convenient location within 72 hours pursuant to Government Code 551.045 if the action is taken in good faith and not to circumvent the OMA. If the governmental body is unable to convene the open meeting within those 72 hours, the governmental body may subsequently convene the meeting only if the governmental body gives the required written notice of the meeting.
“Catastrophe” means a condition or occurrence that interferes physically with the ability of the governmental body to conduct a meeting, including:

1. Fire, flood, earthquake, hurricane, tornado, or wind, rain, or snow storm;
2. Power failure, transportation failure, or interruption of communication facilities;
3. Epidemic; or
4. Riot, civil disturbance, enemy attack, or other actual or threatened act of lawlessness or violence.

Gov’t Code 551.0411(b)–(c)

SPECIAL NOTICE TO NEWS MEDIA

A school district shall provide special notice of each meeting to any news meeting that has requested special notice and agreed to reimburse the district for the cost of providing the special notice. The notice shall be by telephone, facsimile transmission, or electronic mail. Gov’t Code 551.052; Att’y Gen. Op. JM-346 (1985) (a college district board of trustees is considered a school district board of trustees for the purposes of the OMA)

EMERGENCY MEETING OR EMERGENCY ITEM

The presiding officer of a governmental body, or the member of a governmental body who calls an emergency meeting of the governmental body or adds an emergency item to the agenda of a meeting of the governmental body, shall notify the news media of the emergency meeting or emergency item. The presiding officer or member is required to notify only those members of the news media that have previously filed at the headquarters of the governmental body a request containing all pertinent information for the special notice and agreed to reimburse the governmental body for the cost of providing the special notice. The presiding officer or member shall give the notice by telephone, facsimile transmission, or electronic mail any news media who have previously requested special notice of all meetings. Gov’t Code 551.047

DISASTER

Notwithstanding any other law, a quorum is not required for the governing body of a local governmental entity to act if:

1. The entity’s jurisdiction is wholly or partly located in the area of a disaster declared by the president of the United States or the governor; and
2. A majority of the members of the governing body are unable to be present at a meeting of the governing body as a result of the disaster.

Gov’t Code 418.1102
SECRET BALLOT

MEETING BY TELEPHONE CONFERENCE CALL
The OMA does not prohibit the governing board of an institution of higher education from holding a meeting by telephone conference call. A meeting held by telephone conference call authorized by this section may be held only if the meeting is a special called meeting and immediate action is required, and the convening at one location of a quorum of the board is difficult or impossible. *Gov’t Code 551.121(b)–(c)*

PUBLIC ACCESS
Each part of the telephone conference call meeting that is required to be open to the public shall be audible at the location specified in the notice of the meeting as the location of the meeting. *Gov’t Code 551.121(f)*

NOTICE
The telephone conference call meeting is subject to the notice requirements applicable to other meetings. The notice of a telephone conference call meeting of a governing board must specify as the location of the meeting the location where meetings of the governmental board are usually held. *Gov’t Code 551.121(d)–(e)*

RECORDING
Each part of the telephone conference call meeting that is required to be open to the public shall be recorded. The recording shall be made available to the public. *Gov’t Code 551.121(f)*

QUORUM AT ONE LOCATION
The OMA does not prohibit the governing board of a junior college district from holding an open or closed meeting by telephone conference call. A meeting held by telephone conference call authorized by this section may be held only if a quorum of the governing board is physically present at the location where meetings of the board are usually held. *Gov’t Code 551.121(a)–(b)*

PUBLIC ACCESS
Each part of the telephone conference call meeting that is required to be open to the public shall be audible to the public at the location where the quorum is present. The location of the meeting shall provide two-way communication during the entire telephone conference call meeting, and the identification of each party to the telephone conference shall be clearly stated before the party speaks. *Gov’t Code 551.122(d)–(e)*

NOTICE
The telephone conference call meeting is subject to the notice requirements applicable to other meetings. *Gov’t Code 551.122(c)*

RECORDING
Each part of the telephone conference call meeting that is required to be open to the public shall be recorded. The recording shall be made available to the public. *Gov’t Code 551.122(d)*

ATTENDANCE
A member of a governing board of a junior college district who participates in a board meeting by telephone conference call but is not
physically present at the location of the meeting is considered to be absent from the meeting for purposes of Education Code 130.0845. Gov’t Code 551.122(g)

A member or employee of a governmental body, including a college district board of trustees, may participate remotely in a meeting of the governmental body by means of a videoconference call if the video and audio feed of the member's or employee's participation, as applicable, is broadcast live at the meeting and complies with the provisions of this section. A member of a governmental body who participates in the meeting as provided shall be counted as present at the meeting for all purposes.

A meeting of a governmental body may be held by videoconference call only if:

1. The governmental body makes available to the public at least one suitable physical space located in or within a reasonable distance of the geographic jurisdiction, if any, of the governmental body that is equipped with videoconference equipment that provides an audio and video display, as well as a camera and microphone by which a member of the public can provide testimony or otherwise actively participate in the meeting;

2. The member of the governmental body presiding over the meeting is present at that physical space; and

3. Any member of the public present at that physical space is provided the opportunity to participate in the meeting by means of a videoconference call in the same manner as a person who is physically present at a meeting of the governmental body that is not conducted by videoconference call.

The location where the member of the governmental body presiding over the meeting is physically present shall be open to the public during the open portions of the meeting.

Gov’t Code 551.127(a-1)–(a-2), (c), (e)

NOTICE

A meeting held by videoconference call is subject to the notice requirements applicable to other meetings in addition to the notice requirements prescribed by this section. Gov’t Code 551.127(d)

The notice of a meeting to be held by videoconference call must specify as a location of the meeting the location where the member of the governmental body presiding over the meeting will be physically present and specify the intent to have the member of the governmental body presiding over the meeting present at that location. Gov’t Code 551.127(e)
## QUALITY OF AUDIO AND VIDEO SIGNALS

Each portion of a meeting held by videoconference call that is required to be open to the public shall be visible and audible to the public at the location specified under Government Code 551.127(e), above. If a problem occurs that causes a meeting to no longer be visible and audible to the public at that location, the meeting must be recessed until the problem is resolved. If the problem is not resolved in six hours or less, the meeting must be adjourned. **Gov't Code 551.127(f)**

The physical location specified under Section 551.127(e), and each remote location from which a member of the governmental body participates, shall have two-way audio and video communication with each member who is participating by videoconference call during the entire meeting. The face of each participant in the videoconference call, while that participant is speaking, shall be clearly visible, and the voice audible, to each other participant and, during the open portion of the meeting, to the members of the public in attendance at the physical location described by Section 551.127(e) and at any other location of the meeting that is open to the public. **Gov't Code 551.127(h)**

The Department of Information Resources by rule shall specify minimum standards for audio and video signals at a meeting held by videoconference call. The quality of the audio and video signals perceptible at each location of the meeting must meet or exceed those standards. **Gov't Code 551.127(i)**

The audio and video signals perceptible by members of the public at each location of the meeting described by Government Code 551.127(h) must be of sufficient quality so that members of the public at each location can observe the demeanor and hear the voice of each participant in the open portion of the meeting. **Gov't Code 551.127(j); 1 TAC 209.30-.31**

## RECORDING

The governmental body shall make at least an audio recording of the meeting. The recording shall be made available to the public. **Gov't Code 551.127(g)**

## REMOTE PARTICIPATION

Without regard to whether a member of the governmental body is participating in a meeting from a remote location by videoconference call, a governmental body may allow a member of the public to testify at a meeting from a remote location by videoconference call. **Gov't Code 551.127(k)**

## INTERNET BROADCAST

A governmental body may broadcast an open meeting over the Internet. A governmental body that broadcasts a meeting over the Internet shall establish an Internet site and provide access to the broadcast from that site. The governmental body shall provide on the Internet site the same notice of the meeting that the govern-
mental body is required to post under Government Code Chapter 551, Subchapter C. The notice on the Internet must be posted within the time required for posting notice under Chapter 551, Subchapter C. Gov’t Code 551.128(b)–(c).

The governing board of a junior college district with a total student enrollment of more than 20,000 in any semester of the preceding academic year, for any regularly scheduled meeting of the governing board for which notice is required under Government Code Chapter 551, shall:

1. Broadcast the meeting, other than any portions of the meeting closed to the public as authorized by law, over the Internet in the manner prescribed by Government Code 551.128; and

2. Record the broadcast and make that recording publicly available in an online archive located on the district's Internet website.

The governing board of the junior college district is not required to comply with the requirements of this section if that compliance is not possible because of an act of God, force majeure, or a similar cause not reasonably within the governing board’s control.

Gov’t Code 551.1282(a)–(b), (d).

A governmental body may use a telephone conference call, videoconference call, or communications over the Internet to conduct a public consultation with its attorney in an open meeting of the governmental body or a private consultation with its attorney in a closed meeting of the governmental body. [See BDA]

Each part of a public consultation by a governmental body with its attorney in an open meeting of the governmental body must be audible to the public at the location specified in the notice of the meeting as the location of the meeting.

Gov’t Code 551.129(a)–(b).

The board shall act and proceed by and through resolutions or orders adopted or passed by the board and the affirmative vote of a majority of all members of the board shall be required to adopt or pass a resolution or order, and the board shall adopt such rules, regulations, and bylaws as it deems advisable, not inconsistent with Education Code 130.082. Education Code 130.082(d).

In a proceeding before the governing body of a political subdivision in which the legal rights, duties, or privileges of a party are to be determined by the governing body after an adjudicative hearing, the governing body shall supply for a party who is deaf or hearing impaired.

Gov’t Code 551.1282(a)–(d).
impaired an interpreter who has qualifications approved by the Texas Department of Assistive and Rehabilitative Services.

“Deaf or hearing impaired” means having a hearing impairment, regardless of the existence of a speech impairment, that inhibits comprehension of an examination or proceeding or communication with others.

Gov’t Code 558.001, .003
The notice for a Board meeting shall reflect the date, time, and location of the meeting.

Regular meetings of the Board shall be held as needed but not less frequently than monthly on dates specified by the Board. When determined necessary and for the convenience of Board members, the Chairperson of the Board may change the date, time, or location of a regular meeting with proper notice.

The Chairperson of the Board shall call a special meeting at the Chairperson of the Board’s discretion or on request by four members of the Board.

The Chairperson of the Board shall call an emergency meeting when it is determined by the Chairperson of the Board or four members of the Board that an emergency or urgent public necessity, as defined by law, warrants the meeting.

A Board member may request that a subject be included on the agenda for a meeting. The deadline for submitting items for inclusion on the agenda is the third calendar day before regular meetings and the third calendar day before special meetings.

The College President shall compile for review by the Chairperson of the Board all topics timely submitted by Board members, topics requested by the Board, and topics suggested by the College President.

The Chairperson of the Board and the College President shall confer regarding the proposed topics, and the Chairperson of the Board shall determine the topics for the official meeting agenda. The Chairperson of the Board shall ensure that any topic the Board or individual Board members have requested be addressed are either on the meeting agenda or scheduled for deliberation at an appropriate time in the near future. The Chairperson of the Board shall not refuse to assign a topic requested by a Board member to an agenda and, once assigned, shall not have the authority to remove the topic from the agenda without that Board member’s specific authorization.

When the agenda is prepared, the Chairperson of the Board shall determine items, if any, that qualify to be placed on the consent agenda. A consent agenda shall include items of a routine and/or recurring nature grouped together under one action item. For each item listed as part of a consent agenda, the Board shall be furnished with background material. All such items shall be acted upon by one vote without separate discussion, unless a Board member requests that an item be withdrawn for individual consideration.
The remaining items shall be adopted under a single motion and vote.

**NOTICE TO MEMBERS**

Members of the Board shall be given notice of regular and special meetings at least 72 hours prior to the scheduled time of the meeting and at least two hours prior to the time of an emergency meeting.

**CLOSED MEETING**

Notice of all meetings shall provide for the possibility of a closed meeting during an open meeting, as provided by law. The Board may conduct a closed meeting when the agenda subject is one that may properly be discussed in closed meeting. [See BDA]

**ORDER OF BUSINESS**

The order of business for regular Board meetings shall be as set out in the agenda accompanying the notice of the meeting. At the meeting, the order in which posted agenda items are taken may be changed by consensus of Board members present.

**RULES OF ORDER**

The Board shall observe the parliamentary procedures as found in Robert’s Rules of Order, Newly Revised, except as otherwise provided in Board procedural rules or by law. Procedural rules may be suspended at any Board meeting by majority vote of the members present.

**VOTING**

Voting shall be by voice vote or show of hands, as directed by the Chairperson of the Board. Any member may abstain from voting, and a member’s vote or failure to vote shall be recorded upon that member’s request.

**MINUTES**

Board action shall be carefully recorded by the Board Secretary or clerk; when approved, these minutes shall serve as the legal record of official Board actions. The written minutes of all meetings shall be approved by vote of the Board and signed by the Chairperson of the Board and the Board Secretary.

The official minutes of the Board shall be retained on file in the office of the College President and shall be available for examination during regular office hours.

**DISCUSSIONS AND LIMITATION**

Discussions shall be addressed to the Chairperson of the Board and then the entire membership. Discussion shall be directed solely to the business currently under deliberation, and the Chairperson of the Board shall halt discussion that does not apply to the business before the Board.

The Chairperson of the Board shall also halt discussion if the Board has agreed to a time limitation for discussion of an item, and that time limit has expired. Aside from these limitations, the Chairperson of the Board shall not interfere with debate so long as members wish to address themselves to an item under consideration.
A governmental body, including a college district board of trustees, may not conduct a private consultation with its attorney except when the governmental body seeks the advice of its attorney about pending or contemplated litigation or a settlement offer or on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Government Code Chapter 551. Gov't Code 551.071 [See BD for permissible methods of communication for attorney consultations]

A governmental body may conduct a closed meeting to deliberate the purchase, exchange, lease, or value of real property if deliberation in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third person. Gov't Code 551.072

A governmental body may conduct a closed meeting to deliberate a negotiated contract for a prospective gift or donation to the governmental body if deliberation in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third person. Gov't Code 551.073

Chapter 551 does not require a governmental body to conduct an open meeting to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee or to hear a complaint or charge against an officer or employee. This exception does not apply if the officer or employee who is the subject of the deliberation or hearing requests a public hearing. Gov't Code 551.074

The closed meeting exception for personnel matters does not apply when the governmental body discusses an independent contractor who is not a college district employee, such as an engineering, architectural, or consultant firm, or when the governmental body discusses a class or group of employees, not a particular employee. Atty. Gen. Op. MW-129 (1980), Atty. Gen. Op. H-496 (1975)

A school board is not required to conduct an open meeting to deliberate in a case in which a complaint or charge is brought against an employee of the school district by another employee and the complaint or charge directly results in the need for a hearing. The exception does not apply if an open hearing is requested in writing by the employee against whom the complaint or charge is brought. Gov't Code 551.082; Att'y Gen. Op. JM-346 (1985) [a college district board of trustees is considered a school district board of trustees for the purposes of the Open Meetings Act (OMA)]
A school board is not required to conduct an open meeting to deliberate in a case involving discipline of a public school child. The exception does not apply if an open hearing is requested in writing by a parent or guardian of the child. Gov't Code 551.082; Att'y Gen. Op. JM-346 (1985) [a college district board of trustees is considered a school district board of trustees for purposes of the OMA]

A school board is not required to conduct an open meeting to deliberate a matter regarding a public school student if personally identifiable information about the student will necessarily be revealed by the deliberation.

Directory information about a public school student is considered to be personally identifiable information about the student for this purpose only if a parent or guardian of the student, or the student if the student has attained 18 years of age, has informed the school board that the directory information should not be released without prior consent. "Directory information" has the meaning assigned by the federal Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g. [See FJ]

This exception does not apply if an open meeting about the matter is requested in writing by a parent or guardian of the student or by the student if the student has attained 18 years of age.

Gov't Code 551.0821; Att'y Gen. Op. JM-346 (1985) [a college district board of trustees is considered a school district board of trustees for the purposes of the OMA]

A governmental body that administers a public insurance, health, or retirement plan is not required to conduct an open meeting to deliberate:

1. The medical records or psychiatric records of an individual applicant for a benefit from the plan; or

2. A matter that includes a consideration of information in the medical or psychiatric records of an individual applicant for a benefit from the plan.

Gov't Code 551.0785

Chapter 551 does not require a governmental body to conduct an open meeting to deliberate:

1. The deployment, or specific occasions for implementation, of security personnel or devices; or

2. A security audit.

Gov't Code 551.076
A governmental body is not required to conduct an open meeting to deliberate a test item or information related to a test item if the governmental body believes that the test item may be included in a test the governmental body administers to individuals who seek to obtain or renew a license or certificate that is necessary to engage in an activity. *Gov't Code 551.088*

A governmental body is not required to conduct an open meeting to deliberate information that is confidential under Government Code 418.175–418.182, relating to Homeland Security. The governmental body must make a tape recording of the proceedings of a closed meeting to deliberate the information. *Gov't Code 418.183(f)*

If a closed meeting is allowed, the governmental body may not conduct the closed meeting unless a quorum of the governmental body first convenes in an open meeting for which notice has been given as provided by Government Code Chapter 551 [see BD] and during which the presiding officer publicly announces that a closed meeting will be held and identifies the section or sections of Chapter 551 under which the closed meeting is held. *Gov't Code 551.101*

A final action, decision, or vote on a matter deliberated in a closed meeting under Government Code Chapter 551 may only be made in an open meeting that is held in compliance with the notice provisions of Chapter 551. *Gov't Code 551.102* [See BD]

A governmental body shall either keep a certified agenda or make a recording of the proceedings of each closed meeting, except for private consultation permitted under Government Code 551.071. [See ATTORNEY CONSULTATION, above]

The presiding officer shall certify that a certified agenda is a true and correct record of the proceedings. The certified agenda must include: a statement of the subject matter of each deliberation, a record of any further action taken, and an announcement by the presiding officer at the beginning and end of the closed meeting indicating the date and time.

A recording of the proceedings must include announcements by the presiding officer at the beginning and the end of the meeting indicating the date and time.

*Gov't Code 551.103*

Closed meetings may not be recorded by an individual trustee against the wishes of a majority of the governmental body. *Zamora v. Edgewood ISD*, 592 S.W.2d 649 (Tex. App.—San Antonio 1979, writ ref’d n.r.e.)
A governmental body shall preserve the certified agenda or recording of a closed meeting for at least two years after the date of the meeting. If an action involving the meeting is brought within that period, the governmental body shall preserve the certified agenda or recording while the action is pending. Gov’t Code 551.104(a)

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)

A member of a governmental body commits an offense if the member participates in a closed meeting of the governmental body knowing that a certified agenda of the closed meeting is not being kept or that a recording of the closed meeting is not being made. Gov’t Code 551.145(a)

An individual, corporation, or partnership that without lawful authority knowingly discloses to a member of the public the certified agenda or recording of a meeting that was lawfully closed to the public under this Government Code Chapter 551 commits an offense and is liable to a person injured or damaged by the disclosure. Gov’t Code 551.146(a)

A member of a governmental body commits an offense if a closed meeting is not permitted under Chapter 551 and the member knowingly:

1. Calls or aids in calling or organizing the closed meeting, whether it is a special or called closed meeting;

2. Closes or aids in closing the meeting to the public, if it is a regular meeting; or

3. Participates in the closed meeting, whether it is a regular, special, or called meeting.

Gov’t Code 551.144(a)

It is an affirmative defense to prosecution under Subsection 551.144(a) that the member of the governmental body acted in reasonable reliance on a court order or a written interpretation of Chapter 551 contained in an opinion of a court of record, the attorney general, or the attorney for the governmental body. Gov’t Code 551.144(c)
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.  
_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 (1995); _City of Madison v. Wis. Emp. Rel. Comm’n_, 429 U.S. 167 (1976); _Pickering v. Bd. of Educ._, 391 U.S. 563 (1968)

A governing board may create a limited public forum for the purpose of hearing comments from the public so long as:

1. The governing board does not discriminate against speech on the basis of viewpoint;

2. Any restrictions are reasonable in light of the purpose served by the forum; and

3. The governing board provides alternative paths for expressing categories of protected speech that are excluded from the forum.  

_Fairchild v. Liberty Indep. Sch. Dist._, 597 F.3d 747 (5th Cir. 2010)

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_

PUBLIC COMMENT

As long as the requirements of the Open Meetings Act (OMA), Government Code Chapter 551, are satisfied and the right of citizens to apply to the board for redress of their grievances is not abridged, the board need not provide a public forum for every citizen wishing to express an opinion on a matter. Reasonable restraints on the number, length, and frequency of presentations are permissible. The board may limit the number of persons it will hear on a particular subject and the frequency with which they may appear, so long as the regulation does not abridge constitutionally guaranteed rights of freedom of speech and to petition, nor unfairly discriminate among views seeking expression. _Atty. Gen. Op. H-188 (1973)_ [See BD regarding the Open Meetings Act and DGBA, FLD, and GB regarding grievance procedures]
The term “public comment” provides sufficient notice, under the OMA, of the subject matter of public comment sessions where the general public addresses the board about its concerns and where the board does not comment or deliberate except as authorized by Government Code 551.042. The term “public comment” is not adequate notice if, prior to the meeting, the board is aware, or reasonably should have been aware, of specific topics to be raised. Gov’t Code 551.042; Atty. Gen. Op. JC-169 (2000)

RESPONSE TO COMPLAINTS

The governing board of a community college is not required to negotiate or even respond to complaints. However, the board must stop, look, and listen and must consider the petition, address, or remonstrance. Prof’l Ass’n. of Coll. Educators v. El Paso County Cnty District, 678 S.W.2d 94 (Tex. App.—El Paso 1984, writ ref’d n.r.e.)

DISRUPTION

A person commits an offense if, with intent to prevent or disrupt a lawful meeting, the person substantially obstructs or interferes with the ordinary conduct of the meeting by physical action or verbal utterance and thereby curtails the exercise of others’ First Amendment rights. Penal Code 42.05; Morehead v. State, 807 S.W.2d 577 (Tex. Crim. App. 1991)
The board shall adopt such rules, regulations, and bylaws it deems advisable not inconsistent with Education Code 130.082. *Education Code 130.082(d)*
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 disclosure under the requirements of Government Code 552.021. Gov’t Code 552.123 [See GAA]

The governing body 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 vote is to be taken on the employment of the person. Gov’t Code 552.123

The board shall announce the name, background, and qualifications of any individual it selects and employs by use of an executive search committee. An “executive search committee” is a committee formed by an act of the board with the primary purpose of evaluating and assessing candidates and nominees for the position of chief executive officer of the college district. Education Code 51.913
The board shall be authorized to appoint or employ such agents, employees, and officials as deemed necessary or advisable to carry out any power, duty, or function of said board; and to employ a president, dean, or other administrative officer, and upon the president’s recommendation to employ faculty and other employees of the junior college. *Education Code 130.082(d)*
PROPERTY INTEREST

A contract of employment with the college district creates a property interest in the position only for the period of time stated in the contract. Such a contract creates no property interest of any kind beyond the period of time stated in the contract. *Perry v. Sindermann*, 408 U.S. 593 (1972); *Board of Regents of State Colls. v. Roth*, 408 U.S. 564 (1972)

ADMINISTRATOR CONTRACTS

The governing board of an institution of higher education, including a college district, may enter into an employment contract with an administrator who is to be paid in whole or in part from appropriated funds only if, before the date the contract is executed, the governing board determines that the contract is in the best interest of the institution.

A contract entered into by the governing board under this section may not:

1. Provide for employment for more than three years;
2. Allow for severance or other payments on the termination of the contract to exceed an amount equal to the discounted net present cash value of the contract on termination at a market interest rate agreed upon in the contract;
3. Allow for development leave that is inconsistent with Education Code 51.105; or
4. Award tenure in any way that varies from the institution’s general policy on the award of tenure.

The institution of higher education may not pay a salary to a person who is reassigned from an administrative position to a faculty or other position at the institution that exceeds the salary of other persons with similar qualifications performing similar duties.

*Education Code 51.948(a)–(c)*

“Administrator” means a person who has significant administrative duties relating to the operation of the institution, including the operation of a department, college, program, or other subdivision of the institution. *Education Code 51.948(g)(1)*
DISMISSAL

The chief executive officer may be dismissed for good cause before the completion of the term fixed in the contract.

NOTICE

Before the chief executive officer is dismissed, the chief executive officer shall be given reasonable notice in writing of the proposed action and the grounds, set out in sufficient detail to fairly enable him or her to show any error that may exist.

HEARING

If, upon written notification, the chief executive officer desires to be heard and contest the proposed action of the board, the chief executive officer shall give the board written notice. The hearing shall be set on a date that affords the chief executive officer reasonable time to prepare an adequate defense.


The board may conduct the hearing in open session or in closed session unless the employee requests a public hearing, in which case the hearing shall be open to the public. *Gov't Code 551.074*

At the hearing before the board, the chief executive officer may employ counsel. The chief executive officer also has the right to hear the evidence upon which the charges are based, to cross-examine all adverse witnesses, and to present evidence of innocence or extenuating circumstances. Prior to dismissal, the board shall determine the existence of the good cause for termination. Such determination shall be based solely on the evidence presented in the hearing. *Ferguson v. Thomas*, 430 F.2d 852 (5th Cir. 1970)

SUSPENSION

The chief executive officer may be suspended with pay pending the outcome of the dismissal hearing. *Moore v. Knowles*, 482 F.2d 1069 (5th Cir. 1973)

NONRENEWAL

The board of trustees may decide by vote or inaction not to offer the chief executive officer further employment with the college district beyond the term of the contract for any reason or no reason. *Perry v. Sindermann*, 408 U.S. 593 (1972); *Board of Regents of State Colls. v. Roth*, 408 U.S. 564 (1972)
The College President may resign at any time mutually agreeable with the Board.
WRITTEN EVALUATION

The Board shall prepare a written evaluation of the College President at annual or more frequent intervals. The written evaluation instrument shall be based on the job description of the College President and performance goals and shall be adopted by the Board.

The Board shall furnish the College President with a copy of the completed evaluation and shall discuss the evaluation with the College President in a closed meeting in accordance with the Texas Open Meetings Act.

OBJECTIVES

The Board shall strive to accomplish the following objectives in completing the evaluation of the College President:

1. Clarify the College President’s role, as seen by the Board.
2. Develop and sustain a harmonious working relationship between the Board and the College President.
3. Ensure excellence in the College District’s administrative leadership by establishing appropriate performance objectives and priorities for the College President.

INFORMAL EVALUATION

The Board may at any time conduct and communicate oral evaluations to augment its written evaluations.
The College President and administrative staff shall be responsible for developing and enforcing procedures for the operation of the College District. These procedures shall constitute the administrative regulations of the College District and shall consist of guidelines, handbooks, manuals, forms, and any other documents defining standard operating procedures.

The College President or designee shall ensure that administrative regulations are kept up to date and are consistent with Board policy. The College President or designee shall resolve any discrepancies among conflicting administrative regulations. In case of conflict between administrative regulations and policy, policy shall prevail.

Administrative regulations are subject to Board review but shall not be adopted by the Board.

All administrative regulations shall be made accessible to staff, students, and the public as required by law or Board policy.
There shall be appropriated biennially from money in the state treasury not otherwise appropriated an amount sufficient to supplement local funds for the proper support, maintenance, operation, and improvement of those public junior colleges of Texas that meet the standards prescribed by Education Code Chapter 130. The sum shall be allocated on the basis of contact hours within categories developed, reviewed, and updated by the Coordinating Board. *Education Code 130.003(a)*

To be eligible to receive its proportionate share of the biennial appropriations for support, maintenance, operation, and improvement, each public community college must:

1. Be certified as a public community college as prescribed by Administrative Code 9.29.
2. Offer a minimum of 24 semester credit hours of career technical/workforce education courses.
3. Have complied with all existing laws, rules, and regulations governing the establishment and maintenance of public community colleges.
4. Collect, from each full-time and part-time student enrolled, appropriate matriculation and other fees as required by law.
5. Grant, when properly applied for, the scholarships and tuition exemptions provided for in the Education Code.
6. Levy and collect ad valorem taxes as provided by law for the operation and maintenance of the institution.

*Education Code 130.003(b), (d); 19 TAC 9.28-.29*

All funds allocated under the provisions of the Education Code, with the exception of those necessary for paying the costs of audits as provided, shall be used exclusively for the purpose of paying salaries of the instructional and administrative forces of the several institutions and the purchase of supplies and materials for instructional purposes. *Education Code 130.003(c)*

**Note:** For more detail regarding appropriated funds and restrictions on the use of the funds, see the current General Appropriations Act and related appropriations bills, available at [http://www.lrl.state.tx.us/legis/approBills.cfm](http://www.lrl.state.tx.us/legis/approBills.cfm).
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 mandate 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]
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 to levy annual ad valorem taxes for the 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.

Such bonds may be issued in various series or issues, and shall mature serially or otherwise not more than 40 years from their date, and shall bear interest at such rate or rates as shall be determined within the discretion of the board. Said bonds, and the interest coupons appertaining thereto, shall be negotiable instruments, and they may be made redeemable prior to maturity, and may be issued in such form, denominations, and manner, and under such terms, conditions, and details, and shall be signed and executed, as provided by the board in the resolution or order authorizing the issuance of said bonds. All bonds shall be sold to the highest bidder for not less than their par value and accrued interest.

*Education Code 130.122(a)*

All bonds shall be issued in accordance with the Public Security Procedures Act and Education Code 130.122. *Gov’t Code Ch. 1201*

CREDIT AGREEMENTS

A junior college district that at the time of the issuance of obligations and execution of credit agreements has at least 2,000 full-time students or the equivalent or a combined aggregate principal amount of at least $50 million of outstanding bonds and voted, but unissued, bonds may, in the issuance of bonds as provided by Education Code 130.122, exercise the powers granted to the governing body of an issuer with regard to the issuance of obligations and execution of credit agreements under Government Code Chapter 1371.

A proposition to issue bonds to which Education Code 130.1221 applies must include the question of whether the board may levy, pledge, assess, and collect annual ad valorem taxes sufficient to pay the principal of and interest on the bonds and the costs of any credit agreements executed in connection with the bonds.
A district may not issue bonds in an amount greater than the greater of:

1. Twenty-five percent of the sum of:
   a. The aggregate principal amount of all district debt payable from ad valorem taxes that is outstanding at the time the bonds are issued; and
   b. The aggregate principal amount of all bonds payable from ad valorem taxes that have been authorized but not issued;

2. Twenty-five million dollars, in a district that has at least 3,500 but not more than 15,000 full-time students or the equivalent; or

3. Fifty million dollars, in a district that has more than 15,000 full-time students or the equivalent.

Government Code 1371.057 and 1371.059 govern approval by the attorney general of obligations issued under the authority of Education Code 130.1221.

Education Code 130.1221

An officer or employee of a political subdivision, including a college district, may not knowingly spend or authorize the spending of public funds for political advertising. The restriction does not apply to a communication that factually describes the purposes of a measure if the communication does not advocate passage or defeat of the measure.

An officer or employee of a political subdivision may not spend or authorize the spending of public funds for a communication describing a measure if the communication contains information that:

1. The officer or employee knows is false; and

2. Is sufficiently substantial and important as to be reasonably likely to influence a voter to vote for or against the measure.

It is an affirmative defense for an offense under this section or the imposition of a civil penalty for conduct under this section that an officer or employee of a political subdivision reasonably relied on a court order or an interpretation in a written opinion issued by a court of record, the attorney general, or the Ethics Commission.

On written request of the governing body of a political subdivision that has ordered an election on a measure, the Ethics Commission shall prepare an advance written advisory opinion as to whether a
particular communication relating to a measure complies with the section.

_Election Code 255.003(a)–(b-1), (d)–(e) [See CHE]_

**NEWSLETTERS**

A newsletter of a public officer of a political subdivision is not political advertising if:

1. It includes no more than two pictures of a public officer per page and if the total amount of area covered by the pictures is no more than 20 percent of the page on which the pictures appear;

2. It includes no more than eight personally phrased references (such as the public officer's name, "I", "me", "the city council member") on a page that is 8 1/2" x 11" or larger, with a reasonable reduction of the number of such personally phrased references in pages smaller than 8 1/2" x 11"; and

3. When viewed as a whole and in the proper context:
   a. Is informational rather than self promotional;
   b. Does not advocate passage or defeat of a measure; and
   c. Does not support or oppose a candidate for nomination or election to a public office or office of political party, a political party, or a public officer.

_1 TAC 26.2_

**ELECTIONS**

No such bonds shall be issued and none of the aforesaid taxes shall be levied unless authorized by a majority of the electors voting at an election held for such purpose in accordance with law, at the expense of the district. Each such election shall be called by resolution or order of the board, which shall set forth the date of the election, the proposition or propositions to be submitted and voted on, the polling place or places, and any other matters deemed necessary or advisable by the board.

The election shall be held on a uniform election date.

_Education Code 130.122(b); Election Code 41.001(a) [See BBB]_

**CALL FOR ELECTION**

For an election to be held on:

1. The date of the general election for state and county officers (the November uniform election date of even-numbered years), the election shall be called not later than the 78th day before the election day; and
2. A uniform election date other than the date of the general election for state and county officers, the election shall be called not later than the 71st day before election day.

_Election Code 3.003, .005, 41.002_ [See BBB]

**NOTICE OF ELECTION**

Notice of said election shall be given by publishing a substantial copy of the election resolution or order one time, at least ten days prior to the date set for the election, in a newspaper of general circulation in the district. The person responsible for giving the notice must retain a copy of the published notice that contains the name of the newspaper and the date of publication. _Education Code 130.122(b); Election Code 4.003(a)(1), (c), .005_

The governing body of a political subdivision that orders an election 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. _Election Code 4.008(a)_

**POSTING NOTICE OF ELECTION**

In addition, notice of the election, which must include the location of each polling place, must be posted not later than the 21st day before election day, the authority responsible for giving notice of the election shall post a copy of the notice, which must include the location of each polling place, on the bulletin board used for posting notices of the meetings of the governing body of the political subdivision that the authority serves. The person posting the notice shall make a record at the time of posting stating the date and place of posting. The person shall sign the record and deliver it to the authority responsible for giving the election notice after the last posting is made. _Election Code 4.003(a)(1), (b)–(c), .004–.005_

**ELECTION ORDER**

"Debt obligation" means an issued public security, as defined by _Government Code 1201.002_, that is secured by ad valorem taxes.

The document ordering an election to authorize a political subdivision, including a college district, to issue debt obligations must distinctly state:

1. The proposition language that will appear on the ballot;
2. The purpose for which the debt obligations are to be authorized;
3. The principal amount of the debt obligations to be authorized;
4. That taxes sufficient to pay the annual principal of and interest on the debt obligations may be imposed;
5. A statement of the estimated tax rate if the debt obligations are authorized or of the maximum interest rate of the debt ob-
ligations or any series of the debt obligations, based on the market conditions at the time of the election order;

6. The maximum maturity date of the debt obligations to be authorized or that the debt obligations may be issued to mature over a specified number of years not to exceed 40;

7. The aggregate amount of the outstanding principal of the political subdivision’s debt obligations as of the beginning of the political subdivision’s fiscal year in which the election is ordered;

8. The aggregate amount of the outstanding interest on the debt obligations of the political subdivision as of the beginning of the political subdivision’s fiscal year in which the election is ordered; and

9. The ad valorem debt service tax rate for the political subdivision at the time the election is ordered, expressed as an amount per $100 valuation of taxable property.

_Election Code 3.009_

**POSTING THE ELECTION ORDER**

A debt obligation election order required under Election Code 3.009 shall be posted on election day and during early voting by personal appearance, in a prominent location at each polling place; not later than the 21st day before the election, in three public places in the boundaries of the political subdivision holding the election; and during the 21 days before the election, on the political subdivision’s Internet website, prominently and together with the notice of the election and the contents of the proposition, if the political subdivision maintains an Internet website. _Election Code 4.003(f)_

**CANVASS**

The board shall canvass the returns and declare the results of such election. _Education Code 130.122(b)_

**PROPOSITIONS**

Except as otherwise provided by law, the authority ordering the election shall prescribe the wording of a proposition that is to appear on the ballot. A proposition shall be printed on the ballot in the form of a single statement and may appear on the ballot only once in accordance with Election Code 52.072(e).

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 issuance of bonds shall specifically state:

1. The total principal amount of the bonds to be authorized, if approved; and
2. A general description of the purposes for which the bonds are to be authorized, if approved.

_Election Code 52.072(a)–(b), (e)_

**REFUNDS**

An issuer, including a college district, may issue refunding bonds under Government Code Chapter 1207 to refund all or any part of the issuer's outstanding bonds, notes, or other general or special obligations.

Subject to the provisions of Government Code Chapter 1207 and Education Code 130.122, the governing board of each junior college district is authorized to refund or refinance all or any part of any of its outstanding bonds and matured but unpaid interest coupons payable from ad valorem taxes by the issuance of negotiable coupon refunding bonds payable from ad valorem taxes.

_Gov't Code 1207.002; Education Code 130.122(c)_

**AUTHORIZED UNISSUED BONDS**

All tax bonds voted in any junior college district in accordance with law but unissued by September 1, 1969, may be issued in the manner provided in Education Code 130.122, without an additional election; and all maintenance taxes voted in any district in accordance with law may be levied and collected in the manner provided by law without an additional election. _Education Code 130.122(g)_
Any school district, including a college district, in need of funds to construct, repair, or renovate school buildings, purchase school buildings and school equipment, or equip school property with necessary heating, water, sanitation, lunchroom, or electric facilities or in need of funds with which to employ a person who has special skill and experience to compile taxation data and that is financially unable out of available funds to construct, repair, renovate, or purchase school buildings, purchase school equipment, or equip school properties with necessary heating, water, sanitation, lunchroom, or electric facilities or is unable to pay the person for compiling taxation data, may, subject to Education Code 45.103, issue interest-bearing time warrants, in amounts sufficient to construct, purchase, equip, or improve school buildings and facilities or to pay all or part of the compensation of the person to compile taxation data.

The warrants shall mature in serial installments of not more than 15 years from date of issue. The warrants on maturity may be payable out of any available funds of the school district in the order of their maturity dates.

A school district may also issue interest-bearing time warrants to refund warrants previously issued under this section if the refunding warrants are coterminous with the refunded obligations.

“Interest-bearing time warrant” includes a promissory note or other evidence of indebtedness issued under Education Code 45.103.

*Education Code 45.103(a)–(a-1), (g), 130.084(a)*

The maximum rate of interest for any issue or series of public securities, including an issue or series that is issued in exchange for property, labor, services, materials, or equipment under another law, is a net effective interest rate of 15 percent. *Gov’t Code 1204.006*

**LIMITATIONS**

Any interest-bearing time warrants may be issued and sold by the district for not less than their face value, and the proceeds used to provide funds required for the purpose for which they were issued.

A school district may not issue interest-bearing time warrants in excess of five percent of the assessed valuation of the district for the year in which the warrants are issued. The payment of interest-bearing time warrants in any one year may not exceed the anticipated surplus income of the district for the year in which the warrants are issued, based on the budget of the district for that year. The anticipated income is exclusive of all bond taxes. A school district may not have outstanding at any one time warrants totaling in excess of $1 million under Education Code 45.103.

*Education Code 45.103(a), (c), 130.084(a)*
Time warrants shall be issued in accordance with the Public Security Procedures Act. *Gov't Code Ch. 1201*
Any school district, including a junior college district, situated in a county with a population of 200,000 or more may issue interest-bearing certificates of indebtedness to provide funds for erecting or equipping school buildings in the boundaries of the district or refinancing outstanding certificates as provided by Education Code 45.111. “Certificates” includes all obligations authorized to be issued under Education Code 45.111 and the interest on those obligations.  

**Education Code 45.111(a)**

The governing body of the district shall provide for the payment of the certificates by appropriating and pledging local school funds derived from maintenance taxes levied and assessed under Education Code 45.002 and 130.122, Vernon’s Texas Civil Statutes Article 2784g, or other similar law that limits the amount of tax that may be levied for maintenance purposes as distinguished from bond requirements. The appropriation and pledge may be in the nature of a continuing irrevocable pledge to apply the first moneys collected annually from the tax levy to the payment of the obligations or by the irrevocable present levy and appropriation of the amount of the maintenance tax required to meet the annual debt service requirements of the obligations, in which event the governing body shall covenant to annually set aside the amount in the annual tax levy, showing the same is a portion of the maintenance tax. The governing body shall annually budget the amount required to pay the principal and interest of the obligations that may be scheduled to become due in any fiscal year. This section may not be construed as permitting the levy of a maintenance tax in excess of the amount approved by the qualified voters of the district.  

**Education Code 45.111(b)**

A district may not at any time have certificates outstanding and unpaid in principal amount in excess of $250,000, unless the excessive amount becomes the obligation of the district by assumption under Education Code 45.111(k) or the new certificates are being issued to refund or refinance outstanding obligations under Education Code 45.111(i).  

**Education Code 45.111(c)**

The principal amount of certificates that may be authorized at any one time and the scheduling of their principal maturity are further restricted as follows:

1. If the assessed valuation is more than $1 million and less than $15 million, the limiting factor is 25 cents;  
2. If the assessed valuation is $15 million or more but less than $35 million, the limiting factor is 15 cents; and  
3. If the assessed valuation is $35 million or more, the limiting factor is 5 cents.
Assessed valuation means the valuation for school district purposes on the tax rolls of the district most recently approved before the authorization of the certificates. The limiting factor for a particular district, as prescribed above, is multiplied by the assessed valuation of the district, and the product is the maximum amount of debt service requirements on the certificates that may be scheduled to become due in any fiscal year on a cumulative basis. A district that has an assessed valuation less than $1 million may not issue certificates under this section.

*Education Code 45.111(d)–(e)*

**MATURITY**

Certificates authorized to be issued under this section shall be payable at the times and be in such form and denomination or denominations either in coupon form or registered as to principal, interest, or both. The certificates may contain options for redemption before the scheduled maturity and may be payable at the place and may contain other provisions as the governing body of the district determines. A certificate may not mature over a period exceeding 25 years from date of the certificate. *Education Code 45.111(f)*

**INTEREST**

A certificate may not bear interest at a rate in excess of seven percent per annum. *Education Code 45.111(f)*

**PROCEDURES**

Certificates of indebtedness shall be issued in accordance with Education Code 45.111.
REVENUE BONDS

The governing board of each junior college district shall be authorized and have the power to acquire, purchase, construct, improve, enlarge, equip, operate, and/or maintain any property, buildings, structures, activities, operations, or facilities, of any nature, for and on behalf of its institution or institutions. For the purpose of carrying out any one or more of the aforesaid powers each board shall be authorized to issue its revenue bonds to be payable from and secured by liens on and pledges of all or any part of any of the revenues from any rentals, rates, charges, fees, or other resources of such board in accordance with Education Code 130.123.

Each board shall be authorized to pledge all or any part of any of its revenues from the rentals, rates, charges, and/or fees, including student union fees, from students and others for the occupancy, use and/or availability of all or any of its property, buildings, structures, activities, operations, or facilities, of any nature, to the payment of any bonds issued, including the payment of principal, interest, and any other amounts required or permitted in connection with the bonds in accordance with Education Code 130.123(d).

Education Code 130.123(a)–(d)

PAYMENT

Each board further shall be authorized to pledge irrevocably to such payment, out of the tuition charges required or permitted by law to be imposed at its institution or institutions, an amount not exceeding 25 percent of the tuition charges collected from each enrolled student for each semester or term, and each board also shall be authorized to pledge to such payment all or any part of any grant, donation, or income received or to be received from the U.S. government or any other public or private source, whether pursuant to an agreement or otherwise. Education Code 130.123(e)

REFUNDING OR REFINANCING

Any revenue bonds issued by such board under Education Code 130.123, and any revenue bonds or notes issued by any such board under any other Texas statute and payable from tuition fees and charges and/or any part of the use fees from or revenues of any property, buildings, structures, activities, operations, or facilities at the institution or institutions, may be refunded or refinanced by such governing board and in such case all pertinent and appropriate provisions of Education Code 130.123 shall be fully applicable to such refunding bonds.

All bonds permitted to be issued under Education Code 130.123, and the appropriate proceedings authorizing their issuance shall be submitted to the Attorney General of the State of Texas for examination.

Education Code 130.123(f)–(g)
The governing body of an issuer is authorized and empowered to issue, sell, and deliver obligations and execute credit agreements in order to finance project costs of an eligible project or to refund obligations issued in connection with an eligible project, subject to the limitations of Education Code 130.125.

The issuance of obligations shall be authorized by resolution or order of the governing body of an issuer, which resolution or order shall fix the maximum amount of obligations to be issued or, if applicable, the maximum principal amount which may be outstanding at any time, the maximum term obligations issued and delivered pursuant to such authorization shall be outstanding, the maximum interest rate to be borne by the obligations, not to exceed a net effective interest rate of 15 percent, the manner of sale (which may be either public or private sale), price, form, terms, conditions, and covenants thereof.

Obligations shall be secured solely by:

1. The proceeds of sale of other obligations.
2. Any revenues that the issuer is authorized by any statute or constitutional provision to pledge to the payment of any obligations.
3. Any one or more of such sources, including credit agreements, all as the governing body of an issuer shall provide in the resolution or order authorizing the issuance of the obligations.

Obligations shall be repaid from the source or sources securing the payment thereof, funds received from a credit agreement, or from any other revenues otherwise legally available for the payment thereof, except funds derived from ad valorem taxation.

**DEFINITIONS**

**“CREDIT AGREEMENT”**

“Credit agreement” means a loan agreement, revolving credit agreement, agreement establishing a line of credit, letter of credit, reimbursement agreement, insurance contract, commitment to purchase obligations, purchase or sale agreement, or commitment or other contract or agreement authorized and approved by the governing body of the issuer in connection with the authorization, issuance, security, exchange, payment, purchase, or redemption of obligations or interest thereon. *Education Code 130.125(a)(1)*

**“ELIGIBLE PROJECT”**

“Eligible project” means any project or purpose for which an issuer is authorized to issue revenue bonds pursuant to Education Code 130.123 or any other provision of law. *Education Code 130.125(a)(2)*
“OBLIGATIONS”  “Obligations” means notes, warrants, or other special obligations authorized to be issued by an issuer under the provisions of Education Code 130.125 and all “public securities” as defined by Government Code 1201.002, which prior to the delivery thereof, have been rated by a nationally recognized rating agency for municipal securities in either one of the three highest ranking categories for short-term obligations or one of the four highest ranking categories for long-term obligations. It is provided, however, that the term "obligations" does not mean or include any obligations payable from ad valorem taxes.  Education Code 130.125(a)(5)

“PROJECT COSTS”  “Project costs” means all costs and expenses incurred in relation to an eligible project, including without limitation design, planning, engineering, and legal costs, acquisition costs of land, interest in land, rights-of-way, and easements, construction costs, costs of machinery, equipment, and other capital assets incident and related to the operation, maintenance, and administration of an eligible project, and financing costs, including interest during construction and thereafter, underwriter’s discount and fees for legal, financial, and other professional services.  Project costs attributable to an eligible project and incurred prior to the issuance of any obligations issued to finance an eligible project may be reimbursed from the proceeds of sale of obligations.  Education Code 130.125(a)(6)

REFUNDING  Obligations, including accrued interest, may from time to time be refinanced, renewed, or refunded by the issuance of other obligations.  Credit agreements entered into by an issuer whether pursuant to these provisions or not, may be refinanced, renewed, refunded, or otherwise terminated and a new credit agreement substituted therefor by amendment to the proceedings authorizing such credit agreements and, if required to accomplish the substitution of credit agreements, outstanding bonds may be refunded with obligations.  Education Code 130.125(e)

ATTORNEY GENERAL APPROVAL  Preliminary to the issuance and delivery of obligations, the resolution or order authorizing the issuance thereof, together with any credit agreements and any contracts providing revenues and security to pay the obligations, shall be submitted to the attorney general for review.  Upon approval by the attorney general and initial delivery of any obligations so authorized, any such credit agreements, any such contracts providing revenues or security, such initial obligations, and all other obligations thereafter issued pursuant to the authorizing proceedings shall be incontestable for any cause in any court or other forum and shall be valid and binding obligations enforceable in accordance with their respective terms and provisions.  Education Code 130.125(f)
A college district may borrow money for the purpose of paying maintenance expenses and may evidence those loans with negotiable or nonnegotiable notes, except that the loans may not at any time exceed 75 percent of the previous year’s income. The notes may be payable from and secured by a lien on and pledge of any available funds of the college district, including proceeds of a maintenance tax.

The term “maintenance expenses” or “maintenance expenditures” as used in this policy means any lawful expenditure of the college district other than payment of principal of and interest on bonds. The term includes expenditures relating to notes issued to refund notes previously issued under this section if the refunding notes are coterminous with the refunded obligation. The term also includes all costs incurred in connection with environmental cleanup and asbestos cleanup and removal programs implemented by the college district or in connection with the maintenance, repair, rehabilitation, or replacement of heating, air conditioning, water, sanitation, roofing, flooring, electric, or other building systems of existing school properties.

Notes issued pursuant to this policy may be issued to mature in not more than 20 years from their date. Notes issued for a term longer than one year shall be treated as “debt” as defined in Section 26.012(7), Tax Code, as amended.

Notes may be issued only after a budget has been adopted for the current school year. Notes must be authorized by resolution adopted by a majority of the board of trustees, signed by the president or vice president and attested to by the secretary of the board.

A note may contain a certification that it is issued pursuant to and in compliance with Education Code 45.108 and pursuant to a resolution adopted by the board of trustees. The certification is sufficient evidence that the note is a valid obligation of the district.

*Education Code 45.108, 130.084(a)*

The maximum rate of interest for any issue or series of public securities, including an issue or series that is issued in exchange for property, labor, services, materials, or equipment under another law, is a net effective interest rate of 15 percent. *Gov’t Code 1204.006*

Short-term notes shall be issued in accordance with the Public Security Procedures Act. *Gov’t Code Ch. 1201*
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. *Education Code 130.122(a)* [See CAD]

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)*
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)

The vote on the ordinance, resolution, or order setting a tax rate that exceeds the effective tax rate must be a record vote. 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)

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 EFFECTIVE MAINTENANCE AND OPERATIONS RATE) PERCENT AND WILL RAISE TAXES FOR MAINTENANCE AND OPERA-
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.

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)**

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

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:

1. The date of the general election for state and county officers (the November uniform election date of even-numbered years), the election shall be called not later than the 78th day before the election day; and
2. A uniform election date other than the date of the general
election for state and county officers, the election shall be or-
dered not later than the 71st day before election day.

_Election Code 3.003, .005(c), 41.002 [See BBB]_

**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. _Election
Code 4.008(a)_

**PROPOSITION**

In addition to any other requirement imposed by law for a propos-
tion, 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. _Election Code 52.072(e)_

**TAX INFORMATION TO**

**COUNTY**

The county assessor-collector for each county that maintains an
Internet website shall post on the website of the county the follow-
ing 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 effec-
tive maintenance and operations rate, and the rollback tax rate.

A taxing unit all or part of the territory of which is located in a coun-
ty 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.

_Tax Code 26.16(a)–(b)_

**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. _Tax Code 31.05(a)_

**OPTION 1**

A taxing unit may adopt the following discounts to apply regardless
of the date of which it mails its tax bills:

1. Three percent if the tax is paid in October or earlier;
2. Two percent if the tax is paid in November; and
3. One percent if the tax is paid in December.

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

_Tax Code 31.04(c), .05(b)_
A taxing unit may adopt the following discounts to apply when it mails its tax bills after September 30:

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;

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)*

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)*

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)*

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)*
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)*

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.  The second installment must be paid before April 1, the third installment before June 1, and the fourth installment before August 1.

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 March 1.

*Tax Code 31.031(a)–(a-2)*

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)*

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;
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 paragraph 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)**

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)**

**PERFORMING SERVICES IN LIEU OF PAYING TAXES**

**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**
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)*

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*

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
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 a 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)*

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

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*

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*
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)*

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 is entitled to an exemption from taxation of the total appraised value of the same property to which the disabled veteran's exemption applied 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)*

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 11.132. *Tax Code 11.132*

A taxing unit may grant additional tax exemptions for historic sites, certain tax-exempt corporations, and charitable organizations, as provided by law. *Tax Code 11.184, .24; Tex. Const. Art. VIII, Sec. 1-b*
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. *Tax Code 6.08*

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. *Tax Code 23.02(a)*

BRANCH CAMPUS MAINTENANCE TAX

In accordance with Education Code 130.087, 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.

The proceeds of the junior college district branch campus maintenance tax may be used only as follows:

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; and

2. 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.

*Education Code 130.087(a), (k)*

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.

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.

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

Education Code 130.087 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 130.087(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.

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 130.087(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 130.087(c); 19 TAC 8.99(c)*

**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 130.087(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_

**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)*

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 college district 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)*

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 reinvestment 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;
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.

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.

Notwithstanding the above section 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(b), (j)–(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)*

**REINVESTMENT ZONES — TAX ABATEMENT**

**ELIGIBILITY TO PARTICIPATE**

A taxing unit may not enter into tax abatement agreements 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 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 gov-
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**

The governing body 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)**

**NOTICE OF PUBLIC HEARING ON DESIGNATION**

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)**

**NOTICE OF 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)**
An appraisal district is established in each county. The appraisal district is responsible for appraising property in the appraisal district for ad valorem tax purposes of each taxing unit that imposes ad valorem taxes on property in the appraisal district. *Tax Code 6.01(a)–(b)*

In accordance with the Property Taxation Professional Certification Act, the following persons must register with the Texas Department of Licensing and Regulation:

1. The chief appraiser of an appraisal district, an appraisal supervisor or assistant, a property tax appraiser, an appraisal engineer, and any other person authorized to render judgment on, recommend, or certify an appraised value to the appraisal review board of an appraisal district;

2. A person who engages in appraisal of property for ad valorem tax purposes for an appraisal district or a taxing unit;

3. An assessor-collector other than a county assessor-collector;

4. A collector or another person designated by a governing body as the chief administrator of the taxing unit’s assessment functions, collection functions, or both; and

5. A person who performs assessment or collection functions for a taxing unit and is required to register by the chief administrator of the unit’s tax office.

*Occupations Code 1151.151*

The governing board of each junior college district annually shall cause the taxable property in its district to be assessed for ad valorem taxation and the ad valorem taxes in the district to be collected, in accordance with any one of the methods set forth in *Education Code 130.121*, and any method adopted shall remain in effect until changed by the board. Each governing board shall be authorized to have the taxable property in its district assessed and/or its taxes collected, in whole or in part, by the tax assessors and/or tax collectors, respectively, of any county, city, taxing district, or other governmental subdivision in which all or any part of the junior college district is located. *Education Code 130.121(a)–(b); Tax Code 6.22(c), .24(a)*

The assessor and collector for a taxing unit other than a county shall assess, collect, or assess and collect taxes as applicable, for the unit. *Tax Code 6.23(b)*

In addition to any other duties that may be required by law, the assessor for a taxing unit shall:
AD VALOREM TAXES
SELECTION AND DUTIES OF CHIEF TAX OFFICIALS

1. On receipt of the appraisal roll, determine the total appraised value, the total assessed value, and the total taxable value of property taxable by the taxing unit. *Tax Code 26.04(a)*

2. Submit the appraisal roll for the taxing unit showing the total appraised, assessed, and taxable values of all property and the total taxable value of new property to the taxing unit’s board of directors by August 1 or as soon thereafter as practicable. *Tax Code 26.04(b)*

3. On receipt of notice of the tax rate for the current tax year, calculate the tax imposed on each property on the appraisal roll for the taxing unit. *Tax Code 26.09(a)*

4. Prepare and mail a tax bill to each person in whose name the property is listed on the tax roll and to the person’s authorized agent by October 1 or as soon thereafter as practicable. *Tax Code 31.01(a)*

**COLLECTOR**

In addition to any other duties that may be required by law, the collector of a taxing unit shall:

1. By August 1 or as soon thereafter as practicable, certify an estimate of the collection rate for the current year to a board. If the collector certified an anticipated collection rate in the preceding year and the actual collection rate in that year exceeded the anticipated rate, the collector shall also certify the amount of debt taxes collected in excess of the anticipated amount in the preceding year. *Tax Code 26.04(b)*

2. Each month, prepare and submit to a board a written report made under oath accounting for all taxes collected for the taxing unit during the preceding month. Reports of collections made in the months of October through January are due on the 25th day of the month following the month that is the subject of the report. Reports of collections made in all other months are due on the 15th day of the month following the month that is the subject of the report. *Tax Code 31.10(a)*

3. Prepare and submit to the board an annual report made under oath accounting for all taxes collected or delinquent on property taxed by the taxing unit during the preceding 12-month period. Annual reports are due on the 60th day following the last day of the fiscal year. *Tax Code 31.10(b)*

4. At least monthly, deposit in a taxing unit’s depository all taxes collected for the taxing unit. The board may require deposits to be made more frequently. *Tax Code 31.10(c)*
If a taxing unit’s taxes are collected by the collector or other officer or employee of another taxing unit or by the appraisal district, the entity that collects the taxes shall deposit the taxes in the taxing unit’s depository daily, unless a board, by official action, provides that those deposits may be made less often than daily. *Tax Code 31.10(d)*

5. Each year, prepare a current and cumulative delinquent tax roll for the taxing unit. *Tax Code 33.03*

6. At least once each year, deliver a notice of delinquency to each person whose name appears on the delinquent tax roll, subject to the exceptions of Tax Code 33.04(a). *Tax Code 33.04*

**COLLECTOR’S BOND**

A taxing unit whose taxes are collected by the collector for another taxing unit, by an officer or employee of another taxing unit or of an appraisal district, or by any other person other than the taxing unit’s own collector may require the collector, officer, employee, or other person to give bond conditioned on the faithful performance of duties. To be effective, the bond must be payable to and must be approved by and paid for by the governing body of the unit requiring bond in an amount determined by the governing body. The governing body may prescribe additional requirements for the bond.

The taxing unit shall pay the premium for a bond required pursuant to Tax Code 6.29 from its general fund or as provided by intergovernmental contract. *Tax Code 6.29(b)–(c)*

**LIMIT ON CONTRACTING**

A taxing unit may not enter into a contract relating to the performance of an activity governed by Title 1 of the Tax Code (i.e., the Property Tax Code) with a member of the board of directors of an appraisal district in which the taxing unit participates or with a business entity in which a member of the appraisal board has a substantial interest.

For purposes of the above paragraph, an individual has a substantial interest in a business entity if:

1. The combined ownership of the individual and the individual’s spouse is at least ten percent of the voting stock or share of the business entity; or

2. The individual or the individual’s spouse is a partner, limited partner, or officer of the business entity.
“Business entity” means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, or other entity recognized by law.

*Tax Code 6.036(c)–(e)*
An appraisal district is established in each county. The appraisal district is responsible for appraising property in the appraisal district for ad valorem tax purposes of each taxing unit that imposes ad valorem taxes on property in the appraisal district. *Tex. Const. Art. VIII, § 18(b); Tax Code 6.01(a)–(b)*

The appraisal district is governed by a board of directors. Five directors are appointed by the taxing units that participate in the appraisal district as provided by Tax Code 6.03.

To be eligible to serve on the appraisal district board of directors, an individual other than a county assessor-collector serving as a nonvoting director must be a resident of the appraisal district and must have resided in the appraisal district for at least two years immediately preceding the date the individual takes office. An individual who is otherwise eligible to serve on the appraisal district board is not ineligible because of membership on the governing body of a taxing unit.

An employee of a taxing unit that participates in the appraisal district is not eligible to serve on the board of directors unless the individual is also a member of the governing body or an elected official of a taxing unit that also participates in the appraisal district.

*Tax Code 6.03(a)*

An individual is ineligible to serve on an appraisal district board of directors and is disqualified from employment as chief appraiser if the individual:

1. Is related within the second degree by consanguinity or affinity, as determined under Government Code Chapter 573, Subchapter B [see DBE], to an individual who is engaged in the business of appraising property for compensation for use in proceedings under the Tax Code or of representing property owners for compensation in proceedings relating to property taxes in the appraisal district.

2. Owns property on which delinquent taxes have been owed to a taxing unit for more than 60 days after the date the individual knew or should have known of the delinquency unless: the delinquent taxes and any penalties and interest are being paid under an installment payment agreement under Tax Code 33.02; or a suit to collect the delinquent taxes is deferred or abated under Tax Code 33.06 or 33.065.

3. Is related within the third degree by consanguinity or within the second degree by affinity, as determined under Government Code Chapter 573, Subchapter B [see DBE], to a member of the appraisal district's board of directors.
An individual is ineligible to serve on an appraisal district board of directors if the individual has engaged in the business of appraising property for compensation for use in proceedings under the Tax Code or of representing property owners for compensation in proceedings under the Tax Code in the appraisal district at any time during the preceding five years.

*Tax Code 6.035(a)–(a-1)*

An individual is not eligible to be appointed to or to serve on the board of directors of an appraisal district if the individual or a business entity in which the individual has a substantial interest is a party to a contract with:

1. The appraisal district.
2. A taxing unit that participates in the appraisal district, if the contract relates to the performance of an activity governed by the Tax Code.

An individual has a substantial interest in a business entity if the combined ownership of the individual and the individual’s spouse is at least ten percent of the voting stock or shares of the business entity or the individual or the individual’s spouse is a partner, limited partner, or officer of the business entity.

“Business entity” means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, or other entity recognized by law.

*Tax Code 6.036*

The governing board of a taxing unit may call for the recall of a member of the board of directors of an appraisal district appointed under Tax Code 6.03 for whom the unit cast any of its votes in the appointment of the board of directors. The call must be in the form of a resolution, be filed with the chief appraiser of the appraisal district, and state that the unit is calling for a recall of the member.

*Tax Code 6.033(a)*

The taxing units participating in an appraisal district may provide that the terms of the appointed members of the appraisal district board of directors be staggered if the governing bodies of at least three-fourths of the taxing units that are entitled to vote on the appointment of appraisal district board members adopt resolutions providing for the staggered terms. *Tax Code 6.034(a)*

The board of directors of an appraisal district may contract with an appraisal office in another appraisal district or with a taxing unit in
The appraisal district to perform the duties of the appraisal office for the appraisal district. *Tax Code 6.05(b)*

### Ownership or Lease of Real Property

The acquisition or conveyance of real property or the construction or renovation of a building or other improvement by an appraisal district must be approved by the governing bodies of three-fourths of the taxing units entitled to vote on the appointment of appraisal district board members.

The appraisal district board of directors by resolution may propose a property transaction or other action for which *Tax Code 6.051* requires approval of the taxing units. The chief appraiser shall notify the presiding officer of each governing body entitled to vote on the approval of the proposal by delivering a copy of the appraisal district board’s resolution, together with information showing the costs of other available alternatives to the proposal.

On or before the 30th day after the date the presiding officer receives notice of the proposal, the governing body of a taxing unit by resolution may approve or disapprove the proposal. If a governing body fails to act on or before that 30th day or fails to file its resolution with the chief appraiser on or before the tenth day after that 30th day, the proposal is treated as if it were disapproved by the governing body.

*Tax Code 6.051(b)*

### Proceeds

The appraisal district’s board of directors may convey real property owned by the district, and the proceeds shall be credited to each taxing unit that participates in the appraisal district in proportion to the unit’s allocation of the appraisal district budget in the year in which the transaction occurs. *Tax Code 6.051(c)*

### Budget and Financing

Each year the chief appraiser shall prepare a proposed budget for the operations of the appraisal district for the following tax year as described in *Tax Code 6.06(a)* and shall submit copies to each taxing unit participating in the appraisal district and to the appraisal district board of directors before June 15. *Tax Code 6.06(a)*

### Public Posting

Each taxing unit entitled to vote on the appointment of appraisal district board members shall maintain a copy of the proposed budget for public inspection at its principal administrative office. *Tax Code 6.06(a)*

### Budget Adoption

The appraisal district board of directors shall hold a public hearing to consider the budget. The secretary of the appraisal district board shall deliver to the presiding officer of the governing body of each taxing unit participating in the appraisal district not later than the tenth day before the date of the hearing a written notice of the date, time, and place fixed for the hearing. The appraisal district
board of directors shall complete its hearings, make any amendments to the proposed budget it desires, and finally approve a budget before September 15.

If governing bodies of a majority of the taxing units entitled to vote on the appointment of appraisal district board members adopt resolutions disapproving a budget and file them with the secretary of the appraisal district board within 30 days after its adoption, the budget does not take effect, and the appraisal district board shall adopt a new budget within 30 days of the disapproval.  

*Tax Code 6.06(b)*

**AMENDMENTS**

The appraisal district board may amend the approved budget at any time, but the secretary of the appraisal district board must deliver a written copy of a proposed amendment to the presiding officer of the governing body of each taxing unit participating in the appraisal district not later than the 30th day before the date the appraisal district board acts on it. *Tax Code 6.06(c)*

**ALLOCATION**

Each taxing unit participating in the appraisal district is allocated a portion of the amount of the budget and must pay its allocation as provided by Tax Code 6.06. *Tax Code 6.06(d)*

**CHANGES IN METHOD OF FINANCING**

The board of directors of an appraisal district, by resolution adopted and delivered to each taxing unit participating in the appraisal district after June 15 and before August 15, may prescribe a different method of allocating the costs of operating the appraisal district unless the governing body of any taxing unit that participates in the appraisal district adopts a resolution opposing the different method, and files it with the appraisal district board of directors before September 1. If an appraisal district board proposal is rejected, the appraisal district board shall notify, in writing, each taxing unit participating in the appraisal district before September 15.

The taxing units participating in an appraisal district may adopt a different method of allocating the costs of operating the appraisal district in accordance with Tax Code 6.061.

*Tax Code 6.061(a)–(b)*

**DISAPPROVAL OF APPRAISAL DISTRICT BOARD ACTIONS**

If the governing bodies of a majority of the taxing units entitled to vote on the appointment of appraisal district board members adopt resolutions disapproving an action, other than adoption of the budget, by the appraisal district board of directors and file them with the secretary of the appraisal district board within 15 days after the action is taken, the action is revoked effective the day after the day on which the required number of resolutions is filed. *Tax Code 6.10*
An appraisal review board is established for each appraisal district, unless the boards of directors of two or more adjoining appraisal districts provide for the operation of a consolidated appraisal review board by interlocal contract. Except as provided in Tax Code 6.41(d-1), members of the appraisal review board are appointed by resolution of a majority of the appraisal district board of directors. *Tax Code 6.41(a), (d), (g)*

The board of directors of an appraisal district, by resolution of a majority of the members, may provide for a number of auxiliary appraisal review board members that the appraisal district board considers appropriate to hear taxpayer protests before the appraisal review board and to assist the board in performing its duties. *Tax Code 6.414(a)*

Members of the appraisal review board, including auxiliary members, are subject to the eligibility restrictions described in Tax Code 6.412, including prohibitions on service by college district board members, officers, and employees, and Tax Code 6.413, including prohibitions on service by individuals who are parties to certain contracts. *Tax Code 6.41, .412–.413, .414(b)*

In a county with a population of 120,000 or more, the members of the appraisal review board are appointed by the local administrative district judge under Government Code, Chapter 74, Subchapter D in the county in which the appraisal district is established. *Tax Code 6.41(d-1)*

A taxing unit may not enter into a contract with a member of the appraisal review board established for an appraisal district in which the taxing unit participates or with a business entity in which a member of the appraisal review board has a substantial interest as defined in Tax Code 6.413. *Tax Code 6.413(c)*
All investments made by investing entities, including college districts, shall comply with the Public Funds Investment Act, Government Code Chapter 2256, Subchapter A, and all federal, state, and local statutes, rules, or regulations. Gov't Code 2256.026

WRITTEN POLICIES

The governing body of an investing entity shall adopt by rule, order, ordinance, or resolution, as appropriate, a written investment policy regarding the investment of its funds under its control. The investment policies must be written; primarily emphasize safety of principal and liquidity; and address investment diversification, yield, and maturity and the quality and capability of investment management; and include:

1. A list of the types of authorized investments in which the college district’s funds may be invested;

2. The maximum allowable stated maturity of any individual investment owned by the college district;

3. For pooled fund groups, the maximum dollar-weighted average maturity allowed based on the stated maturity date of the portfolio;

4. Methods to monitor the market price of investments acquired with public funds;

5. A requirement for settlement of all transactions, except investment pool funds and mutual funds, on a delivery versus payment basis; and

6. Procedures to monitor rating changes in investments acquired with public funds and the liquidation of such investments consistent with the provisions of Government Code 2256.021 [see LOSS OF REQUIRED RATING, below].

Gov’t Code 2256.005(b)

ANNUAL REVIEW

The governing body of an investing entity shall review its investment policy and investment strategies not less than annually. The governing body shall adopt a written instrument by rule, order, ordinance, or resolution stating that it has reviewed the investment policy and investment strategies and that the written instrument so adopted shall record any changes made to either the investment policy or investment strategies. Education Code 51.0032; Gov’t Code 2256.005(e)

INVESTMENT STRATEGIES

As an integral part of the investment policy, the governing body shall adopt a separate written investment strategy for each of the funds or group of funds under the its control. Each investment
strategy must describe the investment objectives for the particular fund using the following priorities in order of importance:

1. Understanding of the suitability of the investment to the financial requirements of the entity;
2. Preservation and safety of principal;
3. Liquidity;
4. Marketability of the investment if the need arises to liquidate the investment before maturity;
5. Diversification of the investment portfolio; and
6. Yield.

Gov’t Code 2256.005(d)

Each investing entity shall designate, by rule, order, ordinance, or resolution, as appropriate, one or more officers or employees as investment officer to be responsible for the investment of its funds consistent with the investment policy adopted by the entity. If the governing body of an investing entity has contracted with another investing entity to invest its funds, the investment officer of the other investing entity is considered to be the investment officer of the first investing entity for purposes of Government Code Chapter 2256. Authority granted to a person to invest an entity's funds is effective until rescinded by the investing entity, until the expiration of the officer's term or the termination of the person's employment by the investing entity, or if an investment management firm, until the expiration of the contract with the investing entity. In the administration of the duties of an investment officer, the person designated as investment officer shall exercise the judgment and care, under prevailing circumstances, that a prudent person would exercise in the management of the person's own affairs, but the governing body of the investing entity retains the ultimate responsibility as fiduciaries of the assets of the investing entity. Unless authorized by law, a person may not deposit, withdraw, transfer, or manage in any other manner the funds of the investing entity. Gov’t Code 2256.005(f)

Government Code Chapter 2256 does not prohibit an investing entity or investment officer from using the entity's employees or the services of a contractor of the entity to aid the investment officer in the execution of the officer’s duties under Government Code Chapter 2256. Gov’t Code 2256.003(c)

Each member of the governing board of a state agency and its investment officer shall attend at least one training session relating to
the person’s responsibilities under the Public Funds Investment Act within six months after taking office or assuming duties. The Coordinating Board shall provide the training under Government Code 2256.007. The training must include education in:

1. Investment controls;
2. Security risks;
3. Strategy risks;
4. Market risks;
5. Diversification of investment portfolio; and
6. Compliance with the Public Funds Investment Act.

The investment officer shall attend a training session not less than once each state fiscal biennium and may receive training from any independent source approved by the governing body of the state agency. The investment officer shall prepare a report on the Public Funds Investment Act and deliver it to the governing body of the state agency no later than the 180th day after the last day of each regular session of the legislature.

Gov’t Code 2256.007

In determining whether an investment officer has exercised prudence with respect to an investment decision, the following shall be taken into consideration:

1. The investment of all funds, or funds under the entity’s control over which the officer had responsibility rather than a consideration as to the prudence of a single investment; and
2. Whether the investment decision was consistent with the written investment policy of the entity.

Gov’t Code 2256.006
An investment officer of an entity who has a personal business relationship with a business organization offering to engage in an investment transaction with the entity shall file a statement disclosing that personal business interest. An investment officer who is related within the second degree by affinity or consanguinity, as determined by Government Code Chapter 573, to an individual seeking to sell an investment to the investment officer’s entity shall file a statement disclosing that relationship. A required statement must be filed with the Texas Ethics Commission and the governing body of the entity. For purposes of this policy, an investment officer has a personal business relationship with a business organization if:

1. The investment officer owns ten percent or more of the voting stock or shares of the business organization or owns $5,000 or more of the fair market value of the business organization;
2. Funds received by the investment officer from the business organization exceed ten percent of the investment officer’s gross income for the previous year; or
3. The investment officer has acquired from the business organization during the previous year investments with a book value of $2,500 or more for the personal account of the investment officer.

Gov't Code 2256.005(i)

Not less than quarterly, the investment officer shall prepare and submit to the governing body of the entity a written report of investment transactions for all funds covered by the Public Funds Investment Act. This report shall be presented not less than quarterly to the governing body and its chief executive officer within a reasonable time after the end of the period. The report must:

1. Describe in detail the investment position of the entity on the date of the report;
2. Be prepared jointly by all investment officers of the entity;
3. Be signed by each investment officer of the entity;
4. Contain a summary statement for each pooled fund group (i.e., each internally created fund in which one or more accounts are combined for investing purposes) that states the:
   a. Beginning market value for the reporting period;
   b. Ending market value for the period; and
   c. Fully accrued interest for the reporting period;
5. State the book value and market value of each separately invested asset at the end of the reporting period by the type of asset and fund type invested;

6. State the maturity date of each separately invested asset that has a maturity date;

7. State the account or fund or pooled group fund in the state agency or local government for which each individual investment was acquired; and

8. State the compliance of the investment portfolio of the state agency or local government as it relates to the agency’s or local government’s investment strategy expressed in the agency’s or local government’s investment policy and relevant provisions of Government Code Chapter 2256.

If the entity invests in other than money market mutual funds, investment pools or accounts offered by its depository bank in the form of certificates of deposit, or money market accounts or similar accounts, the reports prepared by the investment officer under Government Code Chapter 2256 shall be formally reviewed at least annually by an independent auditor, and the result of the review shall be reported to the governing body by that auditor.

_Education Code 51.0032; Gov’t Code 2256.023_

**SELECTION OF BROKER**

The governing body of an entity subject to Government Code Chapter 2256, Subchapter A or a designated investment committee, shall, at least annually, review, revise, and adopt a list of qualified brokers that are authorized to engage in investment transactions with the entity. _Gov’t Code 2256.025_

**AUTHORIZED INVESTMENTS**

Each governing body of a local government or a state agency may purchase, sell, and invest its funds and funds under its control in investments described below, in compliance with investment policies approved by the governing body and according to the standard of care set out in this policy. Investments may be made directly by the governing body or by a nonprofit corporation acting on behalf of the governing body or an investment pool acting on behalf of two or more local governments, state agencies, or a combination of those entities.

In the exercise of these powers, the governing body of an investing entity may contract with an investment management firm registered under the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-1 et seq.) or with the State Securities Board to provide for the investment and management of its public funds or other funds under its control. A contract made for such purpose may not be for a term longer than two years. A renewal or extension of the contract must
be made by the governing body of an investing entity by order, ordinance, or resolution.

*Gov't Code 2256.003(a)–(b)*

**OBLIGATIONS**

Except as provided below, the following are authorized investments:

1. Obligations, including letters of credit, of the United States or its agencies and instrumentalities;
2. Direct obligations of this state or its agencies and instrumentalities;
3. Collateralized mortgage obligations directly issued by a federal agency or instrumentality of the United States, the underlying security for which is guaranteed by an agency or instrumentality of the United States;
4. Other obligations, the principal and interest of which are unconditionally guaranteed or insured by, or backed by the full faith and credit of, the state of Texas, the United States, or their respective agencies and instrumentalities, including obligations that are fully guaranteed or insured by the Federal Deposit Insurance Corporation (FDIC) or by the explicit full faith and credit of the United States;
5. Obligations of states, agencies, counties, cities, and other political subdivisions of any state rated as to investment quality by a nationally recognized investment rating firm not less than A or its equivalent; and
6. Bonds issued, assumed, or guaranteed by the state of Israel.

*Gov't Code 2256.009(a)*

The following investments are not authorized:

1. Obligations whose payment represents the coupon payments on the outstanding principal balance of the underlying mortgage-backed security collateral and pays no principal.
2. Obligations whose payment represents the principal stream of cash flow from the underlying mortgage-backed security collateral and bears no interest.
3. Collateralized mortgage obligations that have a stated final maturity date of greater than ten years.
4. Collateralized mortgage obligations the interest rate of which is determined by an index that adjusts opposite to the changes in a market index.

Gov’t Code 2256.009(b)

A certificate of deposit or share certificate is an authorized investment if the certificate is issued by a depository institution that has its main office or a branch office in Texas and is:

1. Guaranteed or insured by the FDIC or its successor or the National Credit Union Share Insurance Fund or its successor;

2. Secured by obligations described by Government Code 2256.009(a) above, including mortgage-backed securities directly issued by a federal agency or instrumentality that have a market value of not less than the principal amount of the certificates, but excluding those mortgage-backed securities of the nature described by Section 2256.009(b); or

3. Secured in any other manner and amount provided by law for the deposits of the investing entity.

In addition to the authority to invest funds in certificates of deposit under the previous section, an investment in certificates of deposit made in accordance with the following conditions is an authorized investment under Government Code 2256.010:

1. The funds are invested by an investing entity through a broker that has its main office or a branch office in this state and is selected from a list adopted by the investing entity as required by Government Code 2256.025, or a depository institution that has its main office or a branch office in this state and that is selected by the investing entity;

2. The broker or depository institution selected by the investing entity arranges for the deposit of the funds in certificates of deposit in one or more federally insured depository institutions, wherever located, for the account of the investing entity;

3. The full amount of the principal and accrued interest of each of the certificates of deposit is insured by the United States or an instrumentality of the United States; and

4. The investing entity appoints the depository institution selected by the investing entity under paragraph a above or a clearing broker-dealer registered with the Securities and Exchange Commission and operating pursuant to Securities and Exchange Commission Rule 15c3-3 (17 C.F.R. 240.15c3-3) as
custodian for the investing entity with respect to the certificates of deposit issued for the account of the investing entity.

*Gov't Code 2256.010(a)–(b)*

The investment policies may provide that bids for certificates of deposit be solicited orally, in writing, electronically, or in any combination of those methods. *Gov't Code 2256.005(c)*

**REPURCHASE AGREEMENTS**

A fully collateralized repurchase agreement is an authorized investment under Government Code Chapter 2256 if the repurchase agreement:

1. Has a defined termination date;
2. Is secured by a combination of cash and obligations of the United States or its agencies and instrumentalities;
3. Requires the securities being purchased by the entity or cash held by the entity to be pledged to the entity, held in the entity's name, and deposited with the entity or a third party selected and approved by the entity; and
4. Is placed through a primary government securities dealer, as defined by the Federal Reserve or a financial institution doing business in Texas.

Notwithstanding any other law, the term of any reverse security repurchase agreement may not exceed 90 days after the date the reverse security repurchase agreement is delivered. Money received by an entity under the terms of a reverse security repurchase agreement shall be used to acquire additional authorized investments, but the term of the authorized investments acquired must mature not later than the expiration date stated in the reverse security repurchase agreement.

*Gov't Code 2256.011*

**SECURITIES LENDING PROGRAM**

A securities lending program is an authorized investment if:

1. The value of securities loaned must not be less than 100 percent collateralized, including accrued income, and the loan must allow for termination at any time;
2. The loan must be secured by:
   a. Pledged securities described by Government Code 2256.009;
   b. Pledged irrevocable letters of credit issued by a bank that is organized and existing under the laws of the United States or any other state and continuously rated by at
least one nationally recognized investment rating firm at not less than A or its equivalent; or

c. Cash invested in accordance with Government Code 2256.009, 2256.013, 2256.014, or 2256.016;

3. The terms of the loan require that the securities being held as collateral be pledged to the investing entity, held in the investing entity’s name, and deposited at the time the investment is made with the entity or with a third party selected by or approved by the investing entity; and

4. The loan must be placed through a primary government securities dealer, as defined by 5 C.F.R. 6801.102(f), as that regulation existed on September 1, 2003, or a financial institution doing business in this state.

An agreement to lend securities under a securities lending program must have a term of one year or less.

**Gov’t Code 2256.0115**

A banker’s acceptance is an authorized investment if the banker’s acceptance:

1. Has a stated maturity of 270 days or fewer from the date of issuance;

2. Will be, in accordance with its terms, liquidated in full at maturity;

3. Is eligible for collateral for borrowing from a Federal Reserve Bank, and

4. Is accepted by a bank organized and existing under the laws of the United States or any state, if the short-term obligations of the bank, or of a bank holding company of which the bank is the largest subsidiary, are rated not less than A-1 or P-1 or an equivalent rating by at least one nationally recognized credit rating agency.

**Gov’t Code 2256.012**

Commercial paper is an authorized investment if the commercial paper:

1. Has a stated maturity of 270 days or fewer from the date of issuance; and

2. Is rated not less than A1-1 or P-1 or an equivalent rating by at least two nationally recognized credit rating agencies, or by one nationally recognized credit rating agency and is fully se-
A no-load money market mutual fund is an authorized investment if the mutual fund:

1. Is registered with and regulated by the Securities and Exchange Commission;
2. Provides the investing entity with a prospectus and other information required by the Securities and Exchange Act of 1934 (15 U.S.C. 78a et seq.) or the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.);
3. Has a dollar-weighted average stated maturity of 90 days or fewer; and
4. Includes in its investment objectives the maintenance of a stable net asset value of $1 for each share.

A no-load mutual fund is an authorized investment if the mutual fund:

1. Is registered with the Securities and Exchange Commission;
2. Has an average weighted maturity of less than two years;
3. Is invested exclusively in obligations approved by Government Code Chapter 2256, Subchapter A, regarding authorized investments (Public Funds Investment Act);
4. Is continuously rated as to investment quality by at least one nationally recognized investment rating firm of not less than AAA or its equivalent; and
5. Conforms to the requirements in Government Code 2256.016(b) and (c) relating to the eligibility of investment pools to receive and invest funds of investing entities.

Investments in no-load money market mutual funds shall be limited to the percentages authorized by Government Code 2256.014(c). In addition, the investing entity may not invest any portion of bond proceeds, reserves, and funds held for debt service, in no-load mutual funds.

Gov't Code 2256.014
GUARANTEED INVESTMENT CONTRACTS

A guaranteed investment contract is an authorized investment for bond proceeds if the guaranteed investment contract:

1. Has a defined termination date;
2. Is secured by obligations described by Government Code 2256.009(a)(1), excluding those obligations described by Section 2256.009(b), in an amount at least equal to the amount of bond proceeds invested under the contract; and
3. Is pledged to the entity and deposited with the entity or with a third party selected and approved by the entity.

Bond proceeds, other than bond proceeds representing reserves and funds maintained for debt service purposes, may not be invested in a guaranteed investment contract with a term longer than five years from the date of issuance of the bonds.

To be eligible as an authorized investment:

1. The governing body of the entity must specifically authorize guaranteed investment contracts as eligible investments in the order, ordinance, or resolution authorizing the issuance of bonds;
2. The entity must receive bids from at least three separate providers with no material financial interest in the bonds from which proceeds were received;
3. The entity must purchase the highest yielding guaranteed investment contract for which a qualifying bid is received;
4. The price of the guaranteed investment contract must take into account the reasonably expected drawdown schedule for the bond proceeds to be invested; and
5. The provider must certify the administrative costs reasonably expected to be paid to third parties in connection with the guaranteed investment contract.

Gov't Code 2256.015

INVESTMENT POOLS

A public funds investment pool is an authorized investment if it meets the requirements of Government Code 2256.016 and 2256.019, including that the governing body of the entity authorizes the investment in the particular pool by rule, order, ordinance, or resolution, as appropriate. Gov't Code 2256.016, .019

CHANGE IN LAW

An entity is not required to liquidate investments that were authorized investments at the time of purchase. Gov't Code 2256.017
Loss of Required Rating

An investment that requires a minimum rating under Government Code Chapter 2256 does not qualify as an authorized investment during the period the investment does not have the minimum rating. An entity shall take all prudent measures that are consistent with its investment policy to liquidate an investment that does not have the minimum rating. *Gov't Code 2256.021*

Investment of Debt Service Funds

A junior college district may enter into a contract with a term not to exceed seven years to purchase investments with the proceeds of taxes levied or to be levied by the district for the purpose of paying debt service on bonds issued by the district.

A contract under this section may provide for the purchase of investments at a stated yield or yields.

Before entering a contract under this section, a college district must solicit and receive bids from at least three separate providers. The district must accept the qualifying bid that provides for the highest yield investments over the term of the contract.

A contract under this section may provide only for the purchase of an obligation described by Government Code 2256.009(a)(1), other than an obligation described by Government Code 2256.009(b).

*Education Code 45.112*

General Deposits

The governing board of each institution of higher education may invest the funds received as general deposits authorized by Education Code 54.502 in the manner provided under either Education Code 51.003 or 51.0031. *Education Code 54.5022*

Sellers of Investments

A written copy of the investment policy shall be presented to any person offering to engage in an investment transaction with an investing entity or to an investment management firm under contract with an investing entity to invest or manage the entity’s investment portfolio. For purposes of Government Code 2256.005, a business organization includes investment pools and an investment management firm under contract with an investing entity to invest or manage the entity’s investment portfolio. The qualified representative of the business organization offering to engage in an investment transaction with an investing entity shall execute a written instrument in a form acceptable to the investing entity and the business organization substantially to the effect that the business organization has:

1. Received and thoroughly reviewed the investment policy of the entity; and
2. Acknowledged that the business organization has implemented reasonable procedures and controls in an effort to pre-
clude investment transactions conducted between the entity and the organization that are not authorized by the entity’s policy, except to the extent that this authorization is dependent on an analysis of the makeup of the entity’s entire portfolio or requires an interpretation of subjective investment standards.

The investment officer of an entity may not acquire or otherwise obtain any authorized investment described in the investment policy of the investing entity from a person who has not delivered to the entity the instrument described above.

Gov’t Code 2256.005(k)–(l)

DONATIONS

Government Code Chapter 2256, Subchapter A does not apply to an investment donated to an investing entity for a particular purpose or under terms of use specified by the donor. Gov’t Code 2256.004(b)

ELECTRONIC FUNDS TRANSFER

Any local government may use electronic means to transfer or invest all funds collected or controlled by the local government. Gov’t Code 2256.051

PRIVATE AUDITOR

Notwithstanding any other law, a state agency shall employ a private auditor if authorized by the legislative audit committee either on the committee’s initiative or on request of the governing body of the agency. Gov’t Code 2256.052
Except for the types of land and interests described in Local Government Code 272.001 and 253.008, before land owned by a political subdivision of the state, including a college district, may be sold or exchanged for other land, notice to the general public of the offer of the land for sale or exchange must be published in a newspaper of general circulation in either the county in which the land is located or, if there is no such newspaper, in an adjoining county. The notice must include a description of the land, including its location, and the procedure by which sealed bids to purchase the land or offers to exchange the land may be submitted. The notice must be published on two separate dates and the sale or exchange may not be made until after the 14th day after the date of the second publication. *Local Gov’t Code 272.001(a)*

The notice and bidding requirements set out above do not apply to the types of land and real property interests described below and owned by a political subdivision. The land and those interests described below may not be conveyed, sold, or exchanged for less than the fair market value of the land or interest unless the conveyance, sale, or exchange is with one or more abutting property owners who own the underlying fee simple. The fair market value is determined by an appraisal obtained by the political subdivision that owns the land or interest. The appraisal price is conclusive of the fair market value of the land or interest. This applies to:

1. Narrow strips of land, or land that because of its shape, lack of access to public roads, or small area cannot be used independently under its current zoning or under applicable subdivision or other development control ordinances;
2. Streets or alleys, owned outright or used by easement;
3. Land or a real property interest originally acquired for streets, rights-of-way, or easements that the political subdivision chooses to exchange for other land to be used for streets, rights-of-way, easements, or other public purposes, including transactions partly for cash;
4. Land that the political subdivision wants to have developed by contract with an independent foundation;
5. A real property interest conveyed to a governmental entity that has the power of eminent domain; or
6. The land or interests described by items 1 and 2 above may be sold to:
   a. Abutting property owners in the same subdivision if the land has been subdivided; or
b. Abutting property owners in proportion to their abutting ownership, and the division between owners must be made in an equitable manner.

This section does not require the governing body of a political subdivision to accept any bid or offer or to complete a sale or exchange.

*Local Gov't Code 272.001(b)–(d)*

**OTHER HIGHER EDUCATION INSTITUTIONS**

A political subdivision may donate, exchange, convey, sell, or lease land, improvements, or an interest in real property to an institution of higher education to promote a public purpose related to higher education. The political subdivision shall determine the terms and conditions of the transaction so as to effectuate and maintain the public purpose. A political subdivision may donate, exchange, convey, sell, or lease the real property interest for less than its fair market value and without complying with the notice and bidding requirements set out above. *Local Gov't Code 272.001(j)*

**OTHER POLITICAL SUBDIVISIONS**

A political subdivision may donate or sell for less than fair market value and without complying with the notice and bidding requirements set out above a designated parcel of land or an interest in real property to another political subdivision if:

1. The land or interest will be used by the political subdivision to which it is donated or sold in carrying out a purpose that benefits the public interest of the donating or selling political subdivision;

2. The donation or sale of the land or interest is made under terms that effect and maintain the public purpose for which the donation or sale is made; and

3. The title and right to possession of the land or interest revert to the donating or selling political subdivision if the acquiring political subdivision ceases to use the land or interest in carrying out the public purpose.

*Local Gov't Code 272.001(l)*

**PROPERTY ACQUIRED THROUGH EMINENT DOMAIN**

A governmental entity may sell real property acquired through eminent domain to the person who owned the real property interest immediately before the governmental entity acquired the property interest, or to the person's heirs, successors, or assigns, at the price the entity paid at the time of acquisition if:

1. The public use for which the property was acquired through eminent domain is canceled;
2. No actual progress is made toward the public use during a prescribed period of time; or
3. The property is unnecessary for the public use.

*Tex. Const. Art. III, § 52j*

**LEASE OF PROPERTY TO A GOVERNMENTAL ENTITY**

To promote a public purpose of the political subdivision, a political subdivision may:

1. Lease property owned by the political subdivision to another political subdivision or an agency of the state or federal government; or
2. Make an agreement to provide office space in property owned by the political subdivision to the other political subdivision or agency.

When leasing property or providing office space in its property the political subdivision:

1. Shall determine the terms of the lease or agreement so as to promote and maintain the public purpose;
2. May provide for the lease of the property or provision of the office space at less than fair market value; and
3. Is not required to comply with any competitive purchasing procedure or any notice and publication requirement imposed by this chapter or other law.

*Local Gov't Code 272.005*

**SHARING OF UNDERUSED CLASSROOMS**

A public institution of higher education, including a college district, may make the institution’s classrooms not scheduled for use by the institution or by students, student organizations, or faculty of the college district between 5:00 p.m. and 10:00 p.m. on one or more weekdays or between 8:00 a.m. and 5:00 p.m. on one or more Saturdays available for that day to another public junior college on request for teaching courses in the core curriculum, as defined by Education Code 61.821, or continuing education courses.

A public institution of higher education that under Education Code 51.975 makes a classroom available to another institution shall continue to make that classroom, or a comparable classroom, available to the other institution for the duration of the semester or other academic term.

An institution of higher education may charge another institution for the use of a classroom under Education Code 51.975 at a rate not to exceed the rate permitted for this purpose as determined by the Coordinating Board. The Coordinating Board shall establish those
rates in an amount to reimburse the host institution for utility costs and other costs, such as maintenance and custodial services, based on the infrastructure formula funding that the host institution would receive if teaching a course in that space itself for that time.

_Education Code 51.975_

[See GH for funds paid by school districts in exchange for the use of an instructional or athletic facility]

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**Note:** Regarding geospatial data products, see CRA.
If an employer, including a college district, applies for money provided by the United States, an agency of the United States, or a privately sponsored source, and if any of the money will pay part or all of any employee's salary, the employer shall apply for any legally available funds to pay state contributions to the Teacher Retirement System as set out in Government Code 825.404 and 830.201.

When an employer receives funds to pay for state contributions for retirement and insurance pursuant to this application, the employer shall immediately send the money to the retirement system for deposit in the state contribution account. Monthly, employers shall:

1. Report to the system in a form prescribed by the system a certification of the total amount of salary paid from federal funds and private grants and the total amounts provided by the funds and grants for state contributions for the employees; and

2. Retain the name of each employee paid in whole or in part from a grant, the source of the grant, the amount of the employee's salary paid from the grant, the amount of money provided by the grant for state contributions for the employee, and any other information the retirement system determines is necessary to enforce this section.

The retirement system may require from employers reports of applications for money, require evidence that the applications include requests for funds available to pay state contributions to the retirement system for employees paid from the grant, and examine the records of any employer to determine compliance with this section and rules promulgated under it.

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; Insurance Code Ch. 1575, Subch. F

The governing body of a junior college district shall prepare an annual financial statement showing for each fund subject to the authority of the governing body during the fiscal year, the total receipts of the funds, itemized by source of revenue, including gifts or other general sources from which funds are derived. Local Gov't Code 140.005
PRIVATE DONATIONS
A state agency, including a college district, which is authorized by statute to accept money from a private donor or for which a private organization exists that is designed to further the purposes and duties of the agency shall adopt rules governing the relationship between:

1. The donor or organization; and
2. The agency and its employees.

Rules adopted under Government Code Chapter 2255 shall govern all aspects of conduct of the agency and its employees in the relationship, including:

1. Administration and investment of funds received by the organization for the benefit of the agency;
2. Use of an employee or property of the agency by the donor or organization;
3. Service by an officer or employee of the agency as an officer or director of the donor or organization; and
4. Monetary enrichment of an officer or employee of the agency by the donor or organization.

A rule adopted under Government Code Chapter 2255 may not conflict with or supersede a requirement of a statute regulating:

1. The conduct of an employee of a state agency; or
2. The procedures of a state agency.

Gov't Code 2255.001

CERTIFICATE OF RECOGNITION
On receipt of a written request from an institution of higher education, including a college district, providing the information necessary to establish the donor’s eligibility for the certificate, the Coordinating Board shall prepare and provide at no cost to the institution a certificate of recognition designed by the Coordinating Board under this section recognizing the gifts or donations of a person who in any year contributes to the institution, for the support of any purposes, programs, or activities of the institution, one or more gifts or donations in a total amount of at least $10,000.

Education Code 61.0903

ENDOWMENT FUND
The board of trustees of a public junior college may establish an endowment fund outside the state treasury in a depository selected by the board of trustees.

The board of trustees may deposit local funds collected by the board to the credit of the endowment fund.
The board of trustees may accept gifts and grants from any public or private source for the endowment fund.

The endowment fund consists of local funds deposited to the credit of the endowment fund, gifts, grants, and income from investing the endowment fund.

The board of trustees may invest the endowment fund in securities, bonds, and other investments that the board considers prudent. In making investments under this section, the board shall exercise the judgment and care under the circumstances then prevailing that a person of ordinary prudence, discretion, and intelligence exercises in the management of the person’s own affairs.

The board may not spend any money deposited in the endowment fund as local funds, gifts, or grants but may spend any income from investing the endowment fund for the operation or maintenance of the junior college.

*Education Code 130.007*

Charitable trust funds donated to a public junior college for the restricted purpose of providing scholarships to needy students of the college are not general assets of the junior college. Accordingly, should the trustees of the junior college as trustee of these funds view the administrative costs associated with their retaining control of the funds as substantially impairing the accomplishment of the trust purpose, the trustees may petition a court of competent jurisdiction to modify the trust under Property Code 112.054, substituting as trustees over the funds the trustees of a nonprofit corporation created to provide support to the college, subject to the continuing restriction that the funds may only be used for their original purpose as scholarship funds. Because of the trust imposed upon these funds, the constitutional restrictions on the donation of public money or credit to a private entity would not be implicated by such a consolidation. However, any grant of general college funds by the trustees to the foundation would implicate such constitutional questions. *Atty. Gen. Op. JC-138 (1999)*

**TRANSFER OF FUNDS TO NONPROFIT FOUNDATION**
The governing board of each junior college district shall be authorized to fix and collect rentals, rates, charges, and/or fees, including student union fees, from students and others for the occupancy, use, and/or availability of all or any of its property, buildings, structures, activities, operations, or facilities, of any nature, in such amounts and in such manner as may be determined by such board. *Education Code 130.123(c)*
A governing body of a sponsor, including a college district, that determines that it is in the public interest and to the benefit of the sponsor’s residents and the citizens of this state that a corporation be created to finance, refinance, or provide the costs of public facilities of the sponsor may by resolution stating that determination authorize and approve the creation of a corporation to act on behalf of the sponsor and approve proposed articles of incorporation for the corporation. *Local Gov't Code 303.023*

**PURPOSE**

A sponsor may create one or more nonmember, nonstock, nonprofit public facility corporations to:

1. Issue bonds under Local Government Code Chapter 303 to purchase sponsor obligations;
2. Finance public facilities on behalf of the sponsor; or
3. Loan the proceeds of the obligations to other entities to accomplish the purposes of the sponsor.

*Local Gov't Code 303.021(a)*

**USE OF THE CORPORATION**

A sponsor may use the corporation to acquire, construct, rehabilitate, renovate, repair, equip, furnish, or place in service public facilities or to issue bonds on the sponsor’s behalf to finance the cost of the public facilities. *Local Gov't Code 303.021(b)*
The governing board of each institution of higher education, including each college district, may select one or more depositories as places of deposit for the funds enumerated in Education Code 51.002. Depositories shall be selected on the basis of competitive bids. If bids are taken orally, the bids shall be tabulated by the person taking the bids and made a part of the permanent records of the institution.

The funds shall either be deposited in the depository bank or banks or invested as authorized by Government Code Chapter 2256 (Public Funds Investment Act). Funds that are to be deposited in the depository bank or banks must be deposited within seven days from the date of receipt by the institution.

*Education Code 51.003(a)–(b)*

Notwithstanding any other provision of Education Code 51.003, the governing board of each institution may maintain unsecured deposits in a foreign bank as necessary to support the college district’s academic and research operations in the foreign country in which the bank is located, provided that no appropriated or tuition funds other than those collected from students enrolled in the affected programs are deposited. The foreign bank must:

1. Be licensed and supervised by a central bank;
2. Be audited annually by an accounting firm that follows international financial reporting standards; and
3. Maintain a capital-to-total assets ratio that is not less than the greater of four percent or the minimum tier 1 capital-to-total assets ratio required for depository institutions insured by the Federal Deposit Insurance Corporation.

*Education Code 51.003(f)*

The governing board shall require adequate surety bonds or securities to be posted to secure the deposits and may require additional security at any time it deems the deposits inadequately secured. The depository banks selected may pledge their securities to protect the funds.

Any surety bond furnished under the provisions of this section shall be payable to the governor and his successors in office. Venue for a suit to recover an amount claimed by the state to be due on a surety bond is in Travis County.

*Education Code 51.003(c)–(e)*

A depository shall pay interest on the deposits at a rate agreed on by the depository and the governing board.
In accordance with written policy approved by the governing body of the public entity, including a college district, a public entity shall determine if an investment security is eligible to secure deposits of public funds covered by the Public Funds Collateral Act.

The written policy may include the security of the institution that obtains or holds an investment security, the substitution or release of an investment security, and the method by which an investment security used to secure a deposit of public funds is valued.

Gov’t Code 2257.023

A deposit of public funds shall be secured by eligible securities to the extent and in the manner required by Government Code Chapter 2257.  Gov’t Code 2257.021
The legislature shall have no power to authorize any political corporation or subdivision of the state, including a college district, to lend its credit or to grant public money or thing of value in aid of, or to any individual, association, or corporation whatsoever, or to become a stockholder in such corporation, association or company. *Tx. Const. Art. III, Sec. 52; Brazoria County v. Perry*, 537 S.W.2d 89 (Tex. App.—Houston [1st Dist.] 1976, no writ)

The legislature shall have no power to grant, or to authorize any county or municipal authority to grant, any extra compensation, fee, or allowance to a public officer, agent, servant, or contractor after service has been rendered or a contract entered into and performed in whole or in part; nor pay, nor authorize the payment of, any claim created against any county or municipality of the state, under any agreement or contract, made without authority of law. *Tx. Const. Art. III, Sec. 53; Harlingen Indep. Sch. Dist. v. C.H. Page and Bro.*, 48 S.W.2d 983 (Comm. App. 1932)

If a contract for the acquisition, including lease, of real or personal property retains to the governing body of a local government, including a college district, 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 revenue only. *Local Gov’t Code 271.903*

The operating budgets shall:

1. Include general revenue, local funds, and estimated institutional funds;
2. Include detail by department for current and prior year;
3. Include a summary by functional categories for current and prior year;
4. Include a summary of the instructional budget by college or school for the current and preceding year;
5. Include a summary by amount and method of finance for each listed informational item in the general appropriation act; and
6. Be prepared within the limits of revenue available.

19 TAC 13.45

The governing board of each institution, including each college district, shall approve on or before September 1 of each year an item-
ized budget covering the operation of the institution for the fiscal year beginning on September 1 of each year. *Education Code 51.0051, 19 TAC 13.42(a)*

Copies of each such budget, including current operating funds, shall be furnished to the Coordinating Board and Legislative Budget Board electronically and bound paper copies to the Governor’s Budget and Planning Office and Legislative Reference Library by December 1 of each fiscal year. Additional copies shall be delivered to the Coordinating Board as required.

The governing board of the institution shall retain five copies of the budget for distribution to legislators or other state officials on request.

Copies shall be maintained in the institution’s library.

*Education Code 51.0051; 19 TAC 13.43*

**CERTAIN DONATIONS**

Funds, other property, or services may be donated to the Texas Military Department, a unit of the Texas National Guard, or a unit in the Texas State Guard by a political subdivision, including a college district. *Gov’t Code 437.111(b), .252, .304(a)*
The comptroller and the Coordinating Board jointly shall prescribe and periodically update a uniform system of financial accounting and reporting for institutions of higher education, including definitions of the elements of cost on the basis of which appropriations shall be made and financial records shall be maintained. The Coordinating Board may require institutions to report additional financial information as the Coordinating Board considers necessary. The accounts of the institutions shall be maintained and audited in accordance with the approved reporting system. *Education Code 61.065(a)*

**COLLECTION OF DELINQUENT OBLIGATIONS**

If under the rules adopted by the attorney general under Government Code Chapter 2107, an institution of higher education, including a college district, is not required to refer a delinquent obligation for collection to the attorney general, the institution is not required to expend resources for further collection efforts if, considering the amount, security, likelihood of collection, expense, and available resources, the institution determines that further collection should not be actively pursued. *Education Code 51.010*

**ABANDONED PROPERTY**

Property Code Chapter 76 applies to a junior college only if the governing board of the junior college takes formal action to opt to handle property presumed abandoned under Property Code Chapter 72 or Chapter 75 and valued at $100 or less in accordance with Chapter 76. *Property Code 76.001*

**UNCLAIMED MONEY FUND**

This section applies to a credit balance of less than $25 held by an institution of higher education that is presumed abandoned under Property Code Chapter 72.

An institution of higher education may maintain an unclaimed money fund and transfer to that fund a credit balance to which this section applies. A deposit to the unclaimed money fund does not affect the ownership of the amount deposited. The institution shall:

1. Adopt procedures for owners to make and receive payments of claims against the fund; and
2. Maintain a database that permits members of the public to search for ownership of unclaimed funds.

The institution of higher education shall use the fund to pay the claims of persons establishing ownership of amounts transferred to the fund and shall hold and account for the unclaimed money fund as educational and general funds of the institution. If the fund balance is insufficient to pay a valid claim, the institution shall pay the claim from the college district’s other educational and general funds.
Each fiscal year, after deducting funds sufficient to pay anticipated expenses of and claims against the unclaimed money fund, the institution shall use the balance of the fund as other educational and general funds of the institution.

If an institution of higher education maintains an unclaimed money fund under this section, Property Code Chapter 74 does not apply to a credit balance to which this section applies.

*Education Code 51.011; Property Code 74.001(c)*
The system of accounting for and reporting the financial activities of this state and its political subdivisions, including college districts:

1. Must be consistent with state financial laws;
2. May not misrepresent the nature, scope, or duration of the financial activities of the state or political subdivision; and

**Gov't Code 2266.051**

Compliance with the statutory accounting principles of Chapter 2266 by this state or a political subdivision satisfies any other law that requires accounting and reporting according to generally accepted accounting principles, including Government Code 403.013 or 2101.012. **Gov't Code 2266.053**

The college district shall submit its audited annual financial report to the Coordinating Board by January 1st of each year. **19 TAC 13.62**

Each community college shall provide to the Coordinating Board financial data related to the operation of each community college using the specific content and format prescribed by the Coordinating Board. Each community college shall provide the report no later than January 1st of each year. **General Appropriations Act, 82nd Leg., R.S., S.B. 1, III-203.**

The governing body of a junior college district shall prepare an annual financial statement showing for each fund subject to the authority of the governing body during the fiscal year:

1. The total receipts of the fund, itemized by source of revenue, including taxes, assessments, service charges, grants of state money, gifts, or other general sources from which funds are derived;
2. The total disbursements of the fund, itemized by the nature of the expenditure; and
3. The balance in each fund at the close of the fiscal year.

**Local Gov't Code 140.005**

The presiding officer of a governing body shall submit the financial statement to a newspaper in each county in which the district or any part of the district is located. If a district is located in more than one county, the financial statement may be published in a newspaper that has general circulation in the district. If a newspaper is not
published in the county, the financial statement may be published in a newspaper in an adjoining county.

A statement shall be published not later than two months after the date the fiscal year ends.

*Local Gov’t Code 140.006*

**STATE EXPENDITURE DATABASE**

A state agency, including a college district, is required to cooperate with and provide information to the comptroller as necessary to implement and administer the state expenditure database. A state agency is not required to record information or expend resources for the purpose of computer programming or other additional actions necessary to make information reportable under this section. *Gov’t Code 403.024(g)–(h)*

Each state agency that maintains a generally accessible Internet site or for which a generally accessible Internet site is maintained shall include a link on the agency’s Internet site to the state expenditure database. *Gov’t Code 2054.126*

**PUBLICATION OF FINANCIAL TRANSACTIONS**

Each institution of higher education, including each college district, shall post on the institution’s Internet website a copy of the institution’s financial transactions to the extent necessary to provide, for each payment drawn from money appropriated from the state general revenue fund or received as student tuition or fee payments:

1. The amount of the payment;
2. The date of the payment;
3. A brief description of the purpose of the payment; and
4. The name of the payee.

An institution of higher education may comply by providing on the institution’s Internet website an easily noticeable direct link, the purpose of which is clearly identifiable, to an Internet website maintained by the comptroller that provides information concerning the institution that is similar to the information required above.

*Education Code 51.9741*
An institution of higher education, including a college district, shall account for all personal property as defined by the comptroller under Government Code 403.272. At all times, the property records of an institution of higher education must accurately reflect the personal property possessed by the system or institution. *Gov’t Code 403.2715(c)*

**PROPERTY MANAGER**

The chief executive officer of each institution of higher education shall designate one or more property managers. The property manager shall maintain the records required and be the custodian of all personal property possessed by the institution. *Gov’t Code 403.2715(d)*

**PROPERTY TRANSFER**

A state agency, including a college district or other institution of higher education or a university system, may transfer any personal property of the state in its possession to another state agency with or without reimbursement between the agencies.

When personal property in the possession of one state agency is transferred to the possession of another state agency the transfers must be reported immediately to the comptroller by the transferor and the transferee on the forms prescribed.

*Gov’t Code 403.2715(e), .278*

**STATE AUDITOR**

The state auditor, based on a risk assessment and subject to the legislative audit committee's approval of including the examination in the audit plan under Government Code 321.013, may periodically examine property records or inventory as necessary to determine if controls are adequate to safeguard state property. *Gov’t Code 403.2715(e), .273(h)*

**LIABILITY**

A person is pecuniarily liable for the loss sustained by the state if:

1. Agency property disappears, as a result of the failure of the head of an agency, property manager, or agency employee entrusted with the property to exercise reasonable care for its safekeeping;

2. Agency property deteriorates as a result of the failure of the head of an agency, property manager, or agency employee entrusted with the property to exercise reasonable care to maintain and service the property; or

3. Agency property is damaged or destroyed as a result of an intentional wrongful act or of a negligent act of any state official or employee.
The liability may attach on a joint and several basis to more than one person in a particular instance.

*Gov't Code 403.2715(e), .275*

Except as provided by this policy, Government Code Chapter 403, Subchapter L does not apply to an institution of higher education.

*Gov't Code 403.2715(b)*
The comptroller of public accounts and the Coordinating Board jointly shall prescribe and periodically update a uniform system of financial accounting and reporting for institutions of higher education, including definitions of the elements of cost on the basis of which appropriations shall be made and financial records shall be maintained. The Coordinating Board may require institutions to report additional financial information as the board considers necessary. The accounts of the institutions shall be maintained and audited in accordance with the approved reporting system. *Education Code 61.065*

**ANNUAL AUDIT REPORT**

A community college’s bound and audited financial statements, in the quantity indicated, should be forwarded to each agency listed in Section 2.1 of the Budget Requirements and Annual Financial Reporting Requirements for Texas Public Community Colleges manual by January 1st of each year and submitted electronically to the Coordinating Board. The audit must be certified by the auditor but does not need to be approved by the governing board before submission.

Each published audited financial report should include the items listed, be arranged in the order as shown, in Section 2.2 of the manual.

*Budget Requirements and Annual Financial Reporting Requirements for Texas Public Community Colleges, http://www.thecb.state.tx.us/reports/PDF/5758.PDF*

**INFORMATION FROM STATE AUDITOR**

At a reasonable time in advance of an independent audit of a junior college district, the state auditor shall provide the presiding officer of the district’s governing body and the chief executive officer of the district with written information relating to the procedures for and scope of the audit. The state auditor shall include in the materials information describing:

1. How the appropriate representatives of the district may participate in the audit planning process; and
2. How the district may request information or assistance in preparing for the audit from the state auditor.

*Gov’t Code 321.0137(a)*

**PUBLICATION OF AUDIT PLAN AND AUDIT REPORT**

At the time and in the manner provided by the state auditor, a state agency, including a college district, shall post on the agency’s Internet website:

1. The agency’s internal audit plan approved as provided by Government Code 2102.008; and
2. The agency’s annual report required under Government Code 2102.009.

A state agency is not required to post information contained in the agency's internal audit plan or annual report if the information is excepted from public disclosure under Government Code Chapter 552 (Texas Public Information Act).

A state agency shall update the posting required under this section at the time and in the manner provided by the state auditor to include a detailed summary of the weaknesses, deficiencies, wrongdoings, or other concerns, if any, raised by the audit plan or annual report.

A state agency shall update the posting required under this section to include a summary of the action taken by the agency to address the concerns, if any, that are raised by the audit plan or annual report.

Gov't Code 2102.015
A college district shall make periodic deductions from its employees’ salaries or wages or shall reduce its employees’ salaries or wages in accordance with state law or salary reduction agreements executed between the college district and its employees:

**INCOME TAX**

1. Except as otherwise provided in 26 U.S.C. 3402, every employer making payment of wages shall deduct and withhold upon such wages an income tax determined in accordance with tables or computational procedures prescribed by the Secretary of the Treasury. 26 U.S.C. 3401–3402

**MEDICARE TAX**

2. The tax imposed by 26 U.S.C. 3101 shall be collected by the employer of the taxpayer hired after March 31, 1986, by deducting the amount of the tax from the wages as and when paid as required by law. 26 U.S.C. 3102(a), 3121(u)

**RETIREMENT**

3. Each payroll period, each employer shall deduct from the compensation of each member employed by the employer the amount required by Government Code 825.402. Gov’t Code 825.403

Each employer shall pick up the employees contribution required of each of its employees by Section 825.403. An employer shall pick up these contributions by a corresponding reduction in the cash salary of the employees, by an offset against a future salary increase, or by a combination of salary reduction and offset against a future salary increase.

"Employee" means a person who is employed, as determined by the Teacher Retirement System of Texas, on other than a temporary basis by an employer for at least one-half time at a regular rate of pay comparable to that of other persons employed in similar positions.


**OPTIONAL RETIREMENT PROGRAM**

A participant in the optional retirement program and the employing institution of higher education acting through its governing board shall execute an agreement under which the salary of the participant is reduced by the amount of the contribution required under Government Code 830.201 in accordance with Government Code 830.204. Gov’t Code 830.204

**CHILD SUPPORT PAYMENTS**

4. In accordance with Family Code Chapter 158, an employer shall begin to withhold income in accordance with an order or writ of withholding issued under Chapter 158 not later than the first pay period following the date on which the order or writ was delivered to the employer and shall continue to withhold income as required by the order or writ as long as the
obligor is employed by the employer. The employer shall remit the amount to be withheld to the person or office named in the order or writ on each pay date.

An employer may deduct an administrative fee of not more than $10 each month from the obligor’s disposable earnings in addition to the amount withheld as child support.

_Family Code 158.202–.204_

**SPOUSAL MAINTENANCE**

5. An order or writ of withholding issued under Family Code Chapter 8 for spousal maintenance and delivered to an employer doing business in this state is binding on the employer without regard to whether the obligor resides or works outside this state. In accordance with Chapter 8, the employer shall remit to the person or office named in the order or writ of withholding the amount of income withheld from an obligor on each pay date.

An employer may deduct an administrative fee of not more than $5 each month from the obligor’s disposable earnings in addition to the amount withheld as spousal maintenance.

_Family Code 8.107, .203–.204_

**SOCIAL SECURITY**

6. An employer shall deduct from the salaries of designated employees the amount of Social Security tax required by federal law. _26 U.S.C. 3101–3102, 3121(b)(7); 26 C.F.R. 31.3121(b)(7)-2_

**FEDERAL EDUCATION LOANS**

7. An employer shall pay to the U.S. Secretary of Education, the Texas Guaranteed Student Loan Corporation, or any other guaranty agency for federal education loans as directed in the withholding order issued in an action to recover delinquent federal education loan payments. _20 U.S.C. 1095a(a)(6)_

**PREPAID HIGHER EDUCATION TUITION PROGRAM**

8. An employee of a political subdivision of the state may make payments under a prepaid tuition contract by payroll deductions made by the appropriate officer of the political subdivision. _Education Code 54.626(c)_

**HIGHER EDUCATION SAVINGS PLAN**

9. An employee of a political subdivision of the state may make contributions to a higher education savings trust account established under the higher education savings plan by payroll deductions made by the appropriate officer of the state or political subdivision. _Education Code 54.708(a)_

**ENGLISH PROFICIENCY COURSE**

10. The cost of such English proficiency course offered under Education Code 51.917 will be deducted from said faculty member’s salary. _Education Code 51.917_

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11. An employee of an institution of higher education may authorize in writing a reduction each pay period from the employee's salary or wage payment for the payment of any fee or charge for parking, a parking permit, a transportation pass, or other qualified transportation benefit authorized under Section 132(f), Internal Revenue Code of 1986, as amended. The institution shall determine which fee or charge an employee may pay under this provision. Gov’t Code 659.202(a)

12. An employee of an institution of higher education may authorize in writing a deduction each pay period from the employee's salary or wage payment for the payment of any fee or charge for parking or for a club membership, recreational sports membership, or similar activity or program. The institution shall determine which fee or charge an employee may pay under this provision. Gov’t Code 659.202(b)

13. If so designated by the employing institution of higher education, a salary deduction made by an employee under Government Code Chapter 659, Subchapter J shall be considered compensation under Government Code Chapter 659 and salary and wages and member compensation under Government Code Title 8.

If authorized by federal law, a salary deduction or salary reduction under Government Code Chapter 659, Subchapter J may be made on a pretax basis.

Gov’t Code 659.205

14. For purposes of Government Code Chapter 659, Subchapter H a public junior college is considered to be an institution of higher education and employees of the public junior college are considered to be state employees during a state fiscal year unless an affirmative decision not to participate in the state employee charitable contribution program is made by the governing board of the public junior college not later than April 1 of the preceding state fiscal year. An employee of a public junior college that elects not to participate in the state employee charitable contribution program may authorize a deduction from the employee’s salary or wage payment for a charitable contribution as provided by the policy of the governing board of the public junior college. Gov’t Code 659.1311

15. An employee of an institution of higher education may authorize a deduction each pay period from the employee’s salary or wage payment for a contribution to an institution of higher education or a charitable contribution to a nonprofit organization...
the purpose of which is to support the programs of an institution of higher education.

To be eligible to receive charitable contributions, a nonprofit organization must comply with the rules adopted under Government Code 2255.001 by the institution of higher education the organization supports. An institution of higher education shall establish procedures to enable an employee of the institution to authorize a deduction under this section.

*Education Code 51.947*

**ASSIGNMENTS**

16. An employee's assignment, pledge, or transfer, as security for indebtedness, of any interest in or part of the employee's salary or wages then due or that may become due under an existing contract of employment is enforceable only if, before or at the time of execution, delivery, or acceptance of an assignment, pledge, or transfer, written approval is obtained in accordance with the policy of the employing institution; and to the extent that the indebtedness it secures is a valid and enforceable obligation.

An institution of higher education shall honor an assignment, pledge, or transfer fulfilling the conditions of Education Code 51.934(b) without incurring any liability to the employee executing the assignment, pledge, or transfer. Payment to any assignee, pledgee, or transferee in accordance with the terms of the instrument is payment to or for the account of the assignor, pledgor, or transferor. An assignment, pledge, or transfer is enforceable only to the extent of salary due or that may become due during continuation of the assignor's employment as an employee of the institution.


**DEFERRED COMPENSATION**

17. The governing board of a state-supported institution of higher education, including a college district, may reduce the salary of participants in approved deferred compensation and annuity programs when authorized by the participants and shall apply the amount of the reduction to the purchase of annuity contracts or to contributions to any type of investment authorized in Section 403(b), Internal Revenue Code of 1986, and its subsequent amendments, the exclusive control of which will vest in the participants and develop a system to allow or require participants to electronically authorize participation under Vernon’s Civil Statutes Article 6228a-5, purchases of annuity contracts, and contributions to investments. *Art. 6228a-5, § 2(b), V.A.T.S.; Gov't Code Chapter 609* [See CKC]
18. An employer shall withhold from an employee’s salary the amount designated by an employee for participation in the college district’s cafeteria plan authorized under 26 U.S.C. 125. 26 U.S.C. 125

The governing board of an institution of higher education, including a college district, that is not a component institution of a university system may authorize employees of the institution to elect a payroll deduction for any purpose that the governing board determines serves a public purpose and benefits employees. The board may adopt policies and procedures governing payroll deductions under this section. A payroll deduction under this section is in addition to payroll deductions authorized by other law.

The payroll deduction must be at the written request of the employee, and the request must state the amount to be deducted and the entity to which the deducted amount is to be transferred. A payroll deduction is in effect until revoked in writing by the employee, but the policies and procedures of the institution of higher education may provide for enrollment periods.

An institution of higher education may collect an administrative fee to cover the costs of making a deduction.

This section does not authorize a payroll deduction for dues or membership fees payable to a labor union or employees' association.

*Education Code 51.9611*

An employer, including a college district, who is required by state or federal law to deduct from the current wages of an employee an amount garnished under a withholding order may deduct monthly an administrative fee from the employee’s disposable earnings in addition to the amount required to be withheld under the withholding order.

The administrative fee may not exceed the lesser of:

1. The actual administrative cost incurred by the employer in complying with the withholding order; or
2. $10.

*Civ. Prac. & Rem. Code 63.006(a)–(b)*
All Board members, employees, vendors, contractors, consultants, volunteers, and any other parties who are involved in the College District’s financial transactions shall act with integrity and diligence in duties involving the College District’s fiscal resources.

**Note:** See the following policies and/or administrative regulations regarding conflicts of interest, ethics, and financial oversight:

- Code of ethics:
  - for Board members—BBF
  - for employees—DH
- Financial conflicts of interest:
  - for public officials—BBFA
  - for all employees—DBD
- Systems for monitoring the College District’s investment program: CAK
- Budget planning and evaluation: CC
- Compliance with accounting regulations: CDC
- Criminal history record information for employees: DC
- Disciplinary action for fraud by employees: DCC and DM series

The College District prohibits fraud and financial impropriety, as defined below, in the actions of its Board members, employees, vendors, contractors, consultants, volunteers, and others seeking or maintaining a business relationship with the College District.

**Fraud and Financial Impropriety**

**Definition**

Fraud and financial impropriety shall include but not be limited to:

1. Forgery or unauthorized alteration of any document or account belonging to the College District.
2. Forgery or unauthorized alteration of a check, bank draft, or any other financial document.
3. Misappropriation of funds, securities, supplies, or other College District assets, including employee time.
4. Impropriety in the handling of money or reporting of College District financial transactions.
5. Profiteering as a result of insider knowledge of College District information or activities.
6. Unauthorized disclosure of confidential or proprietary information to outside parties.

7. Unauthorized disclosure of investment activities engaged in or contemplated by the College District.

8. Accepting or seeking anything of material value from contractors, vendors, or other persons providing services or materials to the College District, except as otherwise permitted by law or College District policy. [See DBD]

9. Inappropriately destroying, removing, or using records, furniture, fixtures, or equipment.

10. Failing to provide financial records required by state or local entities.

11. Failure to disclose conflicts of interest as required by law or College District policy.

12. Any other dishonest act regarding the finances of the College District.

**FINANCIAL CONTROLS AND OVERSIGHT**

Each employee who supervises or prepares College District financial reports or transactions shall set an example of honest and ethical behavior and shall actively monitor his or her area of responsibility for fraud and financial impropriety.

**FRAUD PREVENTION**

The College President or designee shall maintain a system of internal controls to deter and monitor for fraud or financial impropriety in the College District.

**REPORTS**

Any person who suspects fraud or financial impropriety in the College District shall report the suspicions immediately to any supervisor, the College President or designee, the Board President, or local law enforcement.

Reports of suspected fraud or financial impropriety shall be treated as confidential to the extent permitted by law. Limited disclosure may be necessary to complete a full investigation or to comply with law. All employees involved in an investigation shall be advised to keep information about the investigation confidential.

**PROTECTION FROM RETALIATION**

Neither the Board nor any College District employee shall unlawfully retaliate against a person who in good faith reports perceived fraud or financial impropriety. [See DG]

**FRAUD INVESTIGATIONS**

In coordination with legal counsel and other internal or external departments or agencies, as appropriate, the College President, Board President, or a designee shall promptly investigate reports of potential fraud or financial impropriety.
RESPONSE

If an investigation substantiates a report of fraud or financial impropriety, the College President or designee shall promptly inform the Board of the report, the investigation, and any responsive action taken or recommended by the administration.

If an employee is found to have committed fraud or financial impropriety, the College President or designee shall take or recommend appropriate disciplinary action, which may include termination of employment. If a contractor or vendor is found to have committed fraud or financial impropriety, the College District shall take appropriate action, which may include cancellation of the College District’s relationship with the contractor or vendor.

When circumstances warrant, the Board, College President, or designee may refer matters to appropriate law enforcement or regulatory authorities. In cases involving monetary loss to the College District, the College District may seek to recover lost or misappropriated funds.

The final disposition of the matter and any decision to file a criminal complaint or to refer the matter to the appropriate law enforcement or regulatory agency for independent investigation shall be made in consultation with legal counsel.

ANALYSIS OF FRAUD

After any investigation substantiates a report of fraud or financial impropriety, the College President or designee shall analyze conditions or factors that may have contributed to the fraudulent or improper activity. The College President or designee shall ensure that appropriate administrative procedures are developed and implemented to prevent future misconduct. These measures shall be presented to the Board for review.
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.

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.

Education Code 44.0311(a), 130.010

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] Education Code 44.0311(c)

The board of trustees of the district may adopt rules and procedures for the acquisition of goods and services. Education Code 44.031(d)

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.

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.

Education Code 44.0312(a)–(b)

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. Education Code 44.0312(c)

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. Gov't Code 771.003(a)

Except as provided by Education Code Chapter 44, Subchapter B, all college district contracts for the purchase of goods and services,
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.

**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.
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.).

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*
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*

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 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*

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:

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]
EMERGENCY DAMAGE OR DESTRUCTION

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)*

COMPUTERS AND COMPUTER-RELATED EQUIPMENT

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)*

PURCHASING THROUGH DIR

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)*

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)*

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. *1 TAC 217.30(a)–(b)*

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. *1 TAC 217.31*

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. *1 TAC 217.1(1)*
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. Gov’t Code 2157.006; 34 TAC 20.391

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:

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. Education Code 44.031(j)–(k)

INSURANCE


MULTIYEAR CONTRACTS

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. Atty. Gen. Op. DM-418 (1996)

COMPETITIVE BIDDING

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).

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 stat-
ed in the selection criteria. The selection criteria may include the factors listed in Education Code 44.031(b) [see FACTORS, above].

Except as provided below, Local Government Code Chapter 271, Subchapter B does not apply to a competitive bidding process under this policy.

*Education Code 44.0351*

**OPENING BIDS**

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.

The governmental entity is entitled to reject any and all bids.

*Local Gov't Code 271.026—.027(a)*

**SAFETY RECORD**

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:

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.


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)*

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

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 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
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

A local government may participate in a cooperative purchasing program with another local government or a local cooperative organization. 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.

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*

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 con
tract, 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*

**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 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...
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 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)
PURCHASING AND ACQUISITION

PURCHASING AUTHORITY

The Board delegates to the College President or designee the authority to determine the method of purchasing, in accordance with CF(LEGAL), and to make budgeted purchases. Any purchases not included in the budget shall be taken to the Board for approval.

COMPETITIVE BIDDING

If competitive bidding is chosen as the purchasing method, the College President or designee shall prepare bid specifications. All bids shall be in accordance with administrative regulations, and the submission of any electronic bids shall also be in accordance with Board-adopted rules. All bidders shall be invited to attend the bid opening. Any bid may be withdrawn prior to the scheduled time for opening. Bids received after the specified time shall not be considered.

The College District may reject any and all bids.

COMPETITIVE SEALED PROPOSALS

If competitive sealed proposals are chosen as the purchasing method, the College President or designee shall prepare the request for proposals and/or specifications for items to be purchased. All proposals shall be in accordance with administrative regulations, and the submission of any electronic proposals shall also be in accordance with Board-adopted rules. Proposals received after the specified time shall not be considered. Proposals shall be opened at the time specified, and all proposers shall be invited to attend the proposal opening. Proposals may be withdrawn prior to the scheduled time for opening. Changes in the content of a proposal, and in prices, may be negotiated after proposals are opened.

The College District may reject any and all proposals.

ELECTRONIC BIDS OR PROPOSALS

Bids or proposals that the College District has chosen to accept through electronic transmission shall be administered in accordance with Board-adopted rules. Such rules shall safeguard the integrity of the competitive procurement process; ensure the identification, security, and confidentiality of electronic bids or proposals; and ensure that the electronic bids or proposals remain effectively unopened until the proper time.

RESPONSIBILITY FOR DEBTS

The Board shall assume responsibility for debts incurred in the name of the College District so long as those debts are for purchases made in accordance with the adopted budget, state law, Board policy, and the College District’s purchasing procedures. [See CC] The Board shall not be responsible for debts incurred by persons or organizations not directly under Board control; persons making unauthorized purchases shall assume full responsibility for all such debts.
All purchase commitments shall be made by the College President or designee, in accordance with administrative procedures, including the College District's purchasing procedures.

College District employees shall not be permitted to make purchases for personal use through the College District's business office.

Each corporation contracting with the College District shall certify that its franchise taxes are current. If the corporation is exempt from payment of franchise taxes or is an out-of-state corporation not subject to Texas franchise tax, it shall certify a statement to that effect. Making a false statement as to corporate franchise tax status shall be considered a material breach of the contract and shall be grounds for cancellation of the contract.
REQUIRED VENDOR DISCLOSURE

The disclosure requirement applies to a person who enters or seeks to enter into a contract with a local governmental entity or is an agent of that person in the person's business with a local governmental entity. *Local Gov't Code 176.002(a)*

A person is not subject to the disclosure requirements if the person is a state, a political subdivision of a state, the federal government, or a foreign government; or an employee of such an entity, acting in the employee's official capacity. *Local Gov't Code 176.002(b)*

A person described by Local Government Code 176.002(a) shall file a completed conflict of interest questionnaire if the person has a business relationship with a local governmental entity and:

1. Has an employment or other business relationship with an officer of that local governmental entity, or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds $2,500 during the 12-month period preceding the date that the officer becomes aware that a contract described by Local Government Code 176.003(a)(1) has been executed or the local governmental entity is considering entering into a contract with the person; or

2. Has given an officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value of more than $250 in the 12-month period preceding the date the officer becomes aware that a contract described by Local Government Code 176.003(a)(1) has been executed or the local governmental entity is considering entering into a contract with the person, excluding any gift that is:

   a. Given by a family member of the person accepting the gift;

   b. A political contribution as defined by Election Code Title 15; or

   c. Food, lodging, transportation, or entertainment accepted as a guest.

The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:

1. The date that the person:

   a. Begins discussions or negotiations to enter into a contract with the local governmental entity; or
b. Submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

2. The date the person becomes aware:
   a. Of an employment or other business relationship with a local government officer, or a family member of the officer; or
   b. That the person has given one or more gifts.

Local Gov't Code 176.003(a)(2), (a-1), .006(a)–(b)

DEFINITION OF BUSINESS RELATIONSHIP

“Business relationship” means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

1. A transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;

2. A transaction conducted at a price and subject to terms available to the public; or

3. A purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

Local Gov't Code 176.001(1-a)

DISCLOSURE FORM

The Texas Ethics Commission shall adopt a conflict of interest questionnaire that requires disclosure of a vendor’s business relationships with a local governmental entity. Local Gov't Code 176.006(c)

ELECTRONIC FILING

The required questionnaire, including signature requirements, may be filed electronically in a form approved by the Commission. Local Gov't Code 176.008

UPDATES

A person to whom this policy applies shall file an updated completed questionnaire with the appropriate records administrator not later than the seventh business day after the date of an event that would make a statement in the questionnaire incomplete or inaccurate. Local Gov't Code 176.006(d)

LIST OF LOCAL GOVERNMENT OFFICERS

The records administrator for a local governmental entity shall maintain a list of local government officers of the entity and shall make that list available to the public and any person who may be required to file a conflict of interest questionnaire. Local Gov't Code 176.007 [See BBFA]
A local governmental entity that maintains an Internet website shall provide access to the conflict of interest questionnaires required to be filed under this policy on that website. *Local Gov’t Code 176.009*

**Note:** The Conflict of Interest Questionnaire, Form CIQ, is available on the Texas Ethics Commission website at [http://www.ethics.state.tx.us/filinginfo/conflict_forms.htm](http://www.ethics.state.tx.us/filinginfo/conflict_forms.htm).
PAYMENT DUE

A payment by a governmental entity, including a college district, under a contract executed on or after September 1, 1987, is overdue on the 31st day after the later of the date the governmental entity receives the goods under the contract, the date the performance of service under the contract is completed, or the date the governmental entity receives the invoice for the goods or service. However, a payment under a contract executed on or after September 1, 1993, owed by a political subdivision whose governing body meets only once a month or less frequently is overdue on the 46th day after the later event of those described above. The renewal, amendment, or extension of a contract executed on or before September 1, 1993, is considered to be the execution of a new contract. *Gov’t Code 2251.021*

INTEREST

A payment begins to accrue interest on the date the payment becomes overdue. The rate of interest that accrues on an overdue payment is the rate in effect on September 1 of the fiscal year in which the payment becomes overdue. The rate in effect on September 1 is equal to the sum of one percent and the prime rate as published in the Wall Street Journal on the first day of July of the preceding fiscal year that does not fall on a Saturday or Sunday.

Interest on an overdue payment stops accruing on the date the governmental entity or vendor mails or electronically transmits the payment.

The unpaid balance of a partial payment made within the prescribed period accrues interest, unless the balance is in dispute. *Gov’t Code 2251.025(a)–(c), .029(a)*

A political subdivision, including a college district, shall compute interest imposed on the political subdivision under Government Code Chapter 2251. The political subdivision shall pay the interest at the time payment is made on the principal. The political subdivision shall submit the interest payment with the net amount due for the goods or service. The political subdivision may not require a vendor to petition, bill, or wait an additional day to receive the interest due. The political subdivision may not require a vendor or subcontractor to agree to waive the vendor’s or subcontractor’s right to interest under Chapter 2251 as a condition of the contract between the parties. *Gov’t Code 2251.027*

EARLY PAYMENT DISCOUNT

The intent of the legislature is that a governmental entity should take advantage of an offer for an early payment discount. A governmental entity may not take an early payment discount a vendor offers unless the governmental entity makes a full payment within the discount period. If a governmental entity takes an early pay-
ment discount later, the unpaid balance accrues interest beginning on the date the discount offer expires. *Gov't Code 2251.030(a)–(c)*

**EXCEPTIONS**

Except as provided by Government Code Chapter 2251, Subchapter D [see ALTERNATE VENDOR REMEDY FOR NONPAYMENT OF CONTRACT, below], Government Code Chapter 2251, Subchapter B [see PAYMENT DUE, INTEREST, and EARLY PAYMENT DISCOUNT, above] does not apply to a payment made by a governmental entity, including a college district, a vendor, or a subcontractor if:

1. There is a bona fide dispute between the political subdivision and a vendor, contractor, subcontractor, or supplier concerning the goods delivered or the service performed that causes the payment to be late;

2. There is a bona fide dispute between a vendor and a subcontractor or between a subcontractor and its supplier about the goods delivered or the service performed that causes the payment to be late;

3. The terms of a federal contract, grant, regulation, or statute prevent the governmental entity from making a timely payment with federal funds; or

4. The invoice is not mailed to the person to whom it is addressed in strict accordance with any instruction on the purchase order relating to the payment.

*Gov't Code 2251.002(a)*

**ALTERNATE VENDOR REMEDY FOR NONPAYMENT OF CONTRACT**

A vendor may suspend performance required under a contract with a governmental entity, including a college district, if the governmental entity does not pay the vendor an undisputed amount within the time limits provided above and the vendor gives the governmental entity written notice informing the governmental entity that payment has not been received and stating the intent of the vendor to suspend performance for nonpayment.

The vendor may not suspend performance before the later of the tenth day after the date the vendor gives the notice.

A vendor who suspends performance is not:

1. Required to supply further labor, services, or materials until the vendor is paid the amount provided for under Government Code Chapter 2251, plus costs for demobilization and remobilization; or

2. Responsible for damages resulting from suspending work if the governmental entity with which the vendor has the con-
tract has not notified the vendor in writing before performance is suspended that payment has been made or that a bona fide dispute for payment exists.

A notification under item 2 that a bona fide dispute for payment exists must include a list of the specific reasons for nonpayment. If a reason specified is that labor, services, or materials provided by the vendor or the vendor’s subcontractor are not provided in compliance with the contract, the vendor is entitled to a reasonable opportunity to cure the noncompliance of the listed items or offer a reasonable amount to compensate for listed items for which non-compliance cannot be promptly cured.

Gov’t Code 2251.051

DISPUTED PAYMENT

A governmental entity shall notify a vendor of an error in an invoice submitted for payment by the vendor not later than the 21st day after the date the entity receives the invoice. If a dispute is resolved in favor of the vendor, the vendor is entitled to receive interest on the unpaid balance of the invoice submitted by the vendor beginning on the date that the payment for the invoice is overdue. If a dispute is resolved in favor of the governmental entity, the vendor shall submit a corrected invoice that must be paid within 30 days of receipt. The unpaid balance accrues interest if the corrected invoice is not paid by the appropriate date. Gov’t Code 2251.042

“Contract” means an agreement entered into under the authority of the Public Property Finance Act but does not mean a contract solely for the construction of improvements to real property. *Local Gov’t Code 271.003(2)*

“Improvement” means a permanent building, structure, fixture, or fence that is erected on or affixed to land but does not include a transportable building or structure whether or not it is affixed to land. *Local Gov’t Code 271.003(10)*

“Real property” means land, improvement, or an estate or interest in real property, other than a mortgage or deed of trust creating a lien on property or an interest securing payment or performance of an obligation in real property. *Local Gov’t Code 271.003(11)*

The board of trustees of a community college district or junior college district may execute, perform, and make payments under a contract under the Public Property Finance Act for the use or purchase or other acquisition of real property or an improvement to real property. If the board proposes to enter into such a contract, the board shall publish notice of intent to enter into the contract not less than 60 days before the date set to approve execution of the contract in a newspaper with general circulation in the college district. The notice must summarize the major provisions of the proposed contract. The notice shall estimate the construction and other costs, but the board shall not publish the first advertisement for bids for construction of improvements until 60 days after publication of the notice of intent to enter into the contract. *Local Gov’t Code 271.004(a)*

If, within 60 days of the date of publication of the notice of intent, a written petition signed by a least five percent of the registered voters of the district is filed with the board of trustees requesting that the board order a referendum on the question of whether the contract should be approved, the board may not approve the contract or publish the first advertisement for bids for construction of improvements unless the question is approved by a majority of the votes received in a referendum ordered and held on the question.
The referendum shall be held in accordance with the applicable provisions of the Election Code. The requirement that an election must be held on a uniform election date as prescribed by the Election Code does not apply to an election held under this section.

*Local Gov't Code 271.004(b)–(c)*

**SUBMISSION TO ATTORNEY GENERAL**

A lease-purchase contract entered into by the district under Local Government Code 271.004 and the records relating to its execution must be submitted to the attorney general for examination as to their validity. If the attorney general finds that the contract has been authorized in accordance with the law, the attorney general shall approve them, and the comptroller of public accounts shall register them. Following approval and registration, the contract is incontestable and is a binding obligation according to its terms.

*Local Gov't Code 271.004(g)–(i)*

**COLLEGE DISTRICT OBLIGATION**

The contract is a special obligation of the college district if ad valorem taxes are not pledged to the payment of the contract. If the contract provides that payments by the college district are to be made from maintenance taxes previously approved by the voters of the college district and are subject to annual appropriation or are paid from a source other than ad valorem taxes, the payments under the contract shall not be considered indebtedness under Tax Code 26.04(c). All or part of the obligation of the college district may be evidenced by one or more negotiable promissory notes.

*Local Gov't Code 271.004(d)–(f)*

**EMINENT DOMAIN**

A college district may, by the exercise of the right of eminent domain, acquire the fee simple title to real property on which to construct school buildings or for any other public use necessary for the district. *Education Code 11.155(a)*

A governmental entity, including a college district, may not take private property through the use of eminent domain if the taking confers a private benefit on a particular private party through the use of the property, is for a public use that is merely a pretext to confer a private benefit on a particular private party, or is not for a public use. *Gov't Code 2206.001(b)*

**PROCEDURES**

When exercising the right of eminent domain, a college district must follow the procedures found at Government Code Chapter 2206, Subchapter B and Property Code Chapter 21, Subchapter B. *Gov't Code 2206.001(a); Property Code 21.011*

**REPURCHASE OF REAL PROPERTY**

A person from whom a real property interest is acquired by an entity through eminent domain for a public use, or that person’s heirs, successors, or assigns, is entitled to repurchase the property as provided by Property Code Chapter 21, Subchapter E if the public
use for which the property was acquired through eminent domain is canceled before the property is used for that public use, no actual progress is made toward the public use for which the property was acquired between the date of acquisition and the tenth anniversary of that date, or the property becomes unnecessary for the public use for which the property was acquired, or a substantially similar public use, before the tenth anniversary of the date of acquisition. Not later than the 180th day after the date an entity that acquired a real property interest through eminent domain determines that the former property owner is entitled to repurchase the property, the entity shall send by certified mail, return receipt requested, to the property owner or the owner’s heirs, successors, or assigns a notice in accordance with Property Code 21.103. Property Code 21.101–102
DEFINITIONS

“CONTRACT”

“Contract” means an agreement entered under the authority of the Public Property Finance Act, Local Government Code Chapter 271, Subchapter A, but does not mean a contract solely for the construction of improvements to real property. Local Gov’t Code 271.003(2)

“PERSONAL PROPERTY”

“Personal property” includes appliances, equipment, facilities, and furnishings, or an interest in personal property, whether movable or fixed, considered by the board to be necessary, useful, or appropriate to one or more purposes of the college district. The term includes all materials and labor incident to the installation of that personal property. The term includes electricity. The term does not include real property. Local Gov’t Code 271.003(8)

AUTHORITY

The governing body of a governmental agency, including a college district, may execute, perform, and make payments under a contract with any person for the use or the purchase or other acquisition of any personal property, or the financing thereof, in accordance with the requirements of the Public Property Finance Act.

The governing body of a governmental agency may contract under Local Government Code Section 271.005 for materials and labor incident to the installation of personal property.

Local Gov’t Code 271.005(a)–(b)
The governing board of each state institution of higher education, including each public junior college, may promulgate rules and regulations for the safety and welfare of students, employees, and property. *Education Code 51.202*

**SAFETY AND SECURITY AUDIT**

At least once every three years, each public junior college district shall conduct a safety and security audit of the district’s facilities. To the extent possible, a district shall follow safety and security audit procedures developed by the Texas School Safety Center (TxSSC) or a comparable public or private entity. A public junior college district shall report the results of the safety and security audit to the district's board of trustees and, in the manner required by the TxSSC, to the TxSSC. *Education Code 37.108(b)–(c)*

**DISCLOSURE**

Except as provided by Education Code 37.108(c-2) regarding certain emergency operations plans [see CGC], any document or information collected, developed, or produced during a safety and security audit is not subject to disclosure under Government Code Chapter 552. *Education Code 37.108(c-1)*

“Asbestos-related activity” means the removal, encapsulation, or enclosure of asbestos; the performance of an asbestos survey; the development of an asbestos management plan or response action; the collection or analysis of an asbestos sample; or the performance of another activity for which a license is required under the Texas Asbestos Health Protection Act. Occupations Code 1954.002(4), .101

Unless a person is licensed by the Texas Department of State Health Services (TDSHS) under Occupations Code Chapter 1954, the person may not engage in an asbestos-related activity listed at Occupations Code 1954.101. Occupations Code 1954.101(a)

A person engaged in removing asbestos from or encapsulating or enclosing asbestos in a public building shall notify the department in writing at least ten working days before the date the person begins the removal, encapsulation, or enclosure project according to applicable laws. A person may give the required notice orally if the removal, encapsulation, or enclosure project is of an emergency nature. Occupations Code 1954.252, .101; 25 TAC 295.61

A license holder shall keep an appropriate record of each asbestos-related activity the license holder performs in a public building. The license holder shall make the records available to TDSHS at any reasonable time. The license holder shall keep the records for at least 30 years, or as long as required by federal law or regulation. Occupations Code 1954.251; 25 TAC 295.58(d)
EMERGENCY OPERATIONS PLAN

Each public junior college district shall adopt and implement a multihazard emergency operations plan for use in the district’s facilities. The plan must address mitigation, preparedness, response, and recovery as defined by the Commissioner in conjunction with the governor’s office of homeland security. The plan must provide for:

1. District employee training in responding to an emergency;

2. Measures to ensure coordination with the Texas Department of State Health Services (TDSHS) and local emergency management agencies, law enforcement, health departments, and fire departments in the event of an emergency; and

3. The implementation of a required safety and security audit [see CG].

Education Code 37.108(a)

DISCLOSURE

A document relating to a public junior college district’s multihazard emergency operations plan 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 TDSHS, 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 listed at EMERGENCY OPERATIONS PLAN;

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 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 [see CG]; and
7. Verify that the district has addressed any recommendations by the district’s board of trustees for improvement of the plan and determine the district’s progress within the last 12 months.

_Education Code 37.108(c-2)_

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**EMERGENCY RESPONSE AND EVACUATION PROCEDURES**

Campus policies regarding immediate emergency response and evacuation procedures, including the use of electronic and cellular communication, if appropriate, shall include procedures to:

1. 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 staff occurring on the campus, as defined in 20 U.S.C. 1092(f)(6), unless issuing a notification will compromise efforts to contain the emergency;

2. Publicize emergency response and evacuation procedures on an annual basis in a manner designed to reach students and staff; and

3. Test emergency response and evacuation procedures on an annual basis.


**EMERGENCY ALERT SYSTEM**

Each institution of higher education, including each college district, shall establish an emergency alert system for the institution’s students and staff, including faculty. The emergency alert system must use e-mail or telephone notifications in addition to any other alert method the institution considers appropriate to provide timely notification of emergencies affecting the institution or its students and staff.

At the time a student initially enrolls or registers for courses or a staff member begins employment, the institution shall:

1. Obtain a personal telephone number or e-mail address from the student or staff member to be used to notify the individual in the event of an emergency; and

2. Register the student or staff member in the institution’s emergency alert system.

A student or staff member may elect not to participate in an emergency alert system. An election may be submitted electronically or in writing, as chosen by the institution, and must be renewed at the start of each academic year. The personal identifying information obtained from an individual for the purpose of the emergency alert system of an institution of higher education, including an e-mail
address or telephone number, is confidential and not subject to disclosure under Government Code 552.021.

*Education Code 51.217(g), .218*

**FIRE ESCAPES**

The owner of a building shall equip the building with at least one fire escape and with additional fire escapes as required by Health and Safety Code Chapter 791, Subchapters C and D if the building has at least:

1. Three stories and is used as a facility subject to Subchapter C, including a college, a dormitory, a theater or other public place of amusement, or any other facility used for public gatherings; or

2. Two stories and is used as a school.

A fire escape required by Chapter 791 must meet the specifications provided by Chapter 791 for an exterior stairway fire escape, an exterior chute fire escape, a combination of those exterior fire escapes, or an interior fire escape.

Chapter 791 does not apply to the construction of a structure in a municipality that has in effect a nationally recognized model building code governing the construction if the building code requires at least one one-hour fire-resistive means of escape with a total width equal to or greater than the total exit width required under Chapter 791 for a structure of three or more stories.

*Health and Safety Code 791.002, .004(a), .021*

[See GGE for response to requests from other governmental entities for mutual aid]
Each political subdivision or institution of higher education, including each college district, shall establish a goal to reduce the electric consumption by the entity by at least five percent each state fiscal year for ten years, beginning September 1, 2011.

Each political subdivision or institution of higher education shall implement all energy efficiency measures that meet the standards established for a contract for energy conservation measures under Local Government Code 302.004(b) in order to reduce electricity consumption by the existing facilities of the entity.

A political subdivision or institution of higher education annually shall report to the State Energy Conservation Office (SECO), on forms provided by that office, regarding the entity’s goal, the entity’s efforts to meet the goal, and progress the entity has made. The SECO shall provide assistance and information to the entity to help the entity meet established goals.

A political subdivision or institution of higher education that does not attain the established goals must include in the report justification that the entity has already implemented all available cost-effective measures. An entity that submits a report indicating that the entity has reviewed its available options, has determined that no additional measures are cost-effective, and has already implemented all available cost-effective measures is exempt from the annual reporting requirement if a subsequent report would indicate no change in status. An entity may be required to provide notice that it is exempt to SECO.

*Health and Safety Code 388.005(b)–(e)*

This section does not apply to a state agency or an institution of higher education that the SECO determines, before September 1, 2007, adopted a plan for conserving energy under which the agency or institution established a percentage goal for reducing the consumption of electricity. The exemption provided by this section applies only while the agency or institution has an energy conservation plan in effect and only if the agency or institution submits reports on the conservation plan each year to the governor, the Legislative Budget Board, and the SECO. *Health and Safety Code 388.005(f)*

The governing board of an institution of higher education may enter into an energy savings performance contract in accordance with this section. "Energy savings performance contract" means a contract for energy or water conservation measures to reduce energy or water consumption or operating costs of new or existing institutional facilities in which the estimated savings in utility costs resulting from the measures is guaranteed to offset the cost of the
measures over a specified period. The term includes a contract for the installation or implementation of:

1. Insulation of a building structure and systems within the building.

2. Storm windows or doors, caulking or weather stripping, multiglazed windows or doors, heat absorbing or heat reflective glazed and coated window or door systems, or other window or door system modifications that reduce energy consumption.

3. Automatic energy control systems, including computer software and technical data licenses.

4. Heating, ventilating, or air-conditioning system modifications or replacements that reduce energy or water consumption.

5. Lighting fixtures that increase energy efficiency.


7. Electric systems improvements.

8. Water-conserving fixtures, appliances, and equipment or the substitution of nonwater-using fixtures, appliances, and equipment.

9. Water-conserving landscape irrigation equipment.

10. Landscaping measures that reduce watering demands and capture and hold applied water and rainfall, including:
   a. Landscape contouring, including the use of berms, swales, and terraces; and
   b. The use of soil amendments that increase the water-holding capacity of the soil, including compost.

11. Rainwater harvesting equipment and equipment to make use of water collected as part of a storm-water system installed for water quality control.

12. Equipment for recycling or reuse of water originating on the premises or from other sources, including treated municipal effluent.

13. Equipment needed to capture water from nonconventional, alternate sources, including air conditioning condensate or graywater, for nonpotable uses.
14. Metering equipment needed to segregate water use in order to identify water conservation opportunities or verify water savings.

15. Other energy or water conservation-related improvements or equipment, including improvements or equipment related to renewable energy or nonconventional water sources or water reuse.

Each energy or water conservation measure must comply with current local, state, and federal construction, plumbing, and environmental codes and regulations. Notwithstanding the list above, an energy savings performance contract may not include improvements or equipment that allow or cause water from any condensing, cooling, or industrial process or any system of nonpotable usage over which the public water supply system officials do not have sanitary control, to be returned to the potable water supply.

The board may enter into energy savings performance contracts only with persons who are experienced in the design, implementation, and installation of the energy or water conservation measures addressed by the contract.

The contracting and delivery procedures for construction projects described at Government Code Chapter 2269 do not apply to energy savings performance contracts.

Education Code 51.927(a)–(d), (k)

PERFORMANCE BOND

Before entering into an energy savings performance contract, the board shall require the provider of the energy or water conservation measures to file with the board a payment and performance bond in accordance with Government Code Chapter 2253. The board may also require a separate bond to cover the value of the guaranteed savings on the contract. Education Code 51.927(e)

CONTRACT TERM

The board may enter into an energy savings performance contract for a period of more than one year only if the board finds that the amount the institution would spend on the energy or water conservation measures will not exceed the amount to be saved in energy, water, wastewater, and operating costs over 20 years from the date of installation. Education Code 51.927(f)

FINANCING

An energy savings performance contract may be financed:

1. Under a lease/purchase contract that has a term not to exceed 20 years from the final date of installation and that meets federal tax requirements for tax-free municipal leasing or long-term financing;
2. With the proceeds of bonds; or

3. Under the contract with the provider of the energy or water conservation measures that has a term not to exceed the lesser of 20 years from the final date of installation or the average useful life of the energy or water conservation or usage measures.

Notwithstanding other law, the board may use any available money, other than money borrowed from this state, to pay the provider of the energy or water conservation measures, and the board is not required to pay for such costs solely out of the savings realized by the college district under an energy savings performance contract.  

*Education Code 51.927(g)–(g-1)*

COST SAVINGS  
An energy savings performance contract shall contain provisions requiring the provider of the energy or water conservation measures to guarantee the amount of the savings to be realized by the institution of higher education under the contract. If the term of the contract exceeds one year, the institution's contractual obligations in any one year during the term of the contract beginning after the final date of installation may not exceed the total energy, water, wastewater, and operating cost savings, including electrical, gas, water, wastewater, or other utility cost savings and operating cost savings resulting from the measures, as determined by the board, divided by the number of years in the contract term beginning after the final date of installation. The board shall consider all costs of the energy or water conservation measures, including costs of design, engineering, installation, maintenance, repairs, and debt service.  *Education Code 51.927(f), (h)*

CONTRACT PROCUREMENT  
An energy savings performance contract shall be let according to the procedures established for professional services by Government Code 2254.004. Notice of the request for qualifications shall be given in the manner provided by Government Code 2156.002.

The board may contract with the provider to perform work that is related to, connected with, or otherwise ancillary to the measures identified in the scope of an energy savings performance contract.  

*Education Code 51.927(g-1), (i)*

GUIDELINES  
The Coordinating Board, in consultation with the SECO with regard to energy conservation measures, shall establish guidelines and an approval process for awarding energy savings performance contracts. The guidelines must require that the cost savings projected by an offeror be reviewed by a licensed professional engineer who has a minimum of three years of experience in energy calculation and review, is not an officer or employee of an offeror for the con-
tract under review, and is not otherwise associated with the contract. In conducting the review, the engineer shall focus primarily on the proposed improvements from an engineering perspective, the methodology and calculations related to cost savings, increases in revenue, and, if applicable, efficiency or accuracy of metering equipment. An engineer who reviews a contract shall maintain the confidentiality of any proprietary information the engineer acquires while reviewing the contract. A contract is not required to be reviewed or approved by the SECO. Occupations Code 1001.053 and 1001.047 apply to work performed under the contract. Education Code 51.927(i)

The guidelines must require the Coordinating Board to review any reports submitted to the Coordinating Board that measure and verify cost savings to an institution of higher education under an energy savings performance contract; and based on the reports, provide an analysis, on a periodic basis, of the cost savings under the energy savings performance contract to the governing board of the institution of higher education and the Legislative Budget Board until the governing board of the institution of higher education determines that the analysis is no longer required to accurately measure cost savings. Education Code 51.927(l)

ENERGY USAGE REPORT

A governmental entity, including a college district, shall record in an electronic repository the governmental entity’s metered amount of electricity, water, or natural gas consumed for which it is responsible to pay and the aggregate costs for those utility services. The governmental entity shall report the recorded information on a publicly accessible Internet website with an interface designed for ease of navigation if available, or at another publicly accessible location. Gov’t Code 2265.001

LIGHT BULBS

An institution of higher education, including a college district, shall purchase for use in each type of light fixture in an educational or housing facility the commercially available model of light bulb that:

1. Is compatible with the light fixture;
2. Uses the fewest watts for the necessary luminous flux or light output; and
3. Is the most cost-effective, considering the factors described above.

Education Code 51.9271

"Housing facility" means a single- or multi-family residence used exclusively for housing or boarding, or housing and boarding students, faculty, or staff members of an institution of higher learning. The term includes infirmary and student union building, but does
not include a housing or boarding facility for the use of a fraternity, sorority, or private club. *Education Code 53.02(7)*

**RECYCLING PROGRAM**

An institution of higher education, including a college district, shall:

1. In cooperation with the comptroller or the Texas Commission on Environmental Quality (TCEQ) establish a program for the separation and collection of all recyclable materials generated by the entity’s operations, including, at a minimum, aluminum, steel containers, aseptic packaging, polycoated paperboard cartons, high-grade office paper, and corrugated cardboard;

2. Provide procedures for collecting and storing recyclable materials, provide containers for recyclable materials, and provide procedures for making contractual or other arrangements with buyers of recyclable materials;

3. Evaluate the amount of recyclable material recycled and modify the recycling program as necessary to ensure that all recyclable materials are effectively and practicably recycled; and

4. Establish educational and incentive programs to encourage maximum employee participation.

“Recyclable materials” includes materials in the entity’s possession that have been abandoned or disposed of by the entity’s officers or employees or by any other person.

*Health and Safety Code 361.425*

**CERTIFICATE OF MOLD REMEDIATION**

If a property owner, including a college district, sells property, the property owner shall provide to the buyer a copy of each certificate of mold remediation issued for the property during the five years preceding the date the property owner sells the property. *Occupations Code 1958.154(b); 25 TAC 295.327(d)*

**POOLS GENERALLY**

An owner, manager, operator, or other attendant in charge of a public swimming pool, wading pool, baby pool, hot tub, in-ground spa, spray fountain, or other artificial body of water typically used for recreational swimming, bathing, or play shall comply with pool safety standards necessary to prevent drowning adopted by the executive commissioner of the Health and Human Services Commission. *Health and Safety Code 341.0645; 25 TAC 265.181–.208*

**DRAINS**

Each public pool and spa shall comply with the drain cover standards found at 15 U.S.C. 8003. “Public pool and spa” means a swimming pool or spa that is open to the public generally, whether for a fee or free of charge. *15 U.S.C. 8003*
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_

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)**
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 record of the stop until final disposition of the complaint.

Code of Criminal Procedure 2.135

A peace officer may not engage in racial profiling. Code of Criminal Procedure 2.131
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;
6. 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)*

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]

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 requirements 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*
To ensure sufficient security and protection of students, staff, and property, the Board authorizes the formation of a College District police department and shall employ and commission peace officers.

The jurisdiction of College District peace officers shall include all counties in which property is owned, leased, rented, or otherwise under the control of the College District.

While within the jurisdiction set out in this policy, peace officers employed and commissioned by the College District shall have all the powers, privileges, and immunities of peace officers. College District peace officers shall have the authority to:

1. Protect the safety and welfare of any person in the jurisdiction of the College District and protect the property of the College District.

2. Enforce all laws, including municipal ordinances, county ordinances, and state laws, and investigate violations of law as needed. In doing so, College District police officers may serve search warrants in connection with College District-related investigations in compliance with the Texas Code of Criminal Procedure.

3. Arrest suspects consistent with state and federal statutory and constitutional standards governing arrests, including arrests without warrant, for offenses that occur in the officer’s presence or under the other rules set out in the Texas Code of Criminal Procedure.

4. Coordinate and cooperate with commissioned officers of all other law enforcement agencies in the enforcement of this policy as necessary.

5. Enforce College District policies on College District property or at College District functions.

6. Investigate violations of College District policy, rules, and regulations as requested by the College President and participate in administrative hearings concerning the alleged violations.

7. Carry weapons as directed by the chief of police and approved by the College President.

8. Carry out all other duties as directed by the chief of police or College President.

College District police officers shall enforce all laws, including municipal ordinances, county ordinances, and state laws within another...
er law enforcement agency’s jurisdiction while temporarily assigned to the other agency.

LIMITATIONS ON OUTSIDE EMPLOYMENT

No officer commissioned under this policy shall provide law enforcement or security services for an outside employer without prior written approval from the chief of police and College President or designee.

RELATIONSHIP WITH OUTSIDE AGENCIES

The College District’s police department and the law enforcement agencies with which it has overlapping jurisdiction shall enter into a memorandum of understanding that outlines reasonable communication and coordination efforts among the department and the agencies. The chief of police and the College President or designee shall review the memorandum of understanding at least once every year. The memorandum of understanding shall be approved by the Board.

USE OF FORCE

The use of force, including deadly force, shall be authorized only when reasonable and necessary, as outlined in the department regulations manual.

HIGH-SPEED PURSUIT

Officers shall not engage in high-speed chases in a motor vehicle when the immediate danger to the public or the officer created by the pursuit exceeds the immediate or potential danger presented by the offenders remaining at large. Guidelines for high-speed pursuits shall be addressed in the department regulations manual.

VIDEO MONITORING

Video equipment shall be used on a College District police car for safety purposes whenever the flashing lights on a car are in use.

ACCESS TO RECORDINGS

Recordings shall be considered law enforcement records, shall remain in the custody of the chief of police, and shall be maintained as required by the department regulations manual and law.

OFFICER TRAINING

All College District officers shall receive at least the minimum amount of continuing education required by the Texas Commission on Law Enforcement.

DEPARTMENT REGULATIONS MANUAL

To carry out the provisions in this policy, the police department shall compile and maintain a manual that describes and sets forth operational procedures, rules, and regulations pertaining to the administration of police services. The chief of police and the College President or designee shall review the manual annually and make any appropriate revisions.

RACIAL PROFILING

The chief of police shall develop and implement regulations to ensure compliance with state law regarding racial profiling. Peace officers employed by the College District shall not initiate any law enforcement action based on an individual’s race, ethnicity, or national origin.
COMPLAINTS

Complaints against a College District police officer shall be in writing on a form provided by the College District and shall be signed by the person making the complaint. In accordance with law, the College District shall provide to the police officer a copy of the complaint. [See COMPLAINTS AGAINST PEACE OFFICER at CHA(LEGAL)]

Appeals regarding this complaint process shall be filed in accordance with DGBA, FLD, or GB, as appropriate.
BUILDINGS

A school building must be located on grounds that are well-drained and maintained in a sanitary condition. A school building must be properly ventilated and provided with an adequate supply of drinking water, an approved sewage disposal system, hand-washing facilities, a heating system, and lighting facilities that conform to established standards of good public health engineering practices. *Health and Safety Code 341.065(a)–(b)*

LUNCHROOMS

A public school lunchroom must comply with the state food and drug rules. *Health and Safety Code 341.065(c)*

CUSTODIAL SERVICES

A public school building and its appurtenances shall be maintained in a sanitary manner. A building custodian or janitor employed full-time shall know the fundamentals of safety and school sanitation. *Health and Safety Code 341.065(d)–(e)*
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)

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

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)*

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, 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 concealed 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*

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:

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)

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
Unless it has been opened to the public, by policy or practice, a school mail system is not a public forum. The college district may create a limited public forum in its campus mailboxes. *Perry Educ. Ass’n v. Perry Local Educators’ Ass’n*, 460 U.S. 37 (1983) [See also GF]

The college district is prohibited by the Private Express Statutes from carrying unstemped letters over postal routes unless:

1. The letters relate to the current business of the college district to an extent sufficient to satisfy the “letters of the carrier” exception; or
2. The carriage of the letters is without any compensation, direct or indirect, to the college district so as to satisfy the “private hands” exception.


An officer or employee of a state agency or political subdivision, including a college district, may not knowingly use or authorize the use of an internal mail system for the distribution of political advertising. The prohibition does not apply to the use of an internal mail system to distribute political advertising that is delivered to the premises of a state agency or political subdivision through the United States Postal Service or the use of an internal mail system by a state agency to distribute political advertising that is the subject of or related to an investigation, hearing, or other official proceeding of the agency. *Election Code 255.0031*

“Political advertising” means a communication supporting or opposing a candidate for nomination or election to a public office or office of a political party, a political party, a public officer, or a measure that:

1. In return for consideration, is published in a newspaper, magazine, or other periodical or is broadcast by radio or television;
2. Appears in a pamphlet, circular, flier, billboard or other sign, bumper sticker, or similar form of written communication; or
3. Appears on an Internet website.

*Election Code 251.001(16); 1 TAC 20.1(13)*

“Political advertising” does not include an individual communication made by e-mail but does include mass e-mails involving an expenditure of funds beyond the basic cost of hardware messaging software and bandwidth. *1 TAC 20.1(13)*
The Texas Department of Public Safety (TDPS) and the Coordinating Board shall adopt a memorandum of understanding that establishes the responsibilities of the Coordinating Board, TDPS, and the public or private institutions of higher education in implementing and maintaining a program for reporting information concerning controlled substances, controlled substance analogues, chemical precursors, and chemical laboratory apparatus used in educational or research activities of institutions of higher education. *Health and Safety Code 481.0621(b)*

**Note:** The Memorandum of Understanding between the Texas Department of Public Safety and the Texas Higher Education Coordinating Board is available on the Coordinating Board website at [http://www.thecb.state.tx.us/reports/PDF/1210.PDF](http://www.thecb.state.tx.us/reports/PDF/1210.PDF).
A "local government record" means any document, paper, letter, book, map, photograph, sound or video recording, microfilm, magnetic tape, electronic medium, or other information-recording medium, regardless of physical form or characteristic and regardless of whether public access to it is open or restricted under the laws of the state, created or received by a local government, including a college district, or any of its officers or employees pursuant to law, including an ordinance, or in the transaction of public business. The term does not include:

1. Extra identical copies of documents created only for convenience of reference or research by officers or employees of the local government.
2. Notes, journals, diaries, and similar documents created by an officer or employee of the local government for the officer’s or employee’s personal convenience.
3. Blank forms.
4. Stocks of publications.
5. Library and museum materials acquired solely for the purposes of reference or display.
6. Copies of documents in any media furnished to members of the public to which they are entitled under Government Code Chapter 552 (Public Information Act) or other state law.
7. Any records, correspondence, notes, memoranda, or documents, other than a final written agreement described by Government Code 2009.054(c), associated with a matter conducted under an alternative dispute resolution procedure in which personnel of a state department or institution, local government, special district, or other political subdivision of the state participated as a party, facilitated as an impartial third party, or facilitated as the administrator of a dispute resolution system or organization.

Local Gov't Code 201.003(8)

The governing body of a local government, including a college district, shall:

1. Establish, promote, and support an active and continuing program for the efficient and economical management of all local government records;
2. Cause policies and procedures to be developed for the administration of the program under the direction of the records management officer;
3. Facilitate the creation and maintenance of local government records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the local government and designed to furnish the information necessary to protect the legal and financial rights of the local government, the state, and persons affected by the activities of the local government;

4. Facilitate the identification and preservation of local government records that are of permanent value;

5. Facilitate the identification and protection of essential local government records; and

6. Cooperate with the State Library and Archives Commission in its conduct of statewide records management surveys.

*Local Gov't Code 203.021*

**CUSTODIANS OF RECORDS**

Custodians of records in each local government, including each college district, shall:

1. Cooperate with the records management officer in carrying out the policies and procedures established by the local government for the efficient and economical management of records and in carrying out the requirements of Local Government Code Title 6, Subtitle C;

2. Adequately document the transaction of government business and the services, programs, and duties for which the custodians and their staff are responsible; and

3. Maintain the records in the custodians’ care and carry out the preservation, microfilming, destruction, or other disposition only in accordance with the policies and procedures of the local government’s records management program and the requirements of Subtitle C and rules adopted under it.

State law relating to the duties, other responsibilities, or record-keeping requirements of a custodian of local government records do not exempt the custodian or the records in the custodian’s care from the application of Subtitle C and rules adopted under it and may not be used by the custodian as a basis for refusal to participate in the records management program of the local government whose establishment is required by Local Government Code Chapter 203.

*LocalGov't Code 203.022*
The governing body of each local government shall designate a records management officer by:

1. Designating an individual; or

2. Designating an office or position, the holder of which shall be the records management officer.

The name, office, or position of the records management officer shall be entered on the minutes of the governing body. The name or the name and office or position of the records management officer shall be filed by the records management officer with the director and librarian within 30 days after the date of the designation.

The designation of a new individual or a new office or position shall be entered on the minutes and reported by the records management officer to the director and librarian in the same manner as the original designation. If the order designating a records management officer designates an office or position rather than an individual, a new holder of that office or position must file the holder’s name with the director and librarian within 30 days after the date of assuming the office or position.

Local Gov’t Code 203.025

The records management officer in each local government shall:

1. Assist in establishing and developing policies and procedures for the records management program for the local government.

2. Administer the records management program and provide assistance to custodians for the purposes of reducing costs and improving the efficiency of recordkeeping.

3. In cooperation with the custodians of the records:
   a. Prepare and file with the director and librarian the records control schedules and amended schedules required by Local Government Code 203.041 and the list of obsolete records as provided by Local Government Code 203.044; and
   b. Prepare or direct the preparation of requests for authorization to destroy records not on an approved control schedule as provided by Local Government Code 203.045, of requests to destroy the originals of permanent records that have been microfilmed as provided by Local Government Code 204.008, and of electronic storage authorization requests as provided by Local Government Code 205.007;
4. In cooperation with custodians, identify and take adequate steps to preserve local government records of permanent value.

5. In cooperation with custodians, identify and take adequate steps to protect essential local government records.

6. In cooperation with custodians, ensure that the maintenance, preservation, microfilming, destruction, or other disposition of records is carried out in accordance with the policies and procedures of the local government’s records management program and the requirements of Local Government Code Title 6, Subtitle C and rules adopted under it.

7. Disseminate to the governing body and custodians information concerning state laws, administrative rules, and policies of the government relating to local government records.

8. In cooperation with custodians, establish procedures to ensure that the handling of records in any context of the records management program by the records management officer or those under the officer’s authority is carried out with due regard for the duties and responsibilities of custodians that may be imposed by law and the confidentiality of information in records to which access is restricted by law.

Local Gov’t Code 203.023

On or before January 4, 1999, the records management officer shall prepare and file with the director and librarian:

1. A records control schedule listing the following records and establishing a retention period for each as provided by Local Government Code 203.042:
   a. All records created or received by the local government or elective county office;
   b. Any record no longer created or received by the local government or elective county office that is still in its possession and for which the retention period on a records retention schedule issued by the commission has not expired; and
   c. Any record no longer created or received by the local government or elective county office that is still in its possession and for which the retention period on a records retention schedule issued by the commission has expired but which will not be destroyed as provided by Local Government Code 203.044; or

2. The records management officer, in lieu of filing a records control schedule, may file with the director and librarian a writ-
ten certification of compliance that the local government or the elective county office has adopted records control schedules that comply with the minimum requirements established on records retention schedules issued by the commission.

At the discretion of the records management officer the records control schedule may also list and provide retention periods for material that is excluded from the definition of a local government record by Local Government Code 201.003(8) and exempted records described by Local Government Code 202.001(b) if in the officer's opinion the inclusion of the material or records is necessary to ensure the periodic destruction of the material or records in the interest of efficient records management.

A records management officer, in lieu of filing an amended records control schedule, may file with the director and librarian an amended written certification of compliance that the local government or the elective county office has adopted amended records control schedules to comply with the minimum requirements established on records retention schedules issued by the commission including any revised schedules issued by the commission.

The records management officer shall review the records control schedules of the local government or elective county office and prepare amendments to the schedules as needed to reflect new records created or received by the government or office or revisions to retention periods established in a records retention schedule issued by the commission. Amendments to records control schedules shall be filed with the director and librarian in the same manner as the original schedules.

The governing body shall require in the ordinance or order establishing the records management program the review or approval of a records control schedule or amended schedule by the officers of the local government as it considers necessary. The records control schedule or amended schedule for an elective county office need only be approved by the elected official in charge of that office.

Records control schedules may be filed on an office-by-office basis or on a department-by-department basis within each office.

A local government that intends to retain all records permanently or that destroys only those records for which no retention periods have been established in a records retention schedule established under Government Code 441.158 is not required to submit a records control schedule.

Local Gov't Code 203.041
The records retention schedules adopted in 1 Administrative Code 7.125 shall be considered minimum requirements and shall in no way affect the authority of the governing bodies of local governments to establish longer periods of time for which records of their government are to be retained. The applicable records retention schedules adopted by the State Library and Archives Commission include:

1. Local Schedule GR—Records Common to all Governments;
2. Local Schedule EL—Records of Elections and Voter Registration;
3. Local Schedule TX—Records of Property Taxation; and
4. Local Schedule JC—Records for Public Junior Colleges.

13 TAC 7.123(b), .125

Note: The State Library and Archives Commission records retention schedules are available at http://www.tsl.state.tx.us/slrm/recordspubs/localretention.html.

A local government record may be destroyed if:

1. The record is listed on a records control schedule accepted for filing by the director and librarian as provided by Local Government Code 203.041 and either its retention period has expired or it has been microfilmed or stored electronically in accordance with the requirements of Local Government Code Chapters 204 and 205;
2. The record appears on a list of obsolete records approved by the director and librarian as provided by Local Government Code 203.044; or
3. A destruction request is filed with and approved by the director and librarian as provided by Local Government Code 203.045 for a record not listed on an approved control schedule.

The following records may be destroyed without meeting the above conditions:

1. Records the destruction or obliteration of which is directed by an expunction order issued by a district court pursuant to state law.
2. Records defined as exempt from scheduling or filing requirements by rules adopted by the commission or listed as exempt in a records retention schedule issued by the Commission.

*Local Gov't Code 202.001*

**EXCEPTIONS**

A local government record the subject matter of which is known by the custodian to be in litigation may not be destroyed until the litigation is settled. A local government record subject to a request under Government Code Chapter 552 may not be destroyed until the request is resolved. *Local Gov't Code 202.002*

**MANNER OF DESTRUCTION**

A local government record may be destroyed by burning, shredding, pulping, or burial in a landfill or by sale or donation for recycling purposes except that records, including extra identical copies of a local government record, to which public access is restricted under Government Code Chapter 552 or other state law may be destroyed only by burning, pulping, or shredding.

A local government that sells or donates records for recycling purposes shall establish procedures for ensuring that the records are rendered unrecognizable as local government records by the recycler.

The director and librarian may approve other methods of destruction that render the records unrecognizable as local government records.

*Local Gov't Code 202.003, 006*

**ALIENATION OF RECORDS**

A local government record may be sold or donated, loaned, transferred, or otherwise passed out of the custody of a local government to any public institution of higher education, public museum, public library, or other public entity with the approval of the local government's records management officer and after the expiration of the record's retention period under the local government's records control schedule.

A local government record may not be sold or donated (except for the purposes of recycling), loaned, transferred, or otherwise passed out of the custody of a local government to any private college or university, private museum or library, private organization of any type, or an individual, except with the consent of the director and librarian and after the expiration of its retention period under the local government's records control schedule.

A records management officer or custodian may temporarily transfer a local government record to a person for the purposes of mi-
crofilming, duplication, conversion to electronic media, restoration, or similar records management and preservation procedures.

*Local Gov't Code 202.004*

**RIGHT OF RECOVERY**

In accordance with Local Government Code 202.005, the governing body may demand and receive from any person any local government record in private possession created or received by the local government the removal of which was not authorized by law. *Local Gov't Code 202.005(a)*

**PRESERVATION OF RECORDS**

A governmental body, including a college district board of trustees, shall determine a time for which information that is not currently in use will be preserved, subject to any applicable rule or law governing the destruction and other disposition of local government records or public information. *Gov't Code 552.004*

**MICROFILMING**

Any local government record may be maintained on microfilm in addition to or instead of paper or other media, subject to the requirements of Local Government Code Chapter 204 and rules adopted under it by the State Library and Archives Commission. *Local Gov't Code 204.002–.003*

**ELECTRONIC STORAGE**

Any local government record data may be stored electronically in addition to or instead of source documents in paper or other media, subject to the requirements of Local Government Code Chapter 205 and rules adopted under it by the State Library and Archives Commission. *Local Gov't Code 205.002–.003*

**PENALTIES**

An officer or employee of a local government commits an offense if the officer or employee knowingly or intentionally violates this subtitle or rules adopted under it by destroying or alienating a local government record in contravention of Local Government Code Title 6, Subtitle C or by intentionally failing to deliver records to a successor in office as provided by Local Government Code 201.006(a). *Local Gov't Code 202.008*

**FEDERAL INVESTIGATIONS AND BANKRUPTCY**

Whoever knowingly alters, destroys, mutilates, conceals, covers up, falsifies, or makes a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction of any department or agency of the United States or any case filed under U.S.C. Title 11 (bankruptcy), or in relation to or contemplation of any such matter or case, shall be fined, imprisoned not more than 20 years, or both. *18 U.S.C. 1519*
The College President or designee shall oversee the performance of records management functions prescribed by state and federal law:

- Records Management Officer, as prescribed by Local Government Code 203.023
- 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 GAB]
- Public Information Coordinator, as prescribed by Government Code 552.012 [See BBD]

The College District shall follow its records management program regarding document destruction. However, the College District shall preserve documents, including electronically stored information, and suspend routine record destruction practices as applicable according to procedures developed by the records management officer:

1. In the event of pending or reasonably anticipated litigation;
2. In the event of an investigation by a federal agency or department or any bankruptcy case; or
3. In the event of a public information request.

Notification shall be given to appropriate staff of any applicable obligations to suspend routine record destruction practices.

The College District’s records management program shall address the length of time documents will be posted on the College District’s website when the law does not specify a posting period.
The governing board of each state institution of higher education, including each public junior college, is authorized to promulgate rules and regulations providing for the disposition of abandoned and unclaimed personal property coming into the possession of the campus security personnel where the personal property is not being held as evidence to be used in any pending criminal case. *Education Code 51.213(a)*
REGISTRATION

The owner of a motor vehicle, trailer, or semitrailer may annually apply for registration under Transportation Code 502.451 and is exempt from the payment of a registration fee under Transportation Code Chapter 502 if the vehicle is owned by and used exclusively in the service of the United States, this state, or a county, municipality, or school district in this state. An application for registration under this section must be made by a person having the authority to certify that the vehicle meets the exemption requirements. 

Transp. Code 502.453

IDENTIFICATION

A motor vehicle, trailer, or semitrailer that is the property of and used exclusively by any institution of higher education, including a college district, must have the name of the institution printed on the side of the vehicle. The inscription must be in a color sufficiently different from the body of the vehicle and must be of letters of sufficient height so that the lettering is plainly legible at a distance of not less than 100 feet. This requirement does not apply to a motor vehicle used by a peace officer commissioned under Education Code Chapter 51, Subchapter E or the chancellor or president of an institution of higher education. 

Education Code 51.932

STUDENT TRAVEL

Each governing board of an institution of higher education, including each college district, shall adopt a policy regulating travel that is undertaken by one or more students presently enrolled at the institution to reach an activity or event that is located more than 25 miles from the institution that is organized and sponsored by the institution and that is:

1. Funded by the institution, and the travel is undertaken using a vehicle owned or leased by the institution; or

2. Required by a student organization registered at the institution.

The governing board shall seek advice and comment from the faculty and students of the institution before adopting any policy. The policy must contain provisions that address:

1. Different modes of travel likely to be used by students; and

2. Safety issues related to student travel, including:

   a. Use of seat belts or other safety devices;

   b. Passenger capacity; and

   c. For the person providing transportation services:

      (1) Qualifications and training required to operate that particular mode of travel; and
(2) Fatigue at the time of travel.

The governing board shall make the policy available to the public by publishing the policy in the college district’s catalog and by any other method the board considers appropriate.

The board shall file a copy of the policy, and any amendments to that policy, with the Coordinating Board.

*Education Code 51.950*

**TRANSPORTATION OF PUBLIC SCHOOL STUDENTS**

A school bus operated by a junior college may also be used to transport public school students if it is convenient. If students of a local public school district are transported to and from school on a bus operated by a junior college and the operator is under 21 years of age, the selection of the operator must be approved by the principal of the public school whose students are transported on that bus. This section does not apply to the operator of a vehicle operated under a registration certificate issued under Transportation Code Chapter 643. *Transp. Code 521.023(b)–(c)*

**DRIVER QUALIFICATIONS**

A person who is 18 years of age or older and who is licensed by the Texas Department of Public Safety to operate a motor vehicle as a school bus may operate the motor vehicle for the transportation of junior college students and employees to and from school or official school activities. This section does not apply to the operator of a vehicle operated under a registration certificate issued under Transportation Code Chapter 643. *Transp. Code 521.023(a), (c)*
A person commits an offense that is a misdemeanor if the person operates or moves or, as an owner, knowingly permits another to operate or move, a vehicle that:

1. Is unsafe so as to endanger a person;
2. Is not equipped in a manner that complies with the vehicle equipment standards and requirements established by Transportation Code Chapter 547; or
3. Is equipped in a manner prohibited by Chapter 547.

Transp. Code 547.004(a)

INSPECTIONS

A motor vehicle, trailer, semitrailer, pole trailer, or mobile home, registered in this state, must have the items listed in Transportation Code 548.051 inspected at an inspection station or by an inspector. Transp. Code 548.051(a)

COLLEGE DISTRICT INSPECTION STATION

The Texas Department of Public Safety may certify a vehicle maintenance facility owned and operated by a political subdivision or agency of this state as an inspection station. An inspection station certified under this section is subject to the requirements of Transportation Code Chapter 548 applicable to another inspection station, except as otherwise provided by Chapter 548. The facility may inspect only a vehicle owned by the political subdivision or state agency. Transp. Code 548.004
Associations of public employees and the governing boards and authorities of colleges are authorized to procure contracts with any insurance company authorized to do business in this state insuring their respective employees under a policy or policies of group health, accident, accidental death and dismemberment, disability income replacement, and hospital, surgical, and/or medical expense insurance, or a group contract providing for annuities. The dependents of any such employees may be insured under group policies which provide hospital, surgical, and/or medical expense insurance. Insurance Code 3.51 §1(a)

The premium for the policy may be paid wholly or partly from funds contributed by the employer, the individuals insured under the policy, or the insured employees who are members of the association of employees. The employer may deduct from an employee's salary the employee's contribution for the premiums if authorized to do so in writing by that employee. Insurance Code 3.51, 1131.303

A governmental unit, including a college district, may establish a self-insurance fund to protect the governmental unit and its officers, employees, and agents from any insurable risk or hazard. The governmental unit may issue public securities and use the proceeds for all or part of the fund or use any money available to the governmental unit for the fund.

The governmental unit may purchase reinsurance for a risk covered through the fund. Any law, including a regulation, requiring insurance may be satisfied by coverage provided through the fund. Any law, including a regulation, requiring a certificate of insurance or an insurance agent's signature, countersignature, or approval may be satisfied by a certificate of coverage issued on behalf of the governmental unit demonstrating that coverage is provided through the fund.

Gov't Code 2259.031

A governmental unit, including a college district, may become a member of a risk retention group or purchasing group created under the Liability Risk Retention Act of 1986, 15 U.S.C. 3901 et. seq., to obtain insurance against an insurable risk. Gov't Code 2259.061

A junior college district may not use a designated broker of record to purchase insurance contracts with premiums of an aggregate value of $10,000 or more for each 12-month period. If the district expends less than $10,000, in the aggregate, on insurance premiums for each 12-month period, the district may use a designated broker of record to purchase insurance contracts, but the board shall ensure that the use of a designated broker of record is in the

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The governing board of an institution of higher education may purchase insurance insuring the institution and its employees against any liability, risk, or exposure and covering the losses of any institutional property. The governing board may pay the cost of any insurance from any funds of the institution. Government Code 612.002(b) does not apply to an institution of higher education purchasing insurance under Education Code 51.966. *Education Code 51.966; Atty. Gen. Op. H-70 (1973)*

Each governmental unit other than a unit of state government may purchase insurance policies protecting the unit and the unit’s employees against claims for property damage, personal injury, or death proximately caused by the wrongful act or omission or the negligence of an employee acting within the scope of the individual’s employment if:

1. The property damage, personal injury, or death arises from the operation or use of a motor vehicle or motor-driven equipment; and

2. The employee would be personally liable to the claimant according to Texas law.

A unit of state government may purchase such a policy only to the extent that the unit is authorized or required to do so under other law.

*Civ. Prac. & Rem. Code 101.021, .027(a)*

A local government, including a college district, may pay actual damages awarded against an employee of the local government if the damages result from an act or omission by the employee in the course and scope of employment for the local government and arise from a cause of action for negligence. The local government may also pay the court costs and attorney’s fees awarded against an employee for whom the local government may pay damages under this section.

A local government may not pay damages awarded against an employee that arise from a cause of action for official misconduct or arise from a cause of action involving a willful or wrongful act or omission or an act or omission constituting gross negligence.

*Civ. Prac. & Rem. Code 102.002*

A local government, including a college district, may provide counsel to represent a defendant for whom the local government may pay damages. The counsel provided by the local government may be the local government’s regularly employed counsel, unless there is a potential conflict of interest between the local govern-
ment and the defendant, in which case the local government may employ other legal counsel to defend the suit.

_Civ. Prac. & Rem. Code 102.004_

**MOLD REMEDIATION**

A person is not liable in a civil lawsuit for damages related to a decision to allow occupancy of a property after mold remediation has been performed if a certificate of mold damage remediation has been issued for the property, the property is owned or occupied by a governmental entity, including a college district, and the decision to occupy was made by the owner, occupier, or any person authorized by the owner or occupier to make the decision. _Occupations Code 1958.304; 25 TAC 295.338(b)_

**FOR LAW ENFORCEMENT MOTOR VEHICLES**

The governing body of a political subdivision shall provide for insuring each law enforcement officer appointed or employed by the political subdivision against liability to third persons arising out of the officer’s operation of a motor vehicle owned, leased, or otherwise controlled by the political subdivision at any time the officer is authorized to operate the vehicle, including times that the officer is authorized to operate the vehicle while off duty. The motor vehicle liability coverage must be in amounts not less than those required by Transportation Code Chapter 601, Subchapter D to establish financial responsibility. A political subdivision may satisfy this requirement by:

1. Electing to be self-insured;
2. Entering into a risk retention group, risk management pool, or interlocal contract with other political subdivisions; or
3. Providing for coverage by an insurance company authorized to write motor vehicle liability insurance coverage.

The policy may exclude coverage for operation of a motor vehicle in the commission of a criminal offense other than a traffic offense. _Gov’t Code 612.005_
A political subdivision or institution of higher education may contract with an employee for the deferment of any part of the employee's compensation. A contract created under this section need not be in writing and may be communicated to the plan administrator electronically or by any other means approved by the plan's trustees. Gov't Code 609.007(a), (d)–(e)

A junior college district, either alone or by contract with other political subdivisions or institutions of higher education, may create and administer a deferred compensation plan, the federal income tax treatment of which is governed by Section 457 of the Internal Revenue Code of 1986, and its subsequent amendments, for its employees and may assess a fee on each participating employee for administering the plan.

The organization and implementation of such a deferred compensation plan shall be in accordance with Government Code Chapter 609.

Gov't Code 609.102, .702

Pursuant to Government Code Chapter 609, Subchapter C and 34 Administrative Code Chapter 87, employees of community colleges and junior colleges are eligible to participate in the Texa$aver plan only if such community college or junior college has opted to participate in the Texa$aver 457 plan. 34 TAC 87.5(d)

Except as provided by Government Code 609.5025, to participate in a deferred compensation plan, an employee must consent in the contract to automatic payroll deductions in an amount equal to the deferred amount. Gov't Code 609.007 (c)

The governing board of a state-supported institution of higher education, including a college district, may enter into agreements with the entity’s employees for the purchase of annuities or for contributions to any type of investment for the entity’s employees as authorized in Section 403(b), Internal Revenue Code of 1986, and its subsequent amendments.

The governing board, as appropriate, may:

1. Reduce the salary of participants when authorized by the participants and shall apply the amount of the reduction to the purchase of annuity contracts or to contributions to any type of investment authorized in Section 403(b), Internal Revenue Code of 1986, and its subsequent amendments, the exclusive control of which will vest in the participants; and
2. Develop a system to allow or require participants to electronically authorize participation, purchases of annuity contracts, and contributions to investments.

Art. 6228a-5, Sec 1-2, V.A.T.S.
| 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*

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

| 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, 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 contribu- |
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 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. 29 U.S.C. 2614(c); 29 C.F.R. 825.209–.210, .213 [See also DECA]

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” 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.

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.
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 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 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.
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

A group health plan shall provide certification:

1. At the time an individual ceases to be covered under the plan or otherwise becomes covered under a COBRA continuation provision. This certification may be provided, to the extent practicable, at a time consistent with notices required under any applicable COBRA continuation provision;

2. In the case of an individual covered under COBRA, at the time the individual’s COBRA coverage ceases; and

3. On the request on behalf of an individual made not later than 24 months after the date of cessation of coverage described in paragraph 1 or 2, whichever is later.

The certification is a written certification of:

1. The period of creditable coverage of the individual under such plan and the coverage, if any, under such COBRA continuation provision, and

2. The waiting period, if any, and affiliation period, if applicable, imposed with respect to the individual for any coverage under such plan.

To the extent that medical care under a group health plan consists of group health insurance coverage, the plan is deemed to have satisfied the certification requirements if the health insurance issuer offering the coverage provides for such certification.

42 U.S.C. 300gg-3(e)(1); 45 C.F.R. 146.115

If the plan sponsor of a nonfederal governmental group health plan to which 42 U.S.C. Chapter 6A, Subchapter XXV, Part A, Subparts 1 and 2 otherwise apply makes an election to be exempted from any or all of the following provisions of HIPAA then the requirements of such subparts insofar as they apply directly to group health plans (and not merely to group health insurance coverage) shall not apply to such governmental plans for such period:

1. Limitations on preexisting condition exclusion periods;

2. Special enrollment periods for individuals;

3. Prohibitions against discriminating against individual participants and beneficiaries based on health status;
4. Standards relating to benefits for mothers and newborns;

5. Parity in the application of certain limits to mental health benefits; and

6. Required coverage for reconstructive surgery and certain other services following a mastectomy under section 2706 of the Public Health Service Act.

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

**FORM OF ELECTION**

The election must meet the following requirements:

1. Be made in writing.

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 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) 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 Centers for Medicare & Medicaid 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(d), (g)
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” means:

1. A health plan;
2. A health-care clearinghouse; or

45 C.F.R. 160.103

“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:

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]
The term “plan sponsor” includes the employer in the case of an employee benefit plan established or maintained by a single employer. 29 U.S.C. 1002(16)(B)

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.

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:

1. Obtaining premium bids from health plans for providing health insurance coverage under the group health plan; or
2. Modifying, amending, or terminating the group health plan.

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.

45 C.F.R. 164.504(f)

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.

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.

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.

Gov’t Code 2158.402
REDISCUSSION

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. *Gov't Code 2158.403*

“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. *Gov't Code 2158.401(a)*
OPTIONS

A political subdivision, including a college district, shall extend workers’ compensation benefits to its employees by:

1. Becoming a self-insurer;
2. Providing insurance under a workers’ compensation insurance policy; or
3. Entering into an interlocal agreement with other political subdivisions providing for self-insurance.

Labor Code 504.011

“EMPLOYEE”

In Labor Code Chapter 504, unless a different meaning is plainly required by the context, “employee” means a person in the service of a political subdivision, including a college district, who has been employed as provided by law, or a person for whom optional coverage is provided under Labor Code 504.012 or 504.013. A person is not an employee and is not entitled to compensation under Chapter 504 if the person:

1. Is in the service of a political subdivision and is paid on a piecework basis other than by the hour, day, week, month, or year; or
2. Performs services that may benefit a political subdivision, or is employed by or under contract with a performer providing those services, but does not receive payment from the political subdivision for the performance of the services, if the services are performed in connection with the operation or production of a musical, vocal, or theatrical performance, or another entertainment event.

Labor Code 504.001, .014

NOTICE

A political subdivision, including a college district, shall notify the Texas Department of Insurance (TDI) of the method by which its employees will receive benefits, the approximate number of employees covered, and the estimated amount of payroll.

A political subdivision shall notify its employees of the method by which the employees will receive benefits and the effective date of the coverage.

Labor Code 504.018

REPORT TO CARRIER

The employer, including a college district, shall report to the employer’s insurance carrier each death, each occupational disease of which the employer has received notice of injury or has knowledge, and each injury that results in more than one day’s absence from work for the injured employee. The term “knowledge”
includes receipt of written or oral information regarding diagnosis of
an occupational disease, or diagnosis of an occupational disease
through direct examination or testing by a doctor employed by the
employer.

TDI shall prescribe the form, format, and manner of the employer’s
first report of injury (report). The report shall contain the infor-
mation required by 28 Administrative Code 120.1(a) (relating to
Employer’s Record of Injuries), any additional information pre-
scribed by TDI in accordance with the Labor Code
402.00128(b)(10), and the information necessary for an insurance
carrier to electronically transmit a first report of injury to TDI. The
report shall be filed with the insurance carrier not later than the
eighth day after having received notice of or having knowledge of
an occupational disease or death, or not later than the eighth day
after the employee’s absence from work for more than one day due
to a work-related injury. A report is filed when personally delivered,
mailed, reported via tele-claims, electronically submitted, or sent
via facsimile.

The employer shall maintain a record of the date the report of injury
is filed with the insurance carrier.

Labor Code 409.005–.006; 28 TAC 120.2(a)–(c), (f)

The employer shall provide a written copy of the report and a writ-
ten copy of the Notice of Injured Employee Rights and Responsibil-
ities in the Texas Workers’ Compensation System (Notice of Rights
and Responsibilities) adopted by the Public Counsel of the Office
of Injured Employee Counsel to the injured employee by personal
delivery, mail, electronic submission or facsimile at the time that the
report is made with the insurance carrier. The Notice of Rights and
Responsibilities shall be in English and Spanish, or in English and
any other language common to the employee. The written report
may be the report specified in 28 Administrative Code 120.2(b), or
at a minimum shall contain the information listed in 28 Administra-
tive Code 120.1(a).

The employer shall maintain a record of the date the copy of the
report of injury and the date the Notice of Rights and Responsibili-
ties were provided to the employee.

Labor Code 409.005(c), (g); 28 TAC 120.2(d), (f)

The employer shall, on the written request of the employee, a doc-
tor, the insurance carrier, or TDI, notify the employee, the employ-
ee’s treating doctor if known to the employer, and the insurance
carrier of the existence or absence of opportunities for modified
duty or a modified duty return-to-work program available through
the employer. If those opportunities or that program exists, the employer shall identify the employer’s contact person and provide other information to assist the doctor, the employee, and the insurance carrier to assess modified duty or return-to-work options. Labor Code 409.005(j)

SUPPLEMENTAL REPORT OF INJURY

As provided in 28 Administrative Code 129.4 relating to adjustment of temporary income benefit amount, the employer shall file the supplemental report of injury, in the form, format and manner prescribed by TDI. The report shall be filed with the employer’s carrier and provided to the employee within ten days after:

1. The end of each pay period in which the employee has a change in earnings, including reporting all post-injury earnings as that term is used in 28 Administrative Code Chapter 129 [see OFFSETTING PAID LEAVE AGAINST WORKERS’ COMPENSATION INCOME BENEFITS, below], as a result of the injury; or

2. The employee resigns or is terminated.

The employer’s duty to file supplemental reports continues until the employee reaches maximum medical improvement (MMI) or is no longer employed by the employer and the employer has made the required report. The employer may contact the insurance carrier for information regarding the employee’s MMI status.

For injuries requiring a FIRST REPORT OF INJURY, above, unless the information required in this subsection is provided on the first report, the employer shall file the supplemental report with the employer’s carrier and provide a copy to the employee within three days after:

1. The employee begins to lose time from work as a result of the injury;

2. The employee returns to work; or

3. The employee, after returning to work, experiences an additional day(s) of disability as a result of the injury.

The employer shall file the supplemental report of injury with the carrier by personal delivery, telephone, facsimile or electronic transmission. The employer shall provide a copy of the report to the employee by facsimile or electronic transmission if the employee has identified a personal facsimile number or a personal email address to be used and the employer has the means of sending such a transmission. Otherwise the report shall be provided by personal delivery or sent by mail.
INJURY AND OCCIDENTAL DISEASE REPORT

The employer shall maintain a record of the date the supplemental report is filed with the carrier and provided to the employee.

*Labor Code 409.005(i); 28 TAC 120.3*

An employer that has workers' compensation insurance coverage (subscriber) shall file a report of injury with TDI pursuant to Labor Code 411.032. A subscribing employer's report of injury filed in accordance with Labor Code 409.005 and applicable TDI rules satisfies that employer's requirement to file an injury and occupational disease report under Labor Code 411.032, unless TDI requests that the employer file a report with TDI for a specific injury. *28 TAC 160.3(a)*

WAGE REPORTS

The employer is required to timely file a complete wage statement in the form and manner prescribed by TDI. The term "filed" means "received."

The wage statement shall be filed with the carrier, the claimant, and the claimant's representative, if any, within 30 days of the earliest of:

1. The date the employer is notified that the employee is entitled to income benefits; or
2. The date of the employee's death as a result of a compensable injury.

A subsequent wage statement shall be filed with the carrier, the claimant, and the claimant's representative, if any, within seven days of a change in any wage information provided on the previous wage statement, such as because the employer has discontinued providing a nonpecuniary wage that was originally continued after the injury. A wage statement shall be filed with TDI within seven days of receiving a request from TDI. *28 TAC 120.4(a)*

RECORD OF INJURIES

An employer shall keep a record of all injuries and fatal injuries to employees as reported to an employer, or otherwise made known to an employer. The record shall include:

1. The name, address, date of birth, sex, wage, length of service, social security number, and occupation of the employee;
2. The reported cause and nature of the injury, the part of the body affected, and a description of any equipment involved;
3. The date, time, and location where the injury occurred;
4. The name of the employee's immediate supervisor;
5. The names of any witnesses (if known);

6. The name and address of the treating health-care provider, if known; and

7. Any voluntary benefits paid by the employer under the Texas Workers' Compensation Act.

These records shall be open to inspection by TDI, upon at least five working days notice to the employer, at a reasonable time and place. The employer shall retain a record of an injury until the expiration of five years from the last day of the year in which the injury occurred.

28 TAC 120.1(a)–(c)

The Office of Injured Employee Counsel shall maintain an ombudsman program as provided by Labor Code Chapter 404, Subchapter D to assist injured employees and persons claiming death benefits in obtaining benefits under the Texas Workers' Compensation Act. Each employer, including each college district, shall notify its employees of the ombudsman program.

These notices shall be posted in the personnel office, if the employer has a personnel office, and in the workplace where each employee is likely to see the notice on a regular basis. The notices shall be printed with a title in at least 26 point bold type, subject in at least 18 point bold type, and text in at least 16 point normal type, and shall include English, Spanish, and any other language common to the employer's employee population. The text for the notices shall be the text provided by TDI on the sample notice without any additional words or changes.

Labor Code 404.151(a), .153(a); 28 TAC 110.101(e)

TDI shall maintain a 24-hour toll-free telephone service in English and Spanish for reports of violations of occupational health or safety law. Each employer, including each college district, shall notify its employees of this service.

These notices shall be posted in the personnel office, if the employer has a personnel office, and in the workplace where each employee is likely to see the notice on a regular basis. The notices shall be printed with a title in at least 26 point bold type, subject in at least 18 point bold type, and text in at least 16 point normal type, and shall include English, Spanish, and any other language common to the employer's employee population. The text for the notices shall be the text provided by TDI on the sample notice without any additional words or changes.
An employer may not suspend or terminate the employment of or otherwise discriminate against an employee for using the telephone service to report in good faith an alleged violation of an occupational health or safety law.

*Labor Code 411.081–.082; 28 TAC 110.101(e)*

**RELATION TO PAID LEAVE**

Once temporary income benefits (TIBs) accrue, an injured employee is entitled to TIBs to compensate the employee for lost wages due to the compensable injury during a period in which the employee has a disability and has not reached maximum medical improvement.

“Lost wages” are the difference between the employee’s gross average weekly wage (AWW) and the employee’s gross post-injury earnings (PIE). If the employee’s PIE equals or exceeds the employee’s AWW, the employee has no lost wages.

PIE shall include, but not be limited to, the documented weekly amount of:

1. The value of any full days of accrued sick leave or accrued annual leave that the employee voluntarily elects to use after the date of injury; and

2. The value of any partial days of accrued sick leave or accrued annual leave that the employee has voluntarily elected to use after the date of injury that, when combined with the employee’s TIBs, exceeds AWW.

*28 TAC 129.2*

The governing body of a political subdivision, including a college district board of trustees, by majority vote, may provide that while an employee of the political subdivision is receiving workers’ compensation benefits, the employee may elect to receive previously accrued sick leave benefits, whether statutory or contractual, in an amount equal to the difference between the workers’ compensation benefits and the weekly compensation that the employee was receiving before the injury that resulted in the claim. Sick leave benefits that are received shall be deducted proportionately from the employee’s sick leave balance. *Labor Code 504.052*


**OFFSETTING PAID LEAVE AGAINST WORKERS’ COMPENSATION INCOME BENEFITS**

**PROHIBITED DISCRIMINATION**

A person may not discharge or in any other manner discriminate against an employee because the employee has:
1. Filed a workers’ compensation claim in good faith.
2. Hired a lawyer to represent the employee in a claim.
3. Instituted or caused to be instituted in good faith a proceeding under the Texas Workers’ Compensation Act.
4. Testified or is about to testify in a proceeding under the Texas Workers’ Compensation Act.

Labor Code 451.001

A person who violates the discrimination prohibition is liable for reasonable damages incurred by the employee as a result of the violation. An employee discharged in violation of the discrimination prohibition is entitled to reinstatement in the former position of employment. Labor Code 451.002

LEAVES OF ABSENCE


An employer that terminates an employee for violating a reasonable absence-control policy cannot be liable for prohibited discrimination as long as the rule is uniformly enforced. Continental Coffee Products Co. v. Cazarez, 937 S.W.2d 444 (Tex. 1996)
Unemployment benefits are paid through the Texas Workforce Commission (TWC) in accordance with rules adopted by the TWC and are due and payable under the Texas Unemployment Compensation Act, Labor Code Title 4, Subtitle A only to the extent provided by the Act.

"Employer" for purposes of the Texas Unemployment Compensation Act also means a political subdivision of a state, including a college district, or an instrumentality of a political subdivision of a state that is wholly owned by political subdivisions of one or more states.

Labor Code 201.026, 206.001

Benefits are not payable to an individual based on services performed in an instructional, research, or principal administrative capacity for an educational institution, including a college district, for a week beginning during the period between two successive academic years or terms or under an agreement providing for a similar period between two regular but not successive terms if the individual performed the services in the first of the academic years or terms and there is a contract or reasonable assurance that the individual will perform services in that capacity for any educational institution in the second of the academic years or terms.

Benefits are not payable to an individual based on services performed for an educational institution in a capacity other than a capacity described above for a week that begins during a period between two successive academic years or terms if the individual performed the services in the first of the academic years or terms and there is a reasonable assurance that the individual will perform the services in the second of the academic years or terms. However, if benefits are denied to an individual for any week under this provision and the individual is not offered an opportunity to perform services for the educational institution for the second of the academic years or terms, the individual is entitled to a retroactive payment of the benefits for each week that the individual filed a timely claim for benefits and the benefits were denied solely because of this provision.

Benefits are not payable to an individual based on services performed for an educational institution for a week that begins during an established and customary vacation period or holiday recess if the individual performed the services in the period immediately before the vacation period or holiday recess and there is a reasonable assurance that the individual will perform the services in the period immediately following the vacation period or holiday recess.

Labor Code 207.041(a)-(d)
A governmental employer shall pay a contribution, defined as a tax payment under the Texas Unemployment Compensation Act to the compensation fund, in accordance with Labor Code Chapter 204, Subchapter F and rules adopted by the TWC on wages paid for employment during each year or portion of the year in which the governmental employer is subject to the Act. A contribution paid by a governmental employer may not be deducted from the wages of individuals in the employer’s employ. *Labor Code 204.101–.102*

A political subdivision of a state, an instrumentality of a state, or a political subdivision of a state may elect to pay reimbursements for benefits instead of contributions. The election must be made not later than the 45th day after the date on which notice that an employer is subject to the Texas Unemployment Compensation Act is mailed to the employer. The election is effective January 1 of the year in which the employer becomes subject to the Act. An election is effective for at least two calendar years and may be terminated after the minimum period by filing with the commission not later than December 1 a written request for termination. The termination is effective January 1 of the following year. *Labor Code 205.001*

On approval of an application submitted by two or more reimbursing employers, the TWC shall establish a group account for the employers to share the cost of benefits that are attributable to service in the employ of the employers. The application must identify and authorize a group representative to act as the group’s agent for the purpose of Labor Code Chapter 205, Subchapter C. The group account takes effect at the beginning of the calendar quarter in which the commission received the application. The TWC shall notify the group’s representative of the effective date of the account. *Labor Code 205.021*

A person, including a college district, to whom notice is mailed under Labor Code 208.002 shall notify TWC promptly of any facts known to the person that may:

1. Adversely affect the claimant's right to benefits; or
2. Affect a charge to the person's account.

A notification provided by a person, including an initial response to a notice mailed to the person under Section 208.002, must include sufficient factual information to allow the commission to make a determination regarding the claimant's entitlement to benefits.

A person who does not mail or otherwise deliver that notification to the commission within 14 days after the date notice of a claim was mailed to the person by the commission waives all rights in con-
nection with the claim, including rights the person may have under Labor Code Subchapter B, Chapter 204, other than rights relating to a clerical or machine error as to the amount of the person's chargeback or maximum potential chargeback in connection with the claim for benefits.

*Labor Code 208.004(a)–(b)*
Each facility or part of a facility constructed by, on behalf of, or for the use of a public entity, including a 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. Each facility or part of a facility which is altered by, on behalf of, or for the use of a public entity in a manner that affects or could affect the usability of the facility or part of the facility shall, to the maximum extent feasible, be altered in such manner that the altered portion of the facility is readily accessible to and usable by individuals with disabilities. 28 C.F.R. 35.151(a)–(b), 34 C.F.R. 104.23(b)

Except as otherwise provided in 28 C.F.R. 35.150, no qualified individual with a disability shall, because a public entity's facilities are inaccessible to or unusable by individuals with disabilities, be excluded from participation in, or be denied the benefits of the services, programs, and activities of a public entity or be subjected to discrimination by any public entity. 29 U.S.C. 794, 42 U.S.C. 12132; 28 C.F.R. 35.149, 34 C.F.R. 104.21

A public entity shall operate each service, program, or activity so that the service, program, or activity, when viewed in its entirety, is readily accessible to and usable by individuals with disabilities. This paragraph does not:

1. Necessarily require a public entity to make each of its existing facilities or every part of a facility accessible to and usable by individuals with disabilities;

2. Require a public entity to take any action that would threaten or destroy the historic significance of an historic property; or

3. 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. In those circumstances where personnel of the public entity believe that the proposed action would fundamentally alter the service, program, or activity or would result in undue financial and administrative burdens, a public entity has the burden of proving that compliance with 28 C.F.R. 35.150(a) would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the head of a 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. If an action would result in such an alteration or such burdens, a public entity shall take any other action that would not result in such an al-
teration or such burdens but would nevertheless ensure that individuals with disabilities receive the benefits or services provided by the public entity.

28 C.F.R. 35.150(a); 34 C.F.R. 104.22(a)

A recipient may comply with the requirements of 28 C.F.R. 35.150 and, if applicable, 34 C.F.R. 104.22(a) through such means as:

1. Redesign or acquisition of equipment.
2. Reassignment of classes or other services to accessible buildings.
3. Assignment of aides to qualified individuals with disabilities.
4. Home visits.
5. Delivery of services at alternate accessible sites.
6. Alteration of existing facilities.
7. Construction of new facilities.
8. Any other methods that result in making its services, programs, or activities readily accessible to and usable by individuals with disabilities.

A public entity is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with 28 C.F.R. 35.150, and if applicable, 34 C.F.R. 104.22(a). A public entity, in making alterations to existing buildings, shall meet the accessibility requirements of 28 C.F.R. 35.151. In choosing among available methods for meeting these requirements, a public entity shall give priority to those methods that offer services, programs, and activities to qualified individuals with disabilities in the most integrated setting appropriate.

28 C.F.R. 35.150(b); 34 C.F.R. 104.22(b)

REVIEW OF PLANS

All plans and specifications for construction of or for the substantial renovation or modification of a building or facility must be submitted to the Department of Licensing and Regulation for review and approval if the building or facility is subject to Government Code Chapter 469 and if the estimated construction cost is at least $50,000. Gov't Code 469.101

The architect, interior designer, landscape architect, or engineer who has overall responsibility for the design of a constructed or reconstructed building or facility shall submit the required plans and specifications. The owner of the building or facility may not allow an application to be filed with a local governmental entity for
a building construction permit related to the plans and specifications or allow construction, renovation, or modification of the building or facility to begin before the date the plans and specifications are submitted to the department. On application to a local governmental entity for a building construction permit, the owner shall submit to the entity proof that the plans and specifications have been submitted to the department under Government Code Chapter 469.

Approved plans and specifications to which any substantial modification is made shall be resubmitted to the department for review and approval.

The owner of a building or facility described by Government Code 496.101 is responsible for having the building or facility inspected for compliance with the standards and specifications adopted by the Commission of Licensing and Regulation not later than the first anniversary of the date that construction or substantial renovation, or modification of the building or facility is completed. The inspection must be performed by the department, an entity with which the commission contracts under Government Code 469.055, or a person who holds a certificate of registration to perform inspections under Government Code Chapter 469, Subchapter E.

Gov't Code 469.102(a), (c), .103, .105

An outdoor lighting fixture that is designed, installed, or replaced on or after September 1, 1999, may be installed, replaced, maintained, or operated using state funds only if:

1. The new or replacement outdoor lighting fixture is a cutoff luminaire if the rated output of the outdoor lighting fixture is greater than 1,800 lumens;

2. The minimum illuminance adequate for the intended purpose is used with consideration given to nationally recognized standards;

3. For lighting of a designated highway of the state highway system, the Texas Department of Transportation determines that the purpose of the outdoor lighting fixture cannot be achieved by the installation of reflective road markers, lines, warning or informational signs, or other effective passive methods; and

4. Full consideration has been given to energy conservation, reducing glare, minimizing light pollution, and preserving the natural night environment. "Energy conservation" means reducing energy costs and resources used and includes using a light with lower wattage or a timer switch.

Health and Safety Code 425.002(a)–(b)
EXCEPTIONS

The standards for state-funded outdoor lighting fixtures do not apply if:

1. A federal law, rule, or regulation preempts state law;
2. The outdoor lighting fixture is used on a temporary basis because emergency personnel require additional illumination for emergency procedures;
3. The outdoor lighting fixture is used on a temporary basis for nighttime work;
4. Special events or situations require additional illumination;
5. The outdoor lighting fixture is used solely to enhance the aesthetic beauty of an object; or
6. A compelling safety interest exists that cannot be addressed by another method.

Special events or situations that may require additional illumination include sporting events and illumination of monuments, historic structures, or flags. Illumination for special events or situations must be installed to shield the outdoor lighting fixtures from direct view and to minimize upward lighting and light pollution.

*Health and Safety Code 425.002(c)–(d)*
**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).

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<th>BOARD AUTHORITY</th>
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| A governmental entity, including a college district, may adopt rules as necessary to implement Government Code Chapter 2269.  
Gov’t Code 2269.051 | 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.  
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.  
Gov’t Code 2269.053 | 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]  
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]  

Education Code 44.031(a); Gov’t Code Ch. 2269  
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 advertising, 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

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

Gov’t Code 2269.056(b)

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 2269.059

A person who submits a bid, proposal, or qualification to a governmental entity shall seal it before delivery.

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 an electronic bid or proposal.
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*

**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. *Education Code 51.927(k) [See CH]*

**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_

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_

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.

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)

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)

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

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 surety 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. Gov’t Code 2269.311(a) [See CME for more information on design/build contracts, including bond amounts]

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 subdivision 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)*

**RETAIORAGE 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 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 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 Education Code Chapter 44 as described at Education Code 44.032 is subject to criminal penalties. Education Code 44.032 [See CF]

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. Gov’t Code 2269.452(a)

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. Gov’t Code 2252.904(b)
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. Gov't Code Ch. 2267
REQUIRED WORKERS' COMPENSATION COVERAGE

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://info.sos.state.tx.us/fids/28_0110_0110-1.html.
“Competitive bidding” is a procurement method by which a governmental entity, including a college district, contracts with a contractor for the construction, alteration, rehabilitation, or repair of a facility by awarding the contract to the lowest responsible bidder.

Except as otherwise provided by Government Code Chapter 2269 or other law, a governmental entity may contract for the construction, alteration, rehabilitation, or repair of a facility only after the entity advertises for bids for the contract in a manner prescribed by law, receives competitive bids, and awards the contract to the lowest responsible bidder.

Gov't Code 2269.101

The competitive bidding process is governed by the process outlined below. The governmental entity must comply with applicable legal requirements in this policy as well as other applicable legal requirements [see CM(LEGAL)], which include the following steps:

1. Giving PUBLIC NOTICE of the project;
2. Publishing CONTRACT SELECTION CRITERIA;
3. MAKING EVALUATIONS PUBLIC after the contract is awarded; and
4. Providing for INSPECTION, VERIFICATION, AND TESTING necessary for acceptance of the facility by the governmental entity.

Education Code 44.031(g); Gov't Code 2269.052, .055, .056(c), .058, .105

Note: Terms in all capital letters, above, point to margin notes in the referenced policy.

PREPARATION OF REQUEST

The governmental entity shall prepare a request for competitive bids that includes construction documents, estimated budget, project scope, estimated project completion date, and other information that a contractor may require to submit a bid. Gov't Code 2269.103

USE OF ARCHITECT OR ENGINEER

The governmental entity shall select or designate an architect or engineer in accordance with Occupations Code Chapter 1051 or 1001, as applicable, to prepare the construction documents required for a project to be awarded by competitive bidding. Gov't Code 2269.102 [See CM]

OPENING BIDS

The governmental entity shall receive, publicly open, and read aloud the names of the offerors and their bids. 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. Gov't Code 2269.104; Local Gov't Code 271.026

The governmental entity is entitled to reject any and all bids. Local Gov't Code 271.027(a)

SAFETY RECORD

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:

1. The governing body of the governmental entity has adopted a written definition and criteria for accurately determining the safety record of the bidder;

2. The governmental entity 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; and

3. The determinations are not arbitrary and capricious.

Local Gov't Code 271.0275; Education Code 44.0351(b)

CONFLICT OF LAWS

Except as otherwise specifically provided in this policy, Local Government Code Chapter 271, Subchapter B, does not apply to the competitive bidding process. Gov't Code 2269.106; Education Code 44.0351(b)
“Competitive sealed proposals” is a procurement method by which a governmental entity, including a college district, requests proposals, ranks the offerors, negotiates as prescribed, and then contracts with a general contractor for the construction, rehabilitation, alteration, or repair of a facility. *Gov’t Code 2269.151*

If a governmental entity uses the competitive sealed proposals method as described in this policy, it must comply with applicable legal requirements in this policy as well as other applicable legal requirements [see CM], which include the following steps:

1. SELECTING A CONTRACTING METHOD;
2. Giving PUBLIC NOTICE of the project;
3. Publishing CONTRACT SELECTION CRITERIA;
4. MAKING EVALUATIONS PUBLIC after the contract is awarded; and
5. Providing for INSPECTION, VERIFICATION, AND TESTING necessary for acceptance of the facility by the governmental entity.

*Education Code 44.031(g); Gov’t Code 2269.052, .055, .056(a), (c), .058*

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**REQUEST FOR PROPOSALS**

The governmental entity shall prepare a request for competitive sealed proposals that includes construction documents, selection criteria and the weighted value for each criterion, estimated budget, project scope, estimated project completion date, schedule, and other information that a contractor may require to respond to the request. *Gov’t Code 2269.153*

**ARCHITECT / ENGINEER**

The governmental entity shall select or designate an architect or engineer to prepare construction documents for the project. *Gov’t Code 2269.152* [See CM]

**OPENING PROPOSALS**

The governmental entity shall receive, publicly open, and read aloud the names of the offerors and any monetary proposals made by the offerors. Not later than the 45th day after the date on which the proposals are opened, the governmental entity shall evaluate and rank each proposal submitted in relation to the published selection criteria.

**SELECTION**

The governmental entity shall select the offeror that submits the proposal that offers the best value for the governmental entity.
based on the selection criteria in the request for proposals and the weighted value for those criteria in the request for proposal and on its ranking evaluation.

The governmental entity shall first attempt to negotiate a contract with the selected offeror. The governmental entity and its architect or engineer may discuss with the selected offeror options for a scope or time modification and any price change associated with the modification. If the governmental entity is unable to negotiate a satisfactory contract with the selected offeror, the governmental entity 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.

Gov't Code 2269.154-.155
A “construction manager-agent” is a sole proprietorship, partnership, corporation, or other legal entity that serves as the agent for the governmental entity, including a college district, by providing consultation or administrative services during the design and construction phase and managing multiple contracts with various construction prime contractors for construction, rehabilitation, alteration, or repair of a facility. A governmental entity may retain a construction manager-agent for assistance in the construction, rehabilitation, alteration, or repair of a facility only as provided by Government Code Chapter 2269, Subchapter E. The contract between the governmental entity and the construction manager-agent may require the construction manager-agent to provide administrative personnel, equipment necessary to perform duties under this policy, on-site management, and other services specified in the contract. 

Gov't Code 2269.201–.202

A construction manager-agent may not:

1. Self-perform any aspect of the construction, rehabilitation, alteration, or repair of the facility.

2. Be a party to a construction subcontract for the construction, rehabilitation, alteration, or repair of the facility.

3. Provide or be required to provide performance and payment bonds for the construction, rehabilitation, alteration, or repair of the facility.

Gov't Code 2269.203

A construction manager-agent represents the governmental entity in a fiduciary capacity. 

Gov't Code 2269.204

The governmental entity may use the construction manager-agent method for the construction, rehabilitation, alteration, or repair of a facility. In using this method, the governmental entity must comply with applicable legal requirements in this policy as well as other applicable legal requirements [see CM], which include the following steps:

1. SELECTING A CONTRACTING METHOD;

2. Giving PUBLIC NOTICE of the project;

3. Publishing CONTRACT SELECTION CRITERIA;

4. MAKING EVALUATIONS PUBLIC after the contract is awarded; and
5. Providing for INSPECTION, VERIFICATION, AND TESTING necessary for acceptance of the facility by the governmental entity.

_Education Code 44.031(g); Gov't Code 2269.052, .055, .056(a), (c), .058, .201(c)_

**Note:** Terms in all capital letters, above, point to margin notes in the referenced policy.

**ARCHITECT / ENGINEER**

On or before the selection of a construction manager-agent, the governmental entity shall select or designate an architect or engineer in accordance with Occupations Code Chapters 1051 or 1001, as applicable, to prepare the construction documents for the project. [See CM]

The governmental entity’s architect or engineer may not serve, alone or in combination with another person, as the construction manager-agent unless the architect or engineer is hired to serve as the construction manager-agent under a separate or concurrent selection process conducted in accordance with this policy. This restriction does not prohibit the governmental entity’s architect or engineer from providing customary construction-phase services under the architect’s or engineer’s original professional service agreement in accordance with applicable licensing laws.

To the extent that the construction manager-agent’s services are defined as part of the practice of architecture or engineering under Occupations Code Chapter 1051 or 1001 those services must be conducted by a person licensed under the applicable chapter.

_Gov't Code 2269.205_

**SELECTION OF CONSTRUCTION MANAGER-AGENT**

A governmental entity shall select a construction manager-agent on the basis of demonstrated competence and qualifications in the same manner that an architect or engineer is selected under Government Code 2254.004. _Gov't Code 2269.207_ [See CM]

**INSURANCE**

The construction manager-agent shall maintain professional liability or errors and omissions insurance in the amount of at least $1 million for each occurrence. _Gov't Code 2269.208_

**SELECTION OF CONTRACTORS**

A governmental entity using the construction manager-agent method shall procure, in accordance with applicable law and in any manner authorized by Government Code Chapter 2269, a general contractor or trade contractors who will serve as the prime contractor for their specific portion of the work and provide performance and payment bonds to the governmental entity in accordance with applicable laws. _Gov't Code 2269.206_
"Construction manager-at-risk method" is a delivery method by which a governmental entity, including a college district, contracts with an architect or engineer for design and construction phase services and contracts separately with a construction manager-at-risk to serve as the general contractor and to provide consultation during the design and construction, rehabilitation, alteration, or repair of a facility.

A construction manager-at-risk is a sole proprietorship, partnership, corporation, or other legal entity that assumes the risk for construction, rehabilitation, alteration, or repair of a facility at a contracted price as a general contractor and provides consultation to the governmental entity regarding construction during and after the design of the facility. The contracted price may be a guaranteed maximum price.

Gov’t Code 2269.251(a)–(b)

A governmental entity may use the construction manager-at-risk method for the construction, rehabilitation, alteration, or repair of a facility. In using this method, the entity must comply with applicable legal requirements in this policy as well as other applicable legal requirements [see CM], which include the following steps:

1. SELECTING A CONTRACTING METHOD;
2. Giving PUBLIC NOTICE of the project;
3. Publishing CONTRACT SELECTION CRITERIA;
4. MAKING EVALUATIONS PUBLIC after the contract is awarded; and
5. Providing for INSPECTION, VERIFICATION, AND TESTING necessary for acceptance of the facility by the entity.

Education Code 44.031(g); Gov’t Code 2269.052, .055, .056(a), (c), .058, .251(c)

Note: Terms in all capital letters, above, point to margin notes in the referenced policy.

On or before the selection of a construction manager-at-risk, the governmental entity shall select or designate an architect or engineer to prepare the construction documents for the project. [See CM]

The governmental entity’s architect or engineer for a project may not serve, alone or in combination with another, as the construction manager-at-risk unless the architect or engineer is hired to serve
as the construction manager-at-risk under a separate or concurrent procurement conducted in accordance with Government Code Chapter 2269, Subchapter F. This restriction does not prohibit the governmental entity’s architect or engineer from providing customary construction phase services under the architect’s or engineer’s original professional service agreement in accordance with applicable licensing laws.

Gov't Code 2269.252

SELECTION PROCESS

The governmental entity shall select the construction manager-at-risk in either a one-step or two-step process.

The governmental entity shall prepare a single request for proposals, in the case of a one-step process, and an initial request for qualifications, in the case of a two-step process that includes:

1. A statement as to whether the selection process is a one-step or two-step process;

2. General information on the project site, project scope, schedule, selection criteria, and the weighted value for each criterion, and estimated budget and the time and place for receipt of the proposals or qualifications; and

3. Other information that may assist the governmental entity in its selection of a construction manager-at-risk.

The governmental entity shall state the selection criteria in the request for proposals or qualifications.

If a one-step process is used, the governmental entity may request, as part of the offeror’s proposal, proposed fees and prices for fulfilling the general conditions. If a two-step process is used, the governmental entity may not request fees or prices in step one. In step two, the governmental entity may request that five or fewer offerors, selected solely on the basis of qualifications, provide additional information, including the construction manager-at-risk’s proposed fee and its price for fulfilling the general conditions.

Gov't Code 2269.253(a)–(e)

OPENING AND EVALUATING PROPOSALS

At each step, the governmental entity shall receive, publicly open, and read aloud the names of the offerors. At the appropriate step, the governmental entity shall also read aloud the fees and prices, if any, stated in each proposal as the proposal is opened. Not later than the 45th day after the date on which the final proposals are opened, the governmental entity shall evaluate and rank each proposal submitted in relation to the criteria set forth in the request for proposals.  Gov't Code 2269.253(f)–(g)
The governmental entity shall select the offeror that submits the proposal that offers the best value for the governmental entity based on the published selection criteria and on its ranking evaluation. The governmental entity shall first attempt to negotiate a contract with the selected offeror. If the governmental entity is unable to negotiate a satisfactory contract with the selected offeror, the governmental entity shall, formally and in writing, end negotiations with that offeror and proceed to negotiate with the next offeror in the order of the selection ranking until a contract is reached or negotiations with all ranked offerors end. Gov’t Code 2269.254(a)–(c)

Not later than the seventh day after the date the contract is awarded, the governmental entity shall make the proposal rankings public. Gov’t Code 2269.254(d)

A construction manager-at-risk shall publicly advertise for bids or proposals and receive bids or proposals from trade contractors or subcontractors for the performance of all major elements of the work other than the minor work that may be included in the general conditions. A construction manager-at-risk may seek to perform portions of the work itself if:

1. The construction manager-at-risk submits its bid or proposal for those portions of the work in the same manner as all other trade contractors or subcontractors; and

2. The governmental entity determines that the construction manager-at-risk’s bid or proposal provides the best value for the governmental entity.

Gov’t Code 2269.255

The construction manager-at-risk shall review all trade contractor or subcontractor bids or proposals in a manner that does not disclose the contents of the bid or proposal during the selection process to a person not employed by the construction manager-at-risk, architect, engineer, or governmental entity. All bids or proposals shall be made available to the governmental entity on request and to the public after the later of the award of the contract or the seventh day after the date of final selection of bids or proposals.

If the construction manager-at-risk reviews, evaluates, and recommends to the governmental entity a bid or proposal from a trade contractor or subcontractor, but the governmental entity requires another bid or proposal to be accepted, the governmental entity shall compensate the construction manager-at-risk by a change in price, time, or guaranteed maximum cost for any additional cost and risk that the construction manager-at-risk incurs because of
the governmental entity’s requirement that another bid or proposal be accepted.

If a selected trade contractor or subcontractor defaults in the performance of its work or fails to execute a subcontract after being selected in accordance with this policy, the construction manager-at-risk may itself fulfill, without advertising, the contract requirements or select a replacement trade contractor or subcontractor to fulfill the contract requirements.

_Gov't Code 2269.256-.257_

If a fixed contract amount or guaranteed maximum price has not been determined at the time the contract is awarded, the penal sums of the performance and payment bonds delivered to the governmental entity must each be in an amount equal to the construction budget, as specified in the request for proposals or qualifications. The construction manager-at-risk shall deliver the bonds not later than the tenth day after the date the construction manager-at-risk executes the contract unless the construction manager-at-risk furnishes a bid bond or other financial security acceptable to the governmental entity to ensure that the construction manager will furnish the required performance and payment bonds when a guaranteed maximum price is established. _Gov't Code 2269.258_

[See CM for more information on payment and performance bonds]
“Design-build” is a project delivery method by which a governmental entity, including a college district, contracts with a single entity to provide both design and construction services for the construction, rehabilitation, alteration, or repair of a facility. *Gov’t Code 2269.301*

This policy applies only to a facility that is a building or an associated structure, including an electric utility structure. This policy does not apply to:

1. A highway, road, street, bridge, underground utility, water supply project, water plant, wastewater plant, water and wastewater distribution or conveyance facility, wharf, dock, airport runway or taxiway, drainage project, or related type of project associated with civil engineering construction; or
2. A building or structure that is incidental to a project that is primarily a civil engineering construction project.

*Gov’t Code 2269.302*

A governmental entity may use the design-build method for the construction, rehabilitation, alteration, or repair of a building or associated structure. In using that method, the governmental entity shall enter into a single contract with a design-build firm for the design and construction of the building or associated structure in accordance with applicable legal requirements in this policy as well as other applicable legal requirements [see CM], which include the following steps:

1. **SELECTING A CONTRACTING METHOD;**
2. Giving PUBLIC NOTICE of the project;
3. Publishing CONTRACT SELECTION CRITERIA;
4. MAKING EVALUATIONS PUBLIC after the contract is awarded; and
5. Providing for INSPECTION, VERIFICATION, AND TESTING necessary for acceptance of the facility by the governmental entity.

*Education Code 44.031(g); Gov’t Code 2269.052, .055, .056(a), (c), .058, .303*

**Note:** Terms in all capital letters, above, point to margin notes in the referenced policy.
A design-build firm must be a sole proprietorship, partnership, corporation, or other legal entity or team that includes an architect or engineer and a construction contractor. *Gov’t Code 2269.304*

The governmental entity shall select or designate an architect or engineer independent of the design-build firm to act as the governmental entity’s representative for the duration of the project. *Gov’t Code 2269.305* [See CM]

The governmental entity shall prepare a request for qualifications that includes general information on the project site, project scope, budget, special systems, selection criteria and the weighted value for each criterion, and other information that may assist potential design-build firms in submitting proposals for the project.

The governmental entity may not require offerors to submit architectural or engineering designs as part of a proposal or a response to a request for qualifications.

*Gov’t Code 2269.306(a), (d)*

The governmental entity shall also prepare the design criteria package that includes more detailed information on the project. If the preparation of the design criteria package requires architectural or engineering services that constitute the practice of architecture within the meaning of Occupations Code Chapter 1051 or the practice of engineering within the meaning of Occupations Code Chapter 1001, those services shall be provided in accordance with the applicable law.

The design criteria package must include a set of documents that provides sufficient information, including criteria for selection, to permit a design-build firm to prepare a response to the governmental entity’s request for qualifications and to provide any additional information requested. The design criteria package must specify criteria the college district considers necessary to describe the project and may include, as appropriate, the legal description of the site, survey information concerning the site, interior space requirements, special material requirements, material quality standards, conceptual criteria for the project, special equipment requirements, cost or budget estimates, time schedules, quality assurance and quality control requirements, site development requirements, applicable codes and ordinances, provisions for utilities, parking requirements, and any other requirement.

*Gov’t Code 2269.306(b)–(c)*

For each design-build firm that responded to the request for qualifications, the governmental entity shall evaluate the firm’s experience, technical competence, capability to perform, the past perfor-
mance of the firm and members of the firm, and other appropriate factors submitted by the firm in response to the request for qualifications, except that cost-related or price-related evaluation factors are not permitted. Each firm must certify to the governmental entity that each architect or engineer that is a member of the firm was selected based on demonstrated competence and qualifications, in the manner provided by Government Code 2254.004. The governmental entity shall qualify a maximum of five responders to submit proposals that contain additional information and, if the governmental entity chooses, to interview for final selection. Gov't Code 2269.307(a)–(c)

PROPOSALS

The governmental entity shall evaluate the additional information submitted by the offerors on the basis of the selection criteria stated in the request for qualifications and the results of any interview. The governmental entity may request additional information regarding demonstrated competence and qualifications, considerations of the safety and long-term durability of the project, the feasibility of implementing the project as proposed, the ability of the offeror to meet schedules, or costing methodology.

“Costing methodology” means an offeror’s policies on subcontractor markup, definition of general conditions, range of cost for general conditions, policies on retainage, policies on contingencies, discount for prompt payment, and expected staffing for administrative duties. The term does not include a guaranteed maximum price or bid for overall design or construction.

The college district shall rank each proposal submitted on the basis of the criteria set forth in the request for qualifications.

Gov't Code 2269.307(d)–(f)

SELECTION

The governmental entity shall select the design-build firm that submits the proposal offering the best value for the governmental entity on the basis of the published selection criteria and on its ranking evaluations.

The governmental entity shall first attempt to negotiate a contract with the selected firm. If the governmental entity is unable to negotiate a satisfactory contract with the selected firm, the governmental entity shall, formally and in writing, end all negotiations with that firm and proceed to negotiate with the next firm in the order of the selection ranking until a contract is reached or negotiations with all ranked firms end.

Gov't Code 2269.308(a)–(c)
| NOTICE OF RANKINGS | Not later than the seventh day after the date the contract is awarded, the governmental entity shall make the proposal rankings public. *Gov't Code 2269.308(d)* |
| DESIGN | After selection of the design-build firm, that firm’s architects or engineers shall submit all design elements for review and determination of scope compliance to the governmental entity or the governmental entity’s architect or engineer before or concurrently with construction. *Gov't Code 2269.309* |
| FINAL CONSTRUCTION DOCUMENTS | The design-build firm shall supply a set of construction documents for the completed project to the governmental entity at the conclusion of construction. The documents must note any changes made during construction. *Gov't Code 2269.310* |
| PAYMENT OR PERFORMANCE BOND | A payment or performance bond is not required and may not provide coverage for the design portion of the design-build contract. *Gov't Code 2269.311(a)* [See CM for more information on payment and performance bonds] |
| AMOUNT | If a fixed contract amount or guaranteed maximum price has not been determined at the time the design-build contract is awarded, the penal sums of the performance and payment bonds delivered to the governmental entity must each be in an amount equal to the construction budget, as specified in the design criteria package. The design-build firm shall deliver the bonds not later than the tenth day after the date the design-build firm executes the contract, unless the design-build firm furnishes a bid bond or other financial security acceptable to the governmental entity to ensure that the design-build firm will furnish the required performance and payment bonds before construction begins. *Gov't Code 2269.311(b)–(c)* |
“Job order contracting” is a procurement method used for maintenance, repair, alteration, renovation, remediation, or minor construction of a facility when the work is of a recurring nature but the delivery times, type, and quantities of work required are indefinite. 

Gov't Code 2269.401

This policy applies only to a facility that is a building, the design and construction of which is governed by accepted building codes, or a structure or land, whether improved or unimproved, that is associated with a building. This policy does not apply to:

1. A highway, road, street, bridge, utility, water supply project, water plant, wastewater plant, water and wastewater distribution or conveyance facility, wharf, dock, airport runway or taxiway, drainage project, or related type of project associated with civil engineering construction; or

2. A building or structure that is incidental to a project that is primarily a civil engineering construction project.

Gov't Code 2269.402

If a governmental entity, including a college district, uses the job order contracts method as described in this policy, it must comply with the applicable legal requirements in this policy as well as other applicable legal requirements [see CM], which include the following steps:

1. SELECTING A CONTRACTING METHOD;

2. Giving PUBLIC NOTICE of the project;

3. Publishing CONTRACT SELECTION CRITERIA;

4. MAKING EVALUATIONS PUBLIC after the contract is awarded; and

5. Providing for INSPECTION, VERIFICATION, AND TESTING necessary for acceptance of the facility by the governmental entity.

Education Code 44.031(g); Gov't Code 2269.052, .055, .056(a), (c), .058

Note: Terms in all capital letters, above, point to margin notes in the referenced policy.

A governmental entity may award job order contracts for maintenance, repair, alteration, renovation, remediation, or minor construction of a facility if the work is of a recurring nature but the de-
livery times are indefinite and indefinite quantities and orders are awarded substantially on the basis of pre-described and pre-priced tasks. The governmental entity shall establish the maximum aggregate contract price when it advertises the proposal. The governing body of a governmental entity shall approve each job, task, or purchase order that exceeds $500,000. *Gov't Code 2269.403*

**ESTABLISHING UNIT PRICES**

The governmental entity may establish contractual unit prices for a job order contract by:

1. Specifying one or more published construction unit price books and the applicable divisions or line items; or

2. Providing a list of work items and requiring the offerors to propose one or more coefficients or multipliers to be applied to the price book or pre-priced work items as the price proposal.

*Gov't Code 2269.404*

**ADVERTISING AND OPENING PROPOSALS**

A governmental entity may use the competitive sealed proposal method under Government Code Chapter 2269, Subchapter D for job order contracts. [See CMB] The governmental entity shall advertise for, receive, and publicly open sealed proposals for job order contracts. The governmental entity may require offerors to submit information in addition to rates, including experience, past performance, and proposed personnel and methodology. *Gov't Code 2269.405*

**ARCHITECT OR ENGINEER**

If a job order contract or an order issued under the contract requires architectural or engineering services that constitute the practice of architecture within the meaning of Occupations Code Chapter 1051 or the practice of engineering within the meaning of Occupations Code Chapter 1001, the governmental entity shall select or designate an architect or engineer to prepare the construction documents for the project.

This requirement does not apply to a job order contract or an order issued under the contract for industrialized housing, industrialized buildings, or relocatable educational facilities subject to and approved under Occupations Code Chapter 1202 if the contractor employs the services of an architect or engineer who approves the documents for the project.

*Gov't Code 2269.408  [See CM]*

**AWARDING CONTRACTS**

The governmental entity may award job order contracts to one or more job order contractors in connection with each solicitation of proposals.
An order for a job or project under a job order contract must be signed by the governmental entity’s representative and the contractor. The order may be:

1. A fixed-price, lump-sum contract based substantially on contractual unit pricing applied to estimated quantities; or

2. A unit price order based on the quantities and line items delivered.

Gov’t Code 2269.406–.410

CONTRACT TERM

The base term for a job order contract may not exceed two years. The governmental entity may renew the contract annually for not more than three additional years. Gov’t Code 2269.409

USE OF CONTRACT

A job order contract may be used to accomplish work only for the governmental entity that awards the contract unless:

1. The solicitation for the job order contract and the contract specifically provide for use by other persons; or

2. The governmental entity enters into an interlocal agreement that provides otherwise.

Gov’t Code 2269.407

BONDS

The contractor shall provide payment and performance bonds, if required by law, based on the amount or estimated amount of any order. Gov’t Code 2269.411 [See CM for more information on payment and performance bonds]
A retail store that is owned or operated by an institution of higher education, including a college district, may not enter into a transaction for the sale or lease of goods or services in which the institution extends the credit of the state to the obligor.

This prohibition does not apply to an extension of credit to a student for the purchase of books or other educational supplies if the credit may be offset against undistributed grant or loan funds that are held by the institution for the student or that the institution is entitled to receive on behalf of the student. The institution may not withhold grant or loan funds to require the student to purchase books or educational supplies from a store that it owns or operates.

_Education Code 51.929_

In accordance with Education Code Chapter 153, an institution of higher education, including a college district, subject to approval by its governing board, is authorized to establish centers to manage, transfer, market, or otherwise commercialize technology owned by it or in which it owns an interest. Each center shall be administered within an institution of higher education. Centers may provide services to multiple institutions of higher education. An institution of higher education may contract with a center under the control of a governing board other than its own. _Education Code 153.001_
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

The Guidelines for the Management of Electronic Transactions and Signed Records, which are available on the Department of Information Resources (DIR) website, were adopted by DIR based on the work and recommendations of the UETA Task Force. 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. 1 TAC 203.40-.41

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

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


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)
A college district that maintains an Internet website shall post the following:

1. The college district's Compact With Texans under Government Code 2114.006. [See AFA]

2. On the first frame of the homepage and in a font that is larger than the font of the majority of the text on the home page, an accessible link to the college district's online resumes maintained on the Coordinating Board's Internet website under Education Code 51A.003. [See AFA]

3. The cost of attendance for a first-time entering full-time student in accordance with the uniform standards prescribed by the commissioner, under Education Code 61.0777 and 19 Administrative Code 21.222. [See AFA]

4. In a prominent location, that is not more than three hyperlinks from the website's home page, a link to the postsecondary and career information posted on the Texas Education Agency's Internet website, under Education Code 7.040. [See AFA]

5. Conflicts disclosure statements and questionnaires, under Local Government Code 176.009. [See BBFA, CFE]

6. Notice of a board meeting and, if the college district contains all or part of the area within the corporate boundaries of a municipality with a population of 48,000 or more, the agenda for a board meeting, under Government Code 551.056. [See BD]

7. Any written agenda and related supplemental written materials for a board meeting, as well as a broadcast of the board meeting followed by an archived version of that broadcast, if the junior college district has a total student enrollment of more than 20,000 in any semester of the preceding academic year, under Government Code 551.1282. [See BD]

8. On the home page the prescribed statement if the college district proposes to increase the amount of taxes to fund main-
nance and operation expenditures, under Tax Code 26.05. [See CAI]

9. If the website is generally accessible, a link to the state expenditure database under Government Code 2054.126. [See CDA]

10. A copy of the college district’s financial transactions, under Education Code 51.9741. [See CDA]

11. A college district shall report its energy usage information on a publicly accessible Internet website with an interface designed for ease of navigation, if available, under Government Code 2265.001. [See CH]

12. In a prominent location, the code of conduct for the college district’s officers, employees, and agents under 20 U.S.C. 1094. [See DBD]

13. Information regarding college district employees and employee compensation, as provided by Government Code 659.026. [See DEA]

14. Information regarding a gift, grant, donation, or other consideration from a person that the person designated to be used as a salary supplement, and related conflict of interest provisions, as provided by Government Code 659.0201. [See DEA]

15. The end-of-course student evaluations of faculty according to a plan developed under Education Code 51.974(h) and 19 Administrative Code 4.227(10) and 4.228(e). [See DLA]

16. The International Standard Book Number (ISBN) and retail price information of required and recommended college textbooks and supplemental materials for each course listed in the institution’s course schedule used for preregistration and registration purposes as provided by 20 USC 1015b. [See EDA]

17. Information about each undergraduate classroom course offered for credit not later than the seventh day after the first day of classes for the semester or other academic term during which the course is offered as provided by Education Code 51.974 and 19 Administrative Code 4.225 to 4.228. [See EFA]

18. The college district’s policy to grant undergraduate course credit to entering freshmen students who have successfully completed the International Baccalaureate Diploma Program,
who have achieved required scores on one or more examinations in the Advanced Placement Program or the College-Level Examination Program, or who have successfully completed one or more courses offered through concurrent enrollment in high school and at an institution of higher education with the application materials under Education Code 51.968. [See EGA]

19. Guidelines addressing the practices of the college district regarding the transfer of course credit under Education Code 61.830. [See EGA]

OPTIONAL INTERNET POSTINGS

A college district that maintains an Internet website may broadcast an open meeting over the Internet, under Government Code 551.128. [See BD]

GEOSPATIAL DATA PRODUCTS

“Geospatial data product” means a document, computer file, or Internet website that contains geospatial data; a map; or information about a service involving geospatial data or a map. Gov’t Code 2051.101(1)

NOTICE

A governmental entity, including a college district, shall include a notice on each geospatial data product that:

1. Is created or hosted by the governmental entity;
2. Appears to represent property boundaries; and
3. Was not produced using information from an on-the-ground survey conducted by or under the supervision of a registered professional land surveyor or land surveyor authorized to perform surveys under laws in effect when the survey was conducted.

The notice must be in substantially the following form: “This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.”

The notice may include language further defining the limits of liability of a geospatial data product producer; apply to a geospatial data product that contains more than one map; or for a notice that applies to a geospatial data product that is or is on an Internet website, be included on a separate page that requires the person accessing the website to agree to the terms of the notice before accessing the geospatial data product.

Gov’t Code 2051.102
EXEMPTION

A governmental entity is not required to include the notice on a geospatial data product that:

1. Does not contain a legal description, a property boundary monument, or the distance and direction of a property line;
2. Is prepared only for use as evidence in a legal proceeding;
3. Is filed with the clerk of any court; or
4. Is filed with the county clerk.

Gov’t Code 2051.103
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)

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)

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)*
| STATE PROVISIONS | All institutions of higher education, including all college districts, must comply with the information security standards in 1 Administrative Code Chapter 202, Subchapter C.  1 TAC 202.70(2) |
| SECURITY BREACH NOTIFICATION | 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. *Business and Commerce Code 521.053(b)* |
| TO RESIDENTS OF TEXAS AND CERTAIN OTHER STATES | 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). *Business and Commerce Code 521.053(b-1); Gov’t Code 2054.1125; Local Gov’t Code 205.010* |
| TO THE OWNER OR LICENSE HOLDER | 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. *Business and Commerce Code 521.053(c); Gov’t Code 2054.1125; Local Gov’t Code 205.010* |
| TO A CONSUMER REPORTING AGENCY | 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. *Business and Commerce Code 521.053(h); Gov’t Code 2054.1125; Local Gov’t Code 205.010* |
| CRIMINAL INVESTIGATION EXCEPTION | 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. Business and Commerce Code 521.053(d); Gov’t Code 2054.1125; Local Gov’t Code 205.010

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

“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” 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)*

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*
## SECTION D: PERSONNEL

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SECTION D: PERSONNEL

DI  EMPLOYEE WELFARE  
DIA  Freedom from Discrimination, Harassment, and Retaliation

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
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 (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

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)

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)

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 POSTINGS

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)

ADDITIONAL CONSIDERATIONS

SEX DISCRIMINATION

GENDER STEREOTYPES

PREGNANCY

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)

EQUAL PAY

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
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 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.

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. 1604.11(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. Sundowner Offshore Services, Inc.*, 523 U.S. 75 (1998)

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.

**QUID PRO QUO**

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes sexual harassment when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or

2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual.

*29 C.F.R. 1604.11(a)*

**SAME-SEX SEXUAL HARASSMENT**


**SEXUAL HARASSMENT POLICY**

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. *29 C.F.R. 1604.11(f)*

**CORRECTIVE ACTION**

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.

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.

*29 C.F.R. 1604.11(d)–(e), 1606.8(d)–(e)*

When no tangible employment action is taken, an employer may raise the following affirmative defense:

1. That the employer exercised reasonable care to prevent and promptly correct any harassing behavior; and
2. That the employee unreasonably failed to take advantage of any preventive or corrective opportunities provided by the employer or to avoid harm otherwise.


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
   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 individ-
EMPLOYMENT OBJECTIVES
EQUAL EMPLOYMENT OPPORTUNITY

DAA
(LEGAL)

EMPLOYMENT OBJECTIVES

EQUAL EMPLOYMENT OPPORTUNITY

DAA
(LEGAL)

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

“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); 29 C.F.R. 1630.2(g), (l)

**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); 29 C.F.R. 1630.2(j)(1)(ix)

**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; or learned behavioral or adaptive neurological modifications.

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)

“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, 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.

42 U.S.C. 12102(2); 29 C.F.R. 1630.2(i)
“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” 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)

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. 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 [See DBB regarding medical examinations and inquiries under the Americans with Disabilities Act]

“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
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. 42 U.S.C. 12114(d); 29 C.F.R. 1630.3(c) [See DHB]

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); 28 C.F.R. 35.104

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)
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. 42 U.S.C. 12111(3), 12113(b); 29 C.F.R. 1630.2(r)

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. 42 U.S.C. 12113(c); 29 C.F.R. 1630.10(b)

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. 42 U.S.C. 12113(e)(2); 29 U.S.C. 705(20)(D); 29 C.F.R. 1630.16(e)

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]

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]

28 C.F.R. 35.140
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]

RETAIlATION

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)
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)

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)
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.
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 ACCOMMODATION**

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)_.

_DATE ISSUED: 3/4/2015_

_UPDATE 30_

_DAA(LEGAL)-LJC_
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)

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)

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

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

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
The purpose of this policy is to provide a timely and orderly process for the resolution of employee complaints. The Board intends that, whenever feasible, complaints be resolved at the lowest possible administrative level.

The College District shall inform employees of this policy through appropriate College District publications.

In this policy, the terms “complaint” and “grievance” shall have the same meaning.

Employee complaints shall be filed in accordance with this policy, except as required by the policies listed below. Some of these policies require appeals to be submitted in accordance with DGBA after the relevant complaint process:

1. Complaints alleging discrimination, including violations of Title IX (gender), Title VII (sex, race, color, religion, national origin), ADEA (age), or Section 504 (disability). [See DIA]

2. Complaints alleging certain forms of harassment, including harassment by a supervisor and violations of Title VII. [See DIA]

3. Complaints concerning retaliation relating to discrimination and harassment. [See DIA]

4. Complaints concerning a commissioned peace officer who is an employee of the College District. [See CHA]

5. Complaints concerning an employment preference for former foster children. [See DC]

6. Complaints arising from the dismissal of term contract faculty members. [See DMAA]

7. Complaints concerning the nonrenewal of term contract employees and those arising from the nonrenewal of term contract faculty members. [See DMAB]

When the College President or designee determines that two or more individual complaints are sufficiently similar in nature and remedy sought to permit their resolution through one proceeding, he or she may consolidate the complaints.

Employees who allege adverse employment action in retaliation for reporting a violation of law to an appropriate authority shall initiate a grievance under this policy within the time specified by law. [See DG]

The complaint shall first be filed in accordance with LEVEL TWO, below. Time lines for the employee and the College District set out
in this policy may be shortened to allow the Board to make a final decision within 60 days of the initiation of the complaint.

FREEDOM FROM REPRISALS
No reprisals or retaliation of any kind shall be taken at any level against an employee for bringing a complaint. Complaints shall neither be referred to nor filed in an employee’s personnel file unless so requested by the employee in writing.

REPRESENTATION
The employee filing a complaint or any employee who is the subject of a complaint may be represented at his or her own expense by an attorney and/or a fellow employee, person, or representative organization that does not claim the right to strike. The College District may be assisted in processing complaints as it deems appropriate.

GENERAL PROVISIONS
All complaints arising out of an event or related series of events must be addressed in one complaint. An employee is precluded from bringing separate or serial complaints concerning events about which the employee has previously complained. Costs of any complaint shall be paid by the party incurring them.

If the employee is not satisfied within seven working days of a complaint conference, or there has been no response within seven working days, the complaint shall be considered denied. The employee may immediately proceed to the next level. The complaint shall be considered concluded if at any level it is not appealed within the given time limit.

FILING
Complaint forms and appeal notices may be filed by hand-delivery, by electronic communication, including e-mail and fax, or by U.S. Mail. Hand-delivered filings shall be timely filed if received by the appropriate administrator or designee by the close of business on the deadline. Filings submitted by electronic communication shall be timely filed if they are received by the close of business on the deadline, as indicated by the date/time shown on the electronic communication. Mail filings shall be timely filed if they are postmarked by U.S. Mail on or before the deadline and received by the appropriate administrator or designated representative no more than three days after the deadline.

SCHEDULING CONFERENCES
The College District shall make reasonable attempts to schedule conferences at a mutually agreeable time. If the employee fails to appear at a scheduled conference, the College District may hold the conference and issue a decision in the employee’s absence.

TIME LIMITS
In resolving complaints, time is of the essence. All time limits shall be strictly complied with, unless extended by mutual consent. All references are to working days.
### INFORMAL PRESENTATION HEARING

Employees shall be entitled to administrative review conferences as outlined at LEVEL ONE, LEVEL TWO, and LEVEL THREE below and to an informal presentation of the complaint to the Board as specified at LEVEL FOUR, unless the Board grants a hearing.

### HEARING

If an employee alleges in writing specific facts that, if true, would constitute a violation of the employee’s common law, statutory, or constitutional rights, the College President or designee shall investigate the allegations. If the employee does not accept the College President’s resolution at Level Three and requests a Board hearing, the College President shall schedule a hearing as specified at LEVEL FOUR, below.

### LEVEL ONE

An employee who has a complaint shall submit the complaint in writing to his or her immediate supervisor within 15 days of the time the employee first knew or should have known of the event or series of events causing the complaint. The complaint must be submitted in writing on a form provided by the College District. The immediate supervisor shall then schedule a conference with the employee within seven days of the receipt of the written complaint. The immediate supervisor shall respond in writing within seven days of the complaint conference.

### LEVEL TWO

If the outcome of the complaint conference at Level One is not to the employee’s satisfaction, the employee may submit the complaint to the appropriate dean or a designee within 14 days after the Level One conference. The employee shall submit in writing the original complaint, the supervisor's response, and, if desired, written comments regarding the supervisor’s response. The appropriate dean or designee shall schedule a conference with the employee within seven days of receipt of the written complaint. The appropriate dean or designee shall respond in writing to the employee within seven days of the complaint conference.

### LEVEL THREE

If the outcome of the complaint at Level Two is not to the employee’s satisfaction, the employee may submit the complaint in writing to the College President or a designee within 14 days after the Level Two conference. The complaint shall include the complete written documentation of the complaint and, if desired, written comments regarding the appropriate dean’s or designee’s response. The College President or designee shall schedule a conference with the employee within seven days of receipt of the complaint. The College President or designee shall respond in writing to the employee within seven days of the complaint conference.

### LEVEL FOUR

If the written decision of the complaint at Level Three is not to the employee’s satisfaction, the employee may request to address the Board.
The request shall be submitted to the College President in writing within 14 days of the date of the written decision of the College President, and the grievance shall then be placed on the agenda of the next regular meeting of the Board provided that the notice requirements of the Texas Open Meetings Act can be complied with. In the event such notice requirements cannot be met at the time the request is filed, the grievance shall be placed on the agenda of the next regularly scheduled Board meeting. The employee shall also submit the complete written documentation of the complaint.

The College President shall inform the employee of the date, time, and place of the meeting. The Chairperson of the Board may set reasonable time limits on complaint presentations. The Board shall listen to the complaint but is not required to respond or take any action on the matter, unless at its sole discretion, the Board determines some response is warranted. No action by the Board upholds the administrative decision at Level Three.

Employees who are granted a hearing shall be afforded that hearing either with the Board in a meeting that includes the hearing as an item in the posted agenda or with the Board’s designee. If the Board conducts the hearing, it shall make and communicate its decision at any time up to and including the next regularly scheduled Board meeting.

If the Board’s designee conducts the hearing, he or she shall make a recommendation to the Board at the first regular meeting following the hearing that affords adequate time to prepare a written recommendation. The employee shall be provided a copy of the recommendation before the meeting and shall be given an opportunity at the meeting to respond to the recommendation either orally or in writing. The Board shall then make and communicate its decision at any time up to and including the next regularly scheduled Board meeting.

If the complaint involves the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of the employee, it will be heard in a closed meeting unless the employee requests it to be public. If the complaint involves complaints or charges about another employee, it will be heard in a closed meeting unless the employee complained about requests it to be heard in public.
CHILD ABUSE AND NEGLECT REPORTING POLICY AND TRAINING

Each institution of higher education shall adopt a policy governing the reporting of child abuse and neglect as required by Family Code Chapter 261 for the institution and its employees. The policy must require each employee of the institution to report child abuse and neglect in the manner required by Family Code Chapter 261.

Each institution of higher education shall provide training for employees who are professionals as defined by Family Code 261.101 in prevention techniques for and the recognition of symptoms of sexual abuse and other maltreatment of children and the responsibility and procedure of reporting suspected occurrences of sexual abuse and other maltreatment. The training must include:

1. Techniques for reducing a child's risk of sexual abuse or other maltreatment;
2. Factors indicating a child is at risk for sexual abuse or other maltreatment;
3. The warning signs and symptoms associated with sexual abuse or other maltreatment and recognition of those signs and symptoms; and
4. The requirements and procedures for reporting suspected sexual abuse or other maltreatment as provided by Family Code Chapter 261.

Education Code 51.9761

A person having cause to believe that a child’s physical or mental health or welfare has been adversely affected by abuse or neglect by any person shall immediately make a report as provided by Family Code Chapter 261, Subchapter B. Family Code 261.101(a)

A person or professional shall make a report in the manner required by Family Code 261.101(a) or (b), as applicable, if the person or professional has cause to believe that an adult was a victim of abuse or neglect as a child and the person or professional determines in good faith that disclosure of the information is necessary to protect the health and safety of:

1. Another child; or
2. An elderly or disabled person as defined by Human Resources Code 48.002.

Family Code 261.101(b-1)

PROFESSIONAL EMPLOYEES

If a professional has cause to believe that a child has been abused or neglected or may be abused or neglected, or that a child is a victim of an offense under Penal Code 21.11 (indecency with a
child), and the professional has cause to believe that the child has been abused as defined by Family Code 261.001 or 261.401, the professional shall make a report not later than the 48th hour after the hour the professional first suspects that the child has been or may be abused or neglected or is a victim of an offense under Penal Code 21.11 (indecency with a child). A professional may not delegate to or rely on another person to make the report.

"Professional" means an individual who is licensed or certified by the state or who is an employee of a facility licensed, certified, or operated by the state and who, in the normal course of official duties or duties for which a license or certification is required, has direct contact with children. The term includes teachers, nurses, doctors, day-care employees, and employees of a clinic or health care facility that provides reproductive services.

*Family Code 261.101(b)*

A report shall be made to:

1. Any local or state law enforcement agency;
2. The Department of Family and Protective Services (DFPS);
3. The state agency that operates, licenses, certifies, or registers the facility in which the alleged abuse or neglect occurred; or
4. The agency designated by the court to be responsible for the protection of children.

A report, other than a report under item 3, must be made to DFPS if the alleged or suspected abuse or neglect involves a person responsible for the care, custody, or welfare of the child.

*Family Code 261.103*
The governing board of each institution of higher education, including each college district, shall establish a program or a short course the purpose of which is to assist faculty members whose primary language is not English to become proficient in the use of English and ensure that courses offered for credit at the institution are taught in the English language and that all faculty members are proficient in the use of the English language, as determined by a satisfactory grade on the “Test of Spoken English” of the Educational Testing Service or a similar test approved by the board.

A faculty member may use a foreign language to conduct foreign language courses designed to be taught in a foreign language. This section does not prohibit a faculty member from providing individual assistance during course instruction to a non-English-speaking student in the native language of the student.

The cost of such English proficiency course as determined by the Coordinating Board shall be paid by the faculty member lacking proficiency in English. A faculty member must take the course until deemed proficient in English by his or her supervisor. The cost will be deducted from said faculty member’s salary.

*Education Code 51.917*

**Note:** For training regarding child abuse, see DHC.
DEFINITIONS

"CAREER TECHNICAL / WORKFORCE PROGRAM"  
“Career technical/workforce program” is an applied associate degree program or a certificate program for which semester credit hours (SCH), quarter credit hours, or continuing education units (CEUs) are awarded and which is intended to prepare students for immediate employment or a job upgrade in a specific occupation. 19 TAC 9.1(5)

"CONTINUING EDUCATION UNIT OR CEU"  
“Continuing education unit or CEU” is defined as ten contact hours of participation in an organized continuing education experience under responsible sponsorship, capable direction, and qualified instruction, as outlined in the Guidelines for Instructional Programs in Workforce Education. 19 TAC 9.1(11)

"WORKFORCE CONTINUING EDUCATION COURSE"  
“Workforce continuing education course” means 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 vocational purposes and is not supported by state funding. 19 TAC 9.1(31)

"WORKFORCE EDUCATION"  
“Workforce education” means career technical/workforce courses and programs for which semester/quarter credit and/or CEUs are awarded. Career technical/workforce education courses and programs prepare students for immediate employment or a job upgrade within specific occupational categories. 19 TAC 9.1(32)

GENERAL

Each public two-year college may classify career technical/workforce continuing education and other courses as earning SCH or CEUs. A course or program that meets or exceeds 360 hours in length must be approved as a career technical/workforce certificate program except by special justification and approval by Coordinating Board staff. A course or program that meets or exceeds 780 hours in length must result in the award of appropriate semester credit hours and be applicable to a certificate and an applied associate degree program. 19 TAC 9.93(l)

CAREER TECHNICAL / WORKFORCE CONTINUING EDUCATION COURSES

Any career technical/workforce continuing education course listed in the Workforce Education Course Manual (WECM) may be offered by any public two-year college without prior approval of the Coordinating Board. Courses in the current WECM are valid until revised or deleted by subsequent updates of the WECM.

All career technical/workforce continuing education courses shall meet the guidelines outlined in the Guidelines for Instructional Programs in Workforce Education as approved by the Coordinating Board and the WECM.

Any career technical/workforce continuing education program meeting or exceeding 360 contact hours shall be subject to all of
the requirements for career technical/workforce education programs for state appropriations as outlined in 19 Administrative Code Chapter 9, Subchapter E.

Any career technical/workforce continuing education program meeting or exceeding 780 contact hours in length must result in the award of semester or quarter credit hours and be applicable to a certificate and an applied associate degree program. An exception shall be made for Emergency Medical/Paramedic continuing education programs, which may reach 800 contact hours.

Tuition and fees for state-funded career technical/workforce continuing education courses shall be assessed according to policies established by the Coordinating Board. [See FD] The governing board of the institution shall establish tuition and fees for career technical/workforce continuing education courses not eligible for state appropriations.

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 WECM, and state law.

No funds appropriated to any public two-year college may be expended for any career technical/workforce continuing education course that has not been approved by the Coordinating Board staff. 19 TAC 9.95(a), .113–.114, .116–.117

STATE FUNDING
Contact hours reported for career technical/workforce education courses that result in either SCH or CEUs shall be eligible for state appropriations. 19 TAC 9.93(l), .115(a)

EXCEPTIONS
Career technical/workforce continuing education courses with fewer than seven contact hours of instruction will not receive state funding unless the specific type and length of instruction are required by local, state, or national licensing, certifying, regulatory, or accrediting agencies. 19 TAC 9.115(b)

WECM continuing education special topics courses that are not designed to prepare adult students for employment shall not be eligible for state appropriations. 19 TAC 9.115(d)

Note: For contractual agreements for the provision of instruction executed with outside entities, including workforce education, see GC.
MEDICALLY RELATED COURSES

The curricula of medical, dental, nursing, allied health, counseling, and social work degree or certificate programs shall:

1. Include information about methods of transmission and methods of prevention of HIV infection and information about federal and state laws, rules, and regulations concerning HIV infection and AIDS.

2. Give special attention to the physical, emotional, and psychological stress associated with the care of patients with terminal illnesses.

*Education Code 51.919(e)*
DEFINITIONS

"ACADEMIC ASSOCIATE DEGREE"

An "academic associate degree" is an associate degree that will satisfy the lower-division requirements for a baccalaureate degree in a specific discipline. \textit{19 TAC 9.1(1)}

"ACADEMIC COURSES"

"Academic courses" are semester credit courses included or allowed under the provisions of the Lower-Division Academic Course Guide Manual designed for college transfer to institutions of higher education in completion of associate and baccalaureate degree programs. \textit{19 TAC 9.1(2)}

"APPLIED ASSOCIATE DEGREE"

An "applied associate degree" is an associate degree intended to lead directly to employment following graduation and may satisfy the lower-division requirements for a baccalaureate degree in a specific discipline. \textit{19 TAC 9.1(3)}

"ASSOCIATE DEGREE PROGRAM"

An "associate degree program" is a grouping of courses designed to lead the individual directly to employment in a specific career or to transfer to an upper-level baccalaureate program. This specifically refers to the associate of arts (AA), associate of science (AS), associate of applied arts (AAA), associate of applied science (AAS), and associate of occupational studies (AOS) degrees. The term "applied" in an associate degree name indicates a program designed to qualify students for immediate employment. \textit{19 TAC 9.1(4)}

"CAREER TECHNICAL/WORKFORCE PROGRAM"

"Career technical/workforce program" is an applied associate degree program or a certificate program for which semester credit hours, quarter credit hours, or continuing education units are awarded and which is intended to prepare students for immediate employment or a job upgrade in a specific occupation. \textit{19 TAC 9.1(5)}

"CERTIFICATE PROGRAM"

"Certificate program" means workforce programs designed for entry-level employment or for upgrading skills and knowledge within an occupation. Certificate programs serve as building blocks and exit points for AAS degree programs. \textit{19 TAC 9.1(7)}

"CONTINUING EDUCATION UNIT OR CEU"

A "continuing education unit or CEU" is defined as ten contact hours of participation in an organized continuing education experience under responsible sponsorship, capable direction, and qualified instruction, as outlined in the Guidelines for Instructional Programs in Workforce Education. \textit{19 TAC 9.1(11)}

"TECHNICAL COURSES OR PROGRAMS"

"Technical courses or programs" mean workforce education courses or programs for which semester/quarter credit hours are awarded. \textit{19 TAC 9.1(28)}
"Workforce continuing education course" means 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 vocational purposes and is not supported by state funding. 19 TAC 9.1(31)

"Workforce education" means career technical/workforce courses and programs for which semester/quarter credit hours and/or CEUs are awarded and vocational courses and programs for which CEUs are awarded. Workforce career technical/workforce education courses and programs prepare students for immediate employment or a job upgrade within specific occupational categories. 19 TAC 9.1(32)

ACADEMIC DEGREE PROGRAMS

An academic associate degree may be called an associate of arts (AA), an associate of science (AS), or an associate of arts in teaching (AAT) degree. 19 TAC 9.183(a)

AA ONLY

The AA is the default title for an academic associate degree program if the college district offers only one type of academic degree program. 19 TAC 9.183(a)(1)

AA AND AS

If a college district offers both AA and AS degrees, the degree programs may be differentiated in one of two ways, including:

1. The AA program may have additional requirements in the liberal arts and/or the AS program may have additional requirements in disciplines such as science, mathematics, or computer science; or

2. The AA program may serve as a foundation for the bachelor of arts (BA) degree and the AS program for the bachelor of science (BS) degree.

Each academic associate degree must provide a clearly-articulated curriculum that can be associated with a discipline or field of study leading to a baccalaureate degree, and must be identified as such in the institution's program inventory. 19 TAC 9.183(a)(2)

AAT

The AAT is a specialized academic associate degree program designed to transfer in its entirety to a baccalaureate program that leads to initial Texas teacher certification. This title should only be used for an associate degree program that consists of a Coordinating Board-approved AAT curriculum. 19 TAC 9.183(a)(3)

SEMESTER CREDIT HOURS

Academic associate degree programs must consist of 60 semester credit hours (SCH). If the number of SCH required to complete a
proposed academic associate’s degree exceeds 60, the institution must provide detailed written documentation describing the compelling academic reason for the number of required hours, such as programmatic accreditation requirements, statutory requirements, or licensure/certification requirements that cannot be met without exceeding the 60-hour limit. The Coordinating Board will review the documentation provided and make a determination to approve or deny a request to exceed the 60-hour limit. Institutions of higher education must be in compliance with this subsection on or before the 2015 fall semester. 19 TAC 9.183(b)–(c)

**CURRICULUM**

Except as provided below, academic associate degree programs must incorporate the institution’s approved core curriculum as prescribed by 19 Administrative Code 4.28, relating to Core Curriculum, and 19 Administrative Code 4.29, relating to Core Curricula Larger than 42 SCH.

1. A college may offer a specialized academic associate degree that incorporates a Coordinating Board-approved field of study curriculum as prescribed by 19 Administrative Code 4.32, relating to Field of Study Curricula, and a portion of the college’s approved core curriculum if the coursework for both would total more than 60 SCH; or

2. A college may offer a specialized academic associate degree that incorporates a voluntary statewide transfer compact and a portion of the college’s approved core curriculum if the coursework for both would total more than 60 SCH.

3. A college that has a signed articulation agreement with a General Academic Teaching Institution to transfer a specified curriculum may offer a specialized AA or AS, but not AAT, degree program that incorporates that curriculum.

19 TAC 9.183(d)

**NEW ACADEMIC ASSOCIATE DEGREE PROGRAMS**

New academic associate degree programs shall be approved if all of the conditions set out below are met.

The institution shall certify that the following criteria have been met:

1. The program has institution and governing board approval.

2. There is recent evidence of both short-term and long-term student demand for the program.

3. Enrollment projections reflect student demand estimates to ensure the financial self-sufficiency of the program.

4. The institution has an enrollment management plan for the program.
5. If the program does not follow a Coordinating Board-approved field of study curriculum or a Coordinating Board-approved statewide articulation transfer curriculum, the institution has or will initiate a process to establish transfer of credit articulation agreements for the program with senior-level institutions.

6. The program is designed to be consistent with the standards of the Southern Association of Colleges Commission on Colleges (SACSCOC), other applicable accrediting agencies, and is in compliance with applicable licensing authority requirements.

7. Adequate funding is available to cover all new costs to the institution over the first five years after the implementation of the program.

8. The program complies with all applicable provisions contained in divisions of 19 Administrative Code Chapter 9, Subchapter J and adheres to the Standards for Academic Associate Degree Programs approved by the Coordinating Board.

The institution proposing the program shall notify all public institutions within 50 miles of the teaching site of their intention to offer the program at least 30 days prior to submitting their request to the Coordinating Board. If no objections are received, the Coordinating Board staff shall update the institution's program inventory accordingly. If objections occur, the proposed program shall not be implemented until all objections are resolved. If the proposing institution cannot resolve the objection(s), the proposing institution may request the assistance of the assistant commissioner of workforce, academic affairs and research to mediate the objections and determine whether the proposing institution may implement the proposed program.

The Coordinating Board delegates to the commissioner final approval authority for all certificate programs, applied associate degree programs, and academic associate degrees that meet Board policies for approval as outlined in the Guidelines for Instructional Programs in Workforce Education and 19 Administrative Code Chapter 9, Subchapter J. The commissioner may delegate this final authority.

19 TAC 9.184(a)

AUDITS

The Coordinating Board reserves the right to audit a certificate or degree program at any time to ensure compliance with any of the requirements of 19 Administrative Code Chapter 9, Subchapter J. 19 TAC 9.184(b)
Institutions of higher education, including college districts, are encouraged to develop undergraduate academic certificate programs of less than degree length. Undergraduate academic certificates may be awarded upon the completion of:

1. The Coordinating Board-approved core curriculum of the institution;
2. A Coordinating Board-approved field of study curriculum; or
3. Fifty percent of the courses specified in a voluntary statewide transfer compact.

Undergraduate academic certificates that meet one of the criteria above require Coordinating Board notification and are automatically approved.

19 TAC 4.36, 9.185

Requests for new associate degree and certificate programs shall be made in accordance with the procedures stipulated in 19 TAC 9.93(b), below.

Public two-year colleges shall request new associate degree and certificate programs using the appropriate degree program request form. Public two-year colleges must submit documentation sufficient to establish that the new program meets all of the criteria listed below. Coordinating Board staff will review all requests for new programs within five business days of receipt. If Coordinating Board staff determines that the request is incomplete and additional information or documentation is needed, the institution must respond with all of the requested information or documentation within ten working days or the request will be returned to the institution. An institution may resubmit a request that was incomplete as soon as it has obtained the requested information or documentation.

New associate degree and certificate programs shall be approved if all of the following conditions are met, provided that the number of SCH required to complete a proposed associate degree program does not exceed 60 SCH.

1. The institution shall certify that:
   a. The program has institutional and governing board approval.
   b. The institution has researched and documented current job market need for the program and/or that the program would lead to opportunities for further education.
c. There is recent evidence of both short-term and long-term student demand for the program.

d. Enrollment projections reflect student demand estimates to ensure the financial self-sufficiency of the program.

e. Basic and career technical/workforce skills have been integrated into the curriculum.

f. The institution has an enrollment management plan for the program.

g. The institution has or will initiate a process to establish articulation agreements for the program with secondary and/or senior-level institutions.

h. The program is designed to be consistent with the standards of the SACSCOC, and with the standards of other applicable accrediting agencies, and is in compliance with appropriate licensing authority requirements.

i. The program would not unnecessarily duplicate existing programs at other institutions.

j. Representatives from private sector business and industry have been involved in the creation of the program through participation in an advisory committee.

k. Adequate funding is available to cover all new costs to the institution over the first five years after the implementation of the program.

l. New costs during the first five years of the program would not exceed $2 million.

m. The institution has an improvement plan in place for all career technical/workforce programs that do not currently meet Coordinating Board standards for both graduation and placement.

n. The appropriate Higher Education Regional Council has been notified in writing of the proposal for a new program, and no unresolved objections to the program have been reported.

o. Skill standards recognized by the Texas Skill Standards Board, if they exist for the discipline, have been reviewed and considered for inclusion in the curriculum for the program.

2. If a proposed two-year career technical/workforce education program or certificate program meets the stipulated condi-
tions, the institution shall submit a request to the assistant commissioner for workforce, academic affairs and research to add the program. If a proposed program does not meet the stipulated conditions, the institution must submit a proposal using the standard electronic new program application process.

3. If the number of SCH required to complete a proposed associate's program exceeds 60, the institution must provide detailed written documentation describing the compelling academic reason for the number of required hours, such as programmatic accreditation requirements, statutory requirements, or licensure/certification requirements that cannot be met without exceeding the 60-hour limit. The Coordinating Board will review the documentation provided and make a determination to approve or deny a request to exceed the 60-hour limit. Institutions of higher education must be in compliance with this paragraph on or before the 2015 fall semester.

4. The institution proposing the program shall notify all public institutions within 50 miles of the teaching site of their intention to offer the program at least 30 days prior to submitting their request to the Coordinating Board. If no objections are received, the Coordinating Board staff shall update the institution's program inventory accordingly. If objections occur, the proposed program shall not be implemented until all objections are resolved. If the proposing institution cannot resolve the objection(s), the proposing institution may request the assistance of the assistant commissioner of workforce, academic affairs and research to mediate the objections and determine whether the proposing institution may implement the proposed program.

5. If objections to the proposed program are received by the Coordinating Board staff, the proposed program shall not be implemented until all objections are resolved.

The commissioner shall forward a program to the Coordinating Board for consideration at an appropriate quarterly meeting if either of the following conditions is met: the proposed program is the subject of an unresolved grievance or dispute between institutions; or the commissioner has disapproved the proposed program and the institution has requested a Coordinating Board review.

19 TAC 9.93(a)–(b), (e)

REVISIONS

Revision of an existing associate degree or certificate program shall be approved if all of the requirements above at item 1 at CAREER TECHNICAL / WORKFORCE DEGREE AND CERTIFICATE
PROGRAMS are met. To request a change of Classification of Instructional Programs (CIP) code for an existing degree or certificate program, the institution shall notify the Coordinating Board staff and certify that the revised program meets the requirements listed above at item 1. If the revision of an existing degree or certificate program meets the conditions stipulated at item 1, the institution shall submit a request to the assistant commissioner for academic affairs and research to revise the program. The Coordinating Board staff shall update the institution’s program inventory accordingly. If a program revision does not meet the conditions stipulated, the institution shall submit a revision request using the standard electronic program revision request process. *19 TAC 9.93(f)–(i)*

**AUDITS**

The Coordinating Board reserves the right to audit a certificate or degree program at any time to ensure compliance with any of the requirements in *19 TAC 9.93(m)*.

**ADMINISTRATIVE OFFICIALS**

All programs must be under the direction of an administrator having appropriate authority to ensure that quality is maintained and that programs are conducted in compliance with all applicable laws and rules. Administrative officers must possess credentials, work experience, and/or demonstrated competence appropriate to their areas of responsibility as specified by the SACSCOC. *19 TAC 9.93(j)*

**FACULTY AND STAFF**

Faculty and staff must be approved by the postsecondary institution. *19 TAC 9.93(k)*

**BACCALAUREATE DEGREE PROGRAMS**

The Coordinating Board shall authorize public junior colleges to offer baccalaureate degree programs in the fields of applied science and applied technology under Education Code 130.0012. Offering a baccalaureate degree program under Section 130.0012 does not otherwise alter the role and mission of a public junior college.

The Coordinating Board shall authorize baccalaureate degree programs at each public junior college that previously participated in a pilot project to offer baccalaureate degree programs.

*Education Code 130.0012(a)–(b)*

Public community colleges authorized by the Coordinating Board to offer baccalaureate degree programs under Education Code 130.0012 may submit requests for new baccalaureate degree programs if:

1. The proposed degree program has the approval of the college’s governing board;
2. The proposed degree program is not an engineering program; and

3. The addition of the proposed program to the college's inventory would not exceed five total approved baccalaureate degree programs.

19 TAC 5.56

LIMITATION ON SCH REQUIREMENTS

To earn an associate degree, a student may not be required by an institution of higher education, including a college district, to complete more than the minimum number of SCH required for the degree by the Southern Association of Colleges and Schools or its successor unless the institution determines that there is a compelling academic reason for requiring completion of additional SCH for the degree. The Coordinating Board may review one or more of an institution's associate degree programs to ensure compliance with this section.

This section does not apply to an associate degree awarded by an institution to a student enrolled in the institution before the 2015 fall semester. This provision does not prohibit the institution from reducing the number of SCH the student must complete to receive the degree.

Education Code 61.05151

STATE FUNDING

No funds appropriated to any public two-year college or other institution providing certificate or associate degree programs shall be expended for any program that has not been approved by the commissioner or the assistant commissioner for workforce, academic affairs and research or, when applicable, by the Coordinating Board. 19 TAC 9.96

DEGREE-SEEKING STUDENTS

A student who is concurrently enrolled at more than one institution of higher education may be classified as a degree-seeking student at only one institution.

If a student maintains continuous enrollment from a spring semester to the subsequent fall semester at an institution at which the student has declared to be seeking a degree, the student remains a degree-seeking student at that institution regardless of the student's enrollment during the intervening summer sessions at another institution.

19 TAC 4.28(d)(2)–(3)

COMPENSATORY COURSES

Courses designated as compensatory in the Lower-Division Academic Course Guide Manual may not be used to satisfy degree requirements. Such courses may be used as corequisites or pre-
requisites for degree courses as determined by local institutions.  
_19 TAC 9.76_

LOW-PRODUCING DEGREE PROGRAMS

The Coordinating Board may review the number of degrees or certificates awarded through a degree or certificate program every four years or more frequently, at the Coordinating Board's discretion. The Coordinating Board shall review each degree or certificate program offered by an institution of higher education at least every ten years after a new program is established using the criteria prescribed by Education Code 61.0512(c). _Education Code 61.0512(d)–(e); 19 TAC Ch. 4, Subch. R_

DEFINITION

A “low-producing degree program” is a degree program that does not meet the minimum standard for degrees awarded in the program. For career technical certificates, associate, and bachelor’s programs, the minimum standard is an average of five degrees awarded per academic year, to total not fewer than 25 degrees awarded for any five-year period. _19 TAC 4.287(4)_

CONSEQUENCES

The Coordinating Board may not order the consolidation or elimination of any degree or certificate program offered by an institution of higher education. Coordinating Board staff will recommend to the institution’s governing board, or to an institution where a system does not exist, the closure of any non-exempt degree program which has been on the annual list of low-producing programs for three or more consecutive years. If the governing board or institution does not accept the recommendation to close the program, then the university system or, where a system does not exist, the institution, must identify the programs recommended for closure on the next legislative appropriations request submitted by the system or institution. _Education Code 61.0512(f); 19 TAC 4.290_
“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” (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” (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” (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 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 those students’ optimum development. Labor Code 315.003; 40 TAC 805
JUNIOR COLLEGE
CHARTER SCHOOLS

In accordance with Education Code Chapter 12, Subchapter E, the commissioner of education may grant a charter upon application of a public junior college for an open-enrollment charter school to operate on the campus of the public junior college or in the same county in which the campus of the public junior college is located. Notwithstanding Education Code 12.110(d), the commissioner of education may grant such a charter to the public junior college only if the following criteria are satisfied in the public junior college’s application, as determined by the commissioner of education [see 19 Administrative Code 100.1017 for the application of administrative regulations found at 19 Administrative Code Chapter 100]:

1. The junior college charter school’s educational program must be implemented under the direct supervision of a member of the faculty of the public junior college.

2. The faculty member supervising the junior college charter school’s educational program must have substantial experience and expertise in teacher education, classroom instruction, or educational administration.

3. The junior college charter school’s educational program must be designed to meet specific goals described in the charter, such as dropout recovery, and each aspect of the program must be directed toward the attainment of the goals.

4. The attainment of the junior college charter school’s educational program goals must be measured using specific, objective standards set forth in the charter, including assessment methods and a time frame.

5. The financial operations of the junior college charter school must be supervised by the business office of the junior college.

*Education Code 12.152, .154(b)*

The name of a junior college charter school must include the name of the junior college operating the school. *Education Code 12.155*

Education Code Chapter 12, Subchapter D applies to a junior college charter school as though this school were granted a charter under that subchapter. *Education Code 12.156(a)*

OPEN-ENROLLMENT
CHARTER SCHOOLS

In accordance with Education Code Chapter 12, Subchapter D, the commissioner of education may grant a charter on the application of an eligible entity, including a college district or other institution of higher education, for an open-enrollment charter school to operate in a facility of a commercial or nonprofit entity, an eligible entity, or
a school district, including a home-rule school district. *Education Code 12.101(a); 19 TAC Ch. 100, Subch. A, AA*

**Note:** For provisions regarding instructional partnerships with public school districts, including the provision of dual credit, see policy GH.
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**

**“COURSE PAIRING”**

“Course pairing” (also known as mainstreaming) is an instructional strategy whereby students are enrolled or reenrolled simultaneously in a developmental education course and/or intervention and the entry-level freshman course of the same subject matter within the same semester. The developmental component provides support that advances students’ success in the entry-level freshman course. *19 TAC 4.53(7)*

**“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(8)*

**“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 prerequisites and is open to any student meeting Texas Success Initiative (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(12)*

**“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(14)*
"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(17)

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)

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)

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 Texas Success Initiative (TSI) Assessment offered by the College Board as the only Coordinating Board-approved assessment instrument under this title. 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. Education Code 51.3062(c); 19 TAC 4.56

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

The Phase I, II, and Final Phase college readiness passing standard for the writing portion of the TSI Assessment is an essay score of 5. However, an essay score of 4 will meet this standard if the student also meets the multiple choice writing standard of 363.

An institution shall not require higher Phase I, II, and Final Phase college readiness standards on any or all portions of the TSI 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); 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(21)

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 developmental 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., advisor, 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)

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; and
2. Student performance on one or more appropriate assessments, including scores resulting from a student's retaking of the TSI Assessment.

As indicators of readiness, institutions shall consider, as appropriate:

1. Performance in developmental education.
2. Performance in appropriate nondevelopmental coursework.

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:

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)

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):

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: 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, and/or 500 on the mathematics test shall be exempt for the mathematics section of the TSI Assessment.

Education Code 51.3062(p); 19 TAC 4.54(a), (d)

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:
   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

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)* [For TAAS exemptions, see 19 TAC 4.54(a)(2)]

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.

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)*

7. A student who successfully completes a college preparatory course under Education Code 28.014 is exempt for a period of 12 months from the date of high school graduation with re-
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<th>MILITARY EXPERIENCE</th>
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<td>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</td>
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<td>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.</td>
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*Education Code 51.3062(r); 19 TAC 4.54(a)*

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<th>NOT SEEKING A CREDENTIAL</th>
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<td>An institution of higher education may exempt a non-degree-seeking or non-certificate-seeking student. <em>Education Code 51.3062(s); 19 TAC 4.54(b)</em></td>
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<th>ESOL WAIVER</th>
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<td>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 Languages/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. <em>19 TAC 4.54(c)</em></td>
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SECTION F: STUDENTS

FA   EQUAL EDUCATIONAL OPPORTUNITY
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FB   ADMISSIONS
     Transfers

FC   ATTENDANCE
     Withdrawal

FD   TUITION AND FEES
     Residency

FE   FINANCING EDUCATION
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FG   STUDENT HOUSING

FH   STUDENT AWARDS

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FJ   STUDENT RECORDS

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DATE ISSUED: 3/4/2015
SECTION F: STUDENTS

FLBA  Student Dress
FLBC  Prohibited Organizations and Hazing
FLBD  Tobacco Use
FLBE  Alcohol and Drug Use
FLBF  Weapons
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 FFD.

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
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)

Sexual harassment of students is discrimination on the basis of sex under Title IX. Franklin v. Gwinnett County Schools, 503 U.S. 60 (1992) [See also FFD]

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. Davis v. Monroe County Bd. of Educ., 526 U.S. 629 (1999)

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. Gebser v. Lago Vista Indep. Sch. Dist., 524 U.S. 274 (1998)

An educational entity must reasonably respond to known student-on-student harassment where the harasser is under the entity's disciplinary authority. Davis v. Monroe County Bd. of Educ., 526 U.S. 629 (1999)

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:

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:

   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)

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)
"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. 34 C.F.R. 668.46(j)(2)(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. 34 C.F.R. 668.46(j)(2)(ii)

"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 paragraph 1 above. 34 C.F.R. 668.46(j)(2)(iii)

"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. 34 C.F.R. 668.46(j)(2)(iv)

"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. 34 C.F.R. 668.46(j)(2)(v)

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:

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 advisor 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)

“ADVISOR”

“Advisor” 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. \(34 \text{C.F.R. 668.46(k)(3)(iv)}\)

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.

\(34 \text{C.F.R. 668.46(a)}\)

"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.

\(34 \text{C.F.R. 668.46(a)}\)
“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” 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” 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)

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)
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

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

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

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

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
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. 42 U.S.C. 12132; 28 C.F.R. 35.130

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)

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)

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 a public entity. 42 U.S.C. 12131(2)
“MAJOR LIFE ACTIVITIES” “Major life activities” include caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. “Major life activity” also includes the operation of major bodily functions, including functions of the immune system, normal cell growth, and digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions. 42 U.S.C. 12102(2)

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. 28 C.F.R. 35.130(b)(7)

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

RETAILIATION 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)
Under the Americans with Disabilities Act (ADA), “service animal” means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition.

The work or tasks performed by a service animal must be directly related to the individual’s disability. Examples of work or tasks include, but are not limited to, assisting individuals who are blind or have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing non-violent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, and helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors.

The crime deterrent effects of an animal’s presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition.

28 C.F.R. 35.104

A public entity, including a college district, shall modify its policies, practices, or procedures to permit the use of a service animal by an individual with a disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity. 28 C.F.R. 35.130(b)(7), .136(a) [See FA(LEGAL)]

Individuals with disabilities shall be permitted to be accompanied by their service animals in all areas of a public entity’s facilities, where members of the public, participants in services, programs or activities, or invitees, as relevant, are allowed to go. 28 C.F.R. 35.136(g)

A public entity may ask an individual with a disability to remove a service animal from the premises if:

1. The animal is out of control and the animal’s handler does not take effective action to control it; or

2. The animal is not housebroken.

28 C.F.R. 35.136(b)
The ADA does not require a public entity to permit an individual to participate in or benefit from the services, programs, or activities of that public entity when that individual poses a direct threat to the health or safety of others. *28 C.F.R. 35.139*  [See FA(LEGAL)]

If a public entity properly excludes a service animal, it shall give the individual with a disability the opportunity to participate in the service, program, or activity without having the service animal on the premises. *28 C.F.R. 35.136(c)*

A service animal shall be under the control of its handler. A service animal shall have a harness, leash, or other tether, unless either the handler is unable because of a disability to use a harness, leash, or other tether, or the use of a harness, leash, or other tether would interfere with the service animal’s safe, effective performance of work or tasks, in which case the service animal must be otherwise under the handler’s control (e.g., voice control, signals, or other effective means). *28 C.F.R. 35.136(d)*

A public entity shall not ask about the nature or extent of a person’s disability, but may make two inquiries to determine whether an animal qualifies as a service animal. A public entity may ask if the animal is required because of a disability and what work or task the animal has been trained to perform.

A public entity shall not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal.

Generally, a public entity may not make these inquiries about a service animal when it is readily apparent that an animal is trained to do work or perform tasks for an individual with a disability (e.g., the dog is observed guiding an individual who is blind or has low vision, pulling a person’s wheelchair, or providing assistance with stability or balance to an individual with an observable mobility disability).

*28 C.F.R. 35.136(f)*

A public entity is not responsible for the care or supervision of a service animal. *28 C.F.R. 35.136(e)*

A public entity shall not ask or require an individual with a disability to pay a surcharge, even if people accompanied by pets are required to pay fees, or to comply with other requirements generally not applicable to people without pets.
If a public entity normally charges individuals for the damage they cause, an individual with a disability may be charged for damage caused by his or her service animal.

28 C.F.R. 35.136(h)

The Fair Housing Act (FHA) prohibits discrimination against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a handicap of that person; person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or any person associated with that person.

Discrimination includes a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling.

42 U.S.C. 3604; 24 C.F.R. 100.204

The reasonable accommodation provisions must be considered in situations where persons with disabilities use, or seek to use, assistance animals in housing where the provider forbids residents from having pets or otherwise imposes restrictions or conditions relating to pets and other animals.

An assistance animal is not a pet. It is an animal that works, provides assistance, or performs tasks for the benefit of a person with a disability, or provides emotional support that alleviates one or more identified symptoms or effects of a person's disability. Assistance animals perform many disability-related functions, including but not limited to, guiding individuals who are blind or have low vision, alerting individuals who are deaf or hard of hearing to sounds, providing protection or rescue assistance, pulling a wheelchair, fetching items, alerting persons to impending seizures, or providing emotional support to persons with disabilities who have a disability-related need for such support. While dogs are the most common type of assistance animal, other animals can also be assistance animals.

For purposes of reasonable accommodation requests, the FHA does not require an assistance animal to be individually trained or certified.

MINIATURE HORSES
REASONABLE MODIFICATIONS

A public entity shall make reasonable modifications in policies, practices, or procedures to permit the use of a miniature horse by an individual with a disability if the miniature horse has been individually trained to do work or perform tasks for the benefit of the individual with a disability. 28 C.F.R. 35.136(i)(1)

ASSESSMENT FACTORS

In determining whether reasonable modifications in policies, practices, or procedures can be made to allow a miniature horse into a specific facility, a public entity shall consider:

1. The type, size, and weight of the miniature horse and whether the facility can accommodate these features;
2. Whether the handler has sufficient control of the miniature horse;
3. Whether the miniature horse is housebroken; and
4. Whether the miniature horse’s presence in a specific facility compromises legitimate safety requirements that are necessary for safe operation.

28 C.F.R. 35.136(i)(2)

OTHER REQUIREMENTS

Provisions at 28 C.F.R. 35.136(c) through (h) shall also apply to miniature horses. 28 C.F.R. 35.136(i)(3)

STATE LAW

“Assistance animal” or “service animal” means a canine that is specially trained or equipped to help a person with a disability and that is used by a person with a disability. Human Resources Code 121.002(1)

PUBLIC FACILITIES DEFINITIONS

“ASSISTANCE ANIMAL” OR “SERVICE ANIMAL”

“PERSON WITH A DISABILITY”

“Person with a disability” means a person who has a mental or physical disability; an intellectual or developmental disability; a hearing impairment; deafness; a speech impairment; a visual impairment; post-traumatic stress disorder; or any health impairment that requires special ambulatory devices or services. Human Resources Code 121.002(4)

“PUBLIC FACILITY”

“Public facility” includes a street, highway, sidewalk, walkway, common carrier, airplane, motor vehicle, railroad train, motor bus, streetcar, boat, or any other public conveyance or mode of transportation; a hotel, motel, or other place of lodging; a public building maintained by any unit or subdivision of government; a retail business, commercial establishment, or office building to which the general public is invited; a college dormitory or other educational facility; a restaurant or other place where food is offered for sale to
the public; and any other place of public accommodation, amusement, convenience, or resort to which the general public or any classification of persons from the general public is regularly, normally, or customarily invited.

ASSISTANCE ANIMAL ACCESS

No person with a disability may be denied admittance to any public facility in the state because of the person's disability or may be denied the use of an assistance animal.

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 use of assistance animals, would fall within the designated class.

A service animal in training shall not be denied admittance to any public facility when accompanied by an approved trainer.

Human Resources Code 121.003(c), (e), (i)

HARASSMENT AND HARM PROHIBITED

A person may not assault, harass, interfere with, kill, or injure in any way, or attempt to assault, harass, interfere with, kill, or injure in any way, an assistance animal. Human Resources Code 121.003(j)

TRANSPORTATION

No common carrier, airplane, railroad train, motor bus, streetcar, boat, or other public conveyance or mode of transportation operating within the state may refuse to accept as a passenger a person with a disability because of the person's disability, nor may a person with a disability be required to pay an additional fare because of his or her use of a service animal. Human Resources Code 121.003(b)

HOUSING

A person with a total or partial disability who has or obtains a service animal is entitled to full and equal access to all housing accommodations provided for in this section and may not be required to pay extra compensation or make a deposit for the animal but is liable for damages done to the premises by the animal except for reasonable wear and tear.

INQUIRIES

A person is not entitled to make demands or inquiries relating to the qualifications or certifications of a service animal for purposes of admittance to a public facility except to determine the basic type of assistance provided by the service animal to a person with a disability.

EXCEPTION

If a person's disability is not readily apparent, for purposes of admittance to a public facility with a service animal, a staff member or manager of the facility may inquire about:
1. Whether the service animal is required because the person has a disability; and

2. What type of work or task the service animal is trained to perform.

_Human Resources Code 121.003(k)–(l)_

**RESPONSIBILITIES OF PERSONS WITH DISABILITIES**

A person with a disability who uses an assistance animal for assistance in travel is liable for any damages done to the premises or facilities by the animal.

A person with a disability who uses an assistance animal for assistance in travel or auditory awareness shall keep the animal properly harnessed or leashed, and a person who is injured by the animal because of the failure of a person with a disability to properly harness or leash the animal is entitled to maintain a cause of action for damages in a court of competent jurisdiction under the same law applicable to other causes brought for the redress of injuries caused by animals.

_Human Resources Code 121.005_

**PENALTIES**

A person, including a firm, association, or other public or private organization or the agent of the person, who violates a provision of Human Resources Code 121.003 commits an offense. An offense under this section is a misdemeanor punishable by:

1. A fine of not more than $300; and

2. Thirty hours of community service to be performed for a governmental entity or nonprofit organization that primarily serves persons with visual impairments or other disabilities, or for another entity or organization at the discretion of the court, to be completed in not more than one year.

In addition to the penalty provided above, a person, including a firm, association, or other public or private organization or the agent of the person, who violates a provision of Human Resources Code 121.003 is deemed to have deprived a person with a disability of his or her civil liberties. The person with a disability deprived of his or her civil liberties may maintain a cause of action for damages in a court of competent jurisdiction, and there is a conclusive presumption of damages in the amount of at least $300 to the person with a disability.

_Human Resources Code 121.004_
In this section, “service animal” means a canine that is specially trained or equipped to help a person with a disability. An animal that provides only comfort or emotional support to a person is not a service animal under this section. The tasks that a service animal may perform in order to help a person with a disability must be directly related to the person’s disability and may include:

1. Guiding a person who has a visual impairment;
2. Alerting a person who has a hearing impairment or who is deaf;
3. Pulling a wheelchair;
4. Alerting and protecting a person who has a seizure disorder;
5. Reminding a person who has a mental illness to take prescribed medication; and
6. Calming a person who has post-traumatic stress disorder.

Health and Safety Code 437.023(c)

A food service establishment, retail food store, or other entity regulated under Health and Safety Code Chapter 437 may not deny a service animal admittance into an area of the establishment or store or of the physical space occupied by the entity that is open to customers and is not used to prepare food if the service animal is accompanied and controlled by a person with a disability; or the service animal is in training and is accompanied and controlled by an approved trainer. Health and Safety Code 437.023(a)

If a service animal is accompanied by a person whose disability is not readily apparent, for purposes of admittance to a food service establishment, retail food store, or physical space occupied by another entity regulated under this chapter, a staff member of the establishment, store, or entity may only inquire about whether the service animal is required because the person has a disability and what type of work the service animal is trained to perform. Health and Safety Code 437.023(b)
**STUDENT WELFARE**

**FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION**

**FFD (LEGAL)**

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**Note:** This policy addresses complaints of discrimination, harassment, and retaliation targeting students. For legally referenced material relating to discrimination, harassment, and retaliation, see FA(LEGAL). For harassment of employees, see DIA.

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**SECTION 504**

A recipient of federal financial assistance, including a college district, 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 admission to postsecondary educational institutions.

A recipient that employs 15 or more persons shall designate at least one person to coordinate its efforts to comply with Part 104.

34 C.F.R. 104.7

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**AMERICANS WITH DISABILITIES ACT**

A public entity, including a college district, that employs 50 or more persons shall adopt and publish grievance procedures providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by 28 C.F.R. Part 35 (Americans with Disabilities Act regulations).

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 Part 35, including any investigation of any complaint communicated to it alleging its noncompliance with this part or alleging any actions that would be prohibited by this part. The public entity shall make available to all interested individuals the name, office address, and telephone number of the designated employee or employees.

28 C.F.R. 35.107

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**TITLE IX**

A recipient of federal financial assistance, directly or indirectly, shall adopt and publish grievance procedures providing for prompt and equitable resolution of student complaints alleging any action prohibited by Title IX of the Education Amendments of 1972.

Each recipient shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under this part, including any investigation of any complaint communicated to such recipient alleging its noncompliance with this part or alleging any actions that would be prohibited by this part. The recipient shall notify all its students and employees of the name, office
Each recipient of federal financial assistance shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under the Age Discrimination Act of 1975 and 34 C.F.R. Part 110, including investigation of any complaints that the recipient receives alleging any actions that are prohibited by the Act and these regulations. A recipient shall notify its beneficiaries, in a continuing manner, of information regarding the provisions of the Act and the associated regulations. The notification must also identify the responsible employee by name or title, address, and telephone number.

A recipient shall adopt and publish grievance procedures providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by the Act or the regulations.

34 C.F.R. 106.8

34 C.F.R. 110.25
Note: This policy addresses discrimination, harassment, and retaliation targeting College District students. For the College District’s response regarding discrimination, harassment, and retaliation targeting College District employees, see DIA.

STATEMENT OF NONDISCRIMINATION
The College District prohibits discrimination, including harassment, against any student on the basis of race, color, religion, gender, national origin, disability, age, or any other basis prohibited by law. Retaliation against anyone involved in the complaint process is a violation of College District policy and is prohibited.

DISCRIMINATION
Discrimination against a student is defined as conduct directed at a student on the basis of race, color, religion, gender, national origin, disability, age, or on any other basis prohibited by law, that adversely affects the student.

PROHIBITED HARASSMENT
Prohibited harassment of a student is defined as physical, verbal, or nonverbal conduct based on the student’s race, color, religion, gender, national origin, disability, age, or any other basis prohibited by law that is so severe, persistent, or pervasive that the conduct limits or denies a student's ability to participate in or benefit from the College District’s educational program.

EXAMPLES
Examples of prohibited harassment may include offensive or derogatory language directed at another person’s religious beliefs or practices, accent, skin color, or need for accommodation; threatening, intimidating, or humiliating conduct; offensive jokes, name-calling, slurs, or rumors; physical aggression or assault; display of graffiti or printed material promoting racial, ethnic, or other negative stereotypes; or other kinds of aggressive conduct such as theft or damage to property.

SEXUAL HARASSMENT BY AN EMPLOYEE
Sexual harassment of a student by a College District employee includes unwelcome sexual advances; requests for sexual favors; sexually motivated physical, verbal, or nonverbal conduct; or other conduct or communication of a sexual nature when:

1. A College District employee causes the student to believe that the student must submit to the conduct in order to participate in a school program or activity, or that the employee will make an educational decision based on whether or not the student submits to the conduct; or

2. The conduct is so severe, persistent, or pervasive that it limits or denies the student’s ability to participate in or benefit from the College District’s educational program.
### BY OTHERS
Sexual harassment of a student, including harassment committed by another student, includes unwelcome sexual advances; requests for sexual favors; or sexually motivated physical, verbal, or nonverbal conduct when the conduct is so severe, persistent, or pervasive that it limits or denies a student’s ability to participate in or benefit from the College District’s educational program.

### SEXUAL VIOLENCE
Sexual violence is a form of sexual harassment. Sexual violence includes physical sexual acts perpetrated against a person’s will or where a person is incapable of giving consent due to the victim’s use of drugs or alcohol or due to an intellectual or other disability.

### EXAMPLES
Examples of sexual harassment of a student may include sexual advances; touching intimate body parts or coercing physical contact that is sexual in nature; jokes or conversations of a sexual nature; rape; sexual assault; sexual battery; sexual coercion; and other sexually motivated conduct, communications, or contact.

Physical contact not reasonably construed as sexual in nature is not sexual harassment.

### GENDER-BASED HARASSMENT
Gender-based harassment includes physical, verbal, or nonverbal conduct based on the student’s gender, the student’s expression of characteristics perceived as stereotypical for the student’s gender, or the student’s failure to conform to stereotypical notions of masculinity or femininity. For purposes of this policy, gender-based harassment is considered prohibited harassment if the conduct is so severe, persistent, or pervasive that the conduct limits or denies a student’s ability to participate in or benefit from the College District’s educational program.

### EXAMPLES
Examples of gender-based harassment directed against a student, regardless of the student’s or the harasser’s actual or perceived sexual orientation or gender identity, may include offensive jokes, name-calling, slurs, or rumors; physical aggression or assault; threatening or intimidating conduct; or other kinds of aggressive conduct such as theft or damage to property.

### RETALIATION
The College District prohibits retaliation by a student or College District employee against a student alleged to have experienced discrimination or harassment or another student who, in good faith, makes a report of harassment or discrimination, serves as a witness, or otherwise participates in an investigation.

### EXAMPLES
Examples of retaliation may include threats, rumor spreading, ostracism, assault, destruction of property, unjustified punishments, or unwarranted grade reductions. Unlawful retaliation does not include petty slights or annoyances.
A student who intentionally makes a false claim, offers false statements, or refuses to cooperate with a College District investigation regarding discrimination or harassment shall be subject to appropriate disciplinary action.

In this policy, the term “prohibited conduct” includes discrimination, harassment, and retaliation as defined by this policy, even if the behavior does not rise to the level of unlawful conduct.

Any student who believes that he or she has experienced prohibited conduct or believes that another student has experienced prohibited conduct should immediately report the alleged acts to a responsible employee.

Any College District employee who suspects and any responsible employee who receives notice that a student or group of students has or may have experienced prohibited conduct shall immediately notify the appropriate College District official listed in this policy and shall take any other steps required by this policy.

A person who holds a professional license requiring confidentiality, such as a counselor, or who is supervised by such a person shall not be required to disclose a report of prohibited conduct without the student’s consent.

A person who is a non-professional counselor or advocate designated in administrative procedures as a confidential source shall not be required to disclose information regarding an incident of prohibited conduct that constitutes personally identifiable information about a student or other information that would indicate the student’s identity without the student’s consent, unless the person is disclosing information as required for inclusion in the College District’s annual security report under the Clery Act [see GAC].

For purposes of this policy, a “responsible employee” is an employee:

1. Who has the authority to remedy prohibited conduct.
2. Who has been given the duty of reporting incidents of prohibited conduct.
3. Whom a student reasonably believes has the authority to remedy prohibited conduct or has been given the duty of reporting incidents of prohibited conduct.

The College District designates the following persons as responsible employees: any instructor, any administrator, or any College District official defined below.
DEFINITION OF COLLEGE DISTRICT OFFICIALS

For the purposes of this policy, College District officials are the ADA/Section 504 coordinator, the Title IX coordinator, and the College President.

ADA / SECTION 504 COORDINATOR

Reports of discrimination based on disability may be directed to the ADA/Section 504 coordinator. The College District designates the following person to coordinate its efforts to comply with Title II of the Americans with Disabilities Act of 1990, as amended, which incorporates and expands the requirements of Section 504 of the Rehabilitation Act of 1973, as amended:

Name: Rosemary Coffman
Position: Associate Dean/Counselor for Students with Disabilities
Address: 511 S. Whiting, Baytown, TX 77520-4703
Telephone: (281) 425-6387

TITLE IX COORDINATOR

Reports of discrimination based on sex, including sexual harassment or gender-based harassment, may be directed to the Title IX coordinator. The College District designates the following person to coordinate its efforts to comply with Title IX of the Education Amendments of 1972, as amended:

Name: Amanda Summers
Position: Director of Human Resources
Address: 511 S. Whiting, Baytown, TX 77520-4703
Telephone: (281) 425-6533

OTHER ANTI-DISCRIMINATION LAWS

The College President or designee shall serve as coordinator for purposes of College District compliance with all other antidiscrimination laws.

ALTERNATIVE REPORTING PROCEDURES

A student shall not be required to report prohibited conduct to the person alleged to have committed the conduct. Reports concerning prohibited conduct, including reports against the ADA/Section 504 coordinator or the Title IX coordinator, may be directed to the College President.

A report against the College President may be made directly to the Board. If a report is made directly to the Board, the Board shall appoint an appropriate person to conduct an investigation.

TIMELY REPORTING

Reports of prohibited conduct shall be made as soon as possible after the alleged act or knowledge of the alleged act. A failure to immediately report may impair the College District's ability to investigate and address the prohibited conduct.
INVESTIGATION OF THE REPORT

The College District may request, but shall not require, a written report. If a report is made orally, the College District official shall reduce the report to written form.

INITIAL ASSESSMENT

Upon receipt or notice of a report, the College District official shall determine whether the allegations, if proven, would constitute prohibited conduct as defined by this policy. If so, the College District official shall immediately authorize or undertake an investigation, except as provided below at CRIMINAL INVESTIGATION.

INTERIM ACTION

If appropriate and regardless of whether a criminal or regulatory investigation regarding the alleged conduct is pending, the College District shall promptly take interim action calculated to address prohibited conduct prior to the completion of the College District’s investigation.

COLLEGE DISTRICT INVESTIGATION

The investigation may be conducted by the College District official or a designee or by a third party designated by the College District, such as an attorney. The investigator shall have received appropriate training regarding the issues related to the complaint and the relevant College District’s policy and procedures.

The investigation may consist of personal interviews with the person making the report, the person against whom the report is filed, and others with knowledge of the circumstances surrounding the allegations. The investigation may also include analysis of other information or documents related to the allegations.

CRIMINAL INVESTIGATION

If a law enforcement or regulatory agency notifies the College District that a criminal or regulatory investigation has been initiated, the College District shall confer with the agency to determine if the College District’s investigation would impede the criminal or regulatory investigation. The College District shall proceed with its investigation only to the extent that it does not impede the ongoing criminal or regulatory investigation. After the law enforcement or regulatory agency has completed gathering its evidence, the College District shall promptly resume its investigation.

CONCLUDING THE INVESTIGATION

Absent extenuating circumstances, such as a request by a law enforcement or regulatory agency for the College District to delay its investigation, the investigation should be completed within ten College District business days from the date of the report; however, the investigator shall take additional time if necessary to complete a thorough investigation.

The investigator shall prepare a written report of the investigation. The report shall be filed with the College District official overseeing the investigation.
The College District shall provide written notice of the outcome, within the extent permitted by the Family Educational Rights and Privacy Act (FERPA) or other law, to the victim and the person against whom the complaint is filed.

If the results of an investigation indicate that prohibited conduct occurred, the College District shall promptly respond by taking appropriate disciplinary or corrective action reasonably calculated to address the conduct in accordance with College District policy and procedures [see FM and FMA].

Examples of corrective action may include a training program for those involved in the complaint, a comprehensive education program for the College District community, counseling for the victim and the student who engaged in prohibited conduct, follow-up inquiries to determine if any new incidents or any instances of retaliation have occurred, involving students in efforts to identify problems and improve the College District climate, increasing staff monitoring of areas where prohibited conduct has occurred, and reaffirming the College District’s policy against discrimination and harassment.

The College District shall minimize attempts to require a student who complains of sexual harassment to resolve the problem directly with the person who engaged in the harassment; however, if that is the most appropriate resolution method, the College District shall be involved in an appropriate manner. Mediation shall not be used to resolve sexual harassment complaints.

If the investigation reveals improper conduct that did not rise to the level of prohibited conduct, the College District may take disciplinary action in accordance with College District policy and procedures or other corrective action reasonably calculated to address the conduct.

To the greatest extent possible, the College District shall respect the privacy of the complainant, persons against whom a report is filed, and witnesses. Limited disclosures may be necessary in order to conduct a thorough investigation and comply with applicable law.

A student who is dissatisfied with the outcome of the investigation may appeal through FLD(LOCAL), beginning at the appropriate level. A student shall be informed of his or her right to file a complaint with the United States Department of Education Office for Civil Rights.

Retention of records shall be in accordance with the College District’s records retention procedures. [See CIA]
Information regarding this policy and any accompanying procedures, as well as relevant educational and resource materials concerning the topics discussed in this policy, shall be distributed annually to College District employees and students in a manner calculated to provide easy access and wide distribution, such as through electronic distribution and inclusion in major College District publications. Information regarding the policy, procedures, and related materials shall also be prominently published on the College District’s website. Copies of the policy and procedures shall be readily available at the College District’s administrative offices and shall be distributed to a student who makes a report.
To be eligible to receive housing assistance from an institution of higher education, including a college district, a student must:

1. Have been under the conservatorship of the Department of Family and Protective Services or its predecessor in function on the day preceding:
   a. The student's 18th birthday; or
   b. The date the student's disabilities of minority are removed by a court under Family Code Chapter 31.

2. Be enrolled full-time at the institution during the academic term immediately preceding the period for which the student requests the housing assistance;

3. Be registered or otherwise have taken the actions required by the institution to permit the student to enroll full-time at the institution during the academic term immediately following the period for which the student requests the housing assistance; and

4. Lack other reasonable temporary housing alternatives between the academic terms described above, as determined by the institution.

On the student's request, each institution of higher education shall assist an eligible student in locating temporary housing for any period beginning on the last day of an academic term and ending on the first day of the immediately following academic term, according to the institution's academic calendar.

For each eligible student who also demonstrates financial need, the institution may:

1. Provide a stipend to cover any reasonable costs of the temporary housing that are not covered by other financial aid immediately available to the student for that purpose; or

2. Provide temporary housing directly to the student for the applicable period.

The receipt of a stipend does not prohibit the student from receiving additional stipends in one or more subsequent periods, based on the student's demonstrated financial need.

An institution of higher education may use any available revenue, including legislative appropriations, and may solicit and accept gifts, grants, and donations for the purposes of this section. The institution shall use any gifts, grants, and donations received for the purposes of this section before using other revenue.

*Education Code 51.978*
| DISCRIMINATION ON THE BASIS OF SEX | A recipient of federal financial assistance, including a college district, shall not, on the basis of sex, apply different rules or regulations, impose different fees or requirements, or offer different services or benefits related to housing, except as provided by 34 C.F.R. 106.32 (including housing provided only to married students). 34 C.F.R. 106.32(a) |
| STUDE NTS WITH DISABILITIES | A recipient of federal financial assistance, including a college district, that provides housing to its students without disabilities shall provide comparable, convenient, and accessible housing to its students with disabilities at the same cost as to other students. 34 C.F.R. 104.45(a) |
| CRIMINAL BACKGROUND CHECK | An institution of higher education, including a college district, is entitled to obtain from the Texas Department of Public Safety criminal history record information maintained by the department that relates to a student, or to an applicant for admission as a student, who applies to reside in on-campus housing at the institution. Criminal history record information obtained by an institution of higher education under this section may be used by the chief of police of the institution or by the institution's housing office only for the purpose of evaluating current students or applicants for enrollment who apply to reside in on-campus housing at the institution. The institution shall notify a student who is the subject of the criminal history record information of any use of the information to deny the student the opportunity to reside in on-campus housing at the institution. Criminal history record information received by an institution of higher education under this section 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. As soon as practicable after the beginning of the academic period for which the person's housing application was submitted, all criminal history record information obtained about a person under this section, including any copy of the content of that information held by the institution, shall be destroyed by the chief of police of the institution of higher education or by the institution's housing office, as applicable. Gov't Code 411.0945 |
| MISSING STUDENT NOTIFICATION POLICIES AND PROCEDURES | An institution, including a college district, 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. This statement must:

1. Indicate a list of titles of the persons or organizations to which students, employees, or other individuals should report that a student has been missing for 24 hours;

2. Require that any missing student report must be referred immediately to the institution's police or campus security department, or, in the absence of an institutional police or campus security department, to the local law enforcement agency that has jurisdiction in the area;

3. Contain an option for each student to identify a contact person or persons whom the institution shall notify within 24 hours of the determination that the student is missing, if the student has been determined missing by the institutional police or campus security department, or the local law enforcement agency;

4. Advise students that their contact information will be registered confidentially, that this information will be accessible only to authorized campus officials, and that it may not be disclosed, except to law enforcement personnel in furtherance of a missing person investigation;

5. Advise students that if they are under 18 years of age and not emancipated, the institution must notify a custodial parent or guardian within 24 hours of the determination that the student is missing, in addition to notifying any additional contact person designated by the student; and

6. Advise students that the institution will notify the local law enforcement agency within 24 hours of the determination that the student is missing, unless the local law enforcement agency was the entity that made the determination that the student is missing.

The procedures that the institution must follow when a student who resides in an on-campus student housing facility is determined to have been missing for 24 hours include:

1. If the student has designated a contact person, notifying that contact person within 24 hours that the student is missing;

2. If the student is under 18 years of age and is not emancipated, notifying the student's custodial parent or guardian and any other designated contact person within 24 hours that the student is missing; and
3. Regardless of whether the student has identified a contact person, is above the age of 18, or is an emancipated minor, informing the local law enforcement agency that has jurisdiction in the area within 24 hours that the student is missing.

20 U.S.C. 1092(j); 34 C.F.R. 668.46(h)
The grounds and facilities of the College District shall be made available to students or recognized student organizations when such use does not conflict with policies and procedures of the College District. The requesting student or student organization, if applicable, shall pay expenses based on a fee schedule approved by the Board.

REQUESTS

To request permission to meet on College District premises, advisors for recognized student organizations shall complete the facility rental form and submit it to the information services specialist. Organizations shall be required to acknowledge that they understand and will abide by all College District policies and procedures.

APPROVAL

When considering facilities requests, nondiscrimination and free speech shall be protected. The applicant shall be notified in writing if the request is denied based on the following:

1. The facility 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;
7. The proposed use would result in damage to or defacement of property or the applicant has previously damaged College District or off-site property; or
8. The proposed activity would constitute an unauthorized joint sponsorship with an outside group.

ANNOUNCEMENTS AND PUBLICITY

In accordance with administrative procedures, all students and recognized student organizations shall be given access on the same basis for making announcements and publicizing their meetings and activities.

IDENTIFICATION

Students or recognized student organizations using College District facilities shall provide identification when requested to do so by a College District representative.
Failure to comply with the policy and procedures regarding student use of College District facilities shall result in disciplinary action.

Decisions made by the administration under this policy may be appealed following the student appeal process in the College District’s catalog.
COMPLAINTS

In this policy, the terms “complaint” and “grievance” shall have the same meaning.

OTHER COMPLAINT PROCESSES

Student complaints shall be filed in accordance with this policy, except as required by the policies listed below. Some of these policies require appeals to be submitted in accordance with FLD after the relevant complaint process:

1. Complaints alleging discrimination or harassment based on race, color, gender, national origin, disability, age, or religion. [See FFD]
2. Complaints concerning retaliation relating to discrimination and harassment. [See FFD]
3. Complaints concerning disciplinary decisions. [See FMA]
4. Complaints concerning a commissioned peace officer who is an employee of the College District. [See CHA]

GRADES

The right of an instructor to determine and award grades shall not be affected by this policy except for compelling reasons.

NOTICE TO STUDENTS

The College District shall inform students of this policy through appropriate College District publications.

GENERAL PROVISIONS

Complaint forms and appeal notices may be filed by hand-delivery, by electronic communication, including e-mail and fax, or by U.S. Mail. Hand-delivered filings shall be timely filed if received by the appropriate administrator or designee by the close of business on the deadline. Filings submitted by electronic communication shall be timely filed if they are received by the close of business on the deadline, as indicated by the date/time shown on the electronic communication. Mail filings shall be timely filed if they are postmarked by U.S. Mail on or before the deadline and received by the appropriate administrator or designated representative no more than three days after the deadline.

SCHEDULING CONFERENCES

The College District shall make reasonable attempts to schedule conferences at a mutually agreeable time. If a student fails to appear at a scheduled conference, the College District may hold the conference and issue a decision in the student’s absence.

REPRESENTATION

The student may be represented at any level of the complaint.

An instructor or College District employee who is the subject of a student complaint may be present and/or represented at any level of the complaint process.
If the complaint involves a problem with an instructor, the student shall discuss the matter with the instructor before requesting a conference with the division chair at Level One.

**LEVEL ONE**

A student who has a complaint shall request a conference with the division chair in the case of an instruction-related complaint, or with the director of counseling in the case of a noninstructional complaint.

**LEVEL TWO**

If the outcome of the conference at Level One is not to the student’s satisfaction, the student may, within 15 calendar days, request a conference with the appropriate instructional dean in the case of an instruction-related complaint, or with the dean of student services in the case of a noninstructional complaint, or their designees, who shall schedule a conference. Prior to or at the conference, the student shall submit a written complaint that includes a statement of the complaint and any evidence in its support, the solution sought, the student’s signature, and the date of the conference with the division chair or student services counselor.

If the student complaint relates to a problem with an instructor or the conduct of the instructional program, the student may, within five working days, appeal an adverse decision made at Level Two to the academic appeals committee. The committee shall consist of two full-time faculty members (one appointed by the dean of academic studies, the other appointed by the dean of vocational/technical studies) and two students appointed by the student congress. Prior to or at the conference, the student shall submit the written statements required at Level Two and the date of the conference with the dean. The dean of students shall preside over all committee hearings, but shall have no vote except in the case of a tie vote. The decision of the academic appeals committee is final and may not be appealed within the College District.

If the student complaint relates to a matter other than an instructor or the instructional program, the student may, within five working days, appeal an adverse decision made at Level Two to the College President or designee, who shall schedule a conference. Prior to or at the conference, the student shall submit the written statements required at Level Two and the date of the conference with the dean.

**LEVEL FOUR**

If the outcome of the conference with the College President or designee is not to the student’s satisfaction, the student may submit to the College President a written request to place the matter on

**LIMITATIONS INVOLVING COMPLAINTS**

Decisions may not be reversed when doing so would violate Board policy, or local, state, or federal laws and regulations.
the agenda under agenda item “Audiences to Patrons and Petitions”.

CLOSED MEETING

If the complaint involves complaints or charges about an employee, the complaint will be heard by the Board in a closed meeting unless the employee complained about requests it to be public.
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 2–4

**SECTION II**
Information That Is Confidential  
Pages 5–13

**SECTION III**
Information Excepted from Public Disclosure  
Pages 13–20
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

“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)

“Official business” means any matter over which a governmental body has any authority, administrative duties, or advisory duties. Gov't Code 552.003(2-a)
Public information is available to the public at a minimum during the normal business hours of the governmental body. *Gov't Code 552.021*

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:

1. A completed report, audit, evaluation, or investigation made of, for, or by the governmental body, except by provided in Government Code 552.108.

2. The name, sex, ethnicity, salary, title, and dates of employment of each employee and officer of a governmental body.

3. Information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by a governmental body.

4. The name of each official and the final record of voting on all proceedings of the board.

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.

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.

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.

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.

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

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)

Gov’t Code 418.182(b)

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)

Gov’t Code 418.182(c)

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)
SECTION II: INFORMATION THAT IS CONFIDENTIAL

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)

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)*

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]*
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)

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.

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 exempted 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 capable 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 investigation, 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.

_Education Code 51.971(d), (f)–(g) [See AF]_

**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. *Education Code 51.218(e)* [See CGC]

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*

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...
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*

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*
<table>
<thead>
<tr>
<th>TRADE SECRETS</th>
<th>A trade secret obtained from a person and privileged or confidential by statute or judicial decision is excepted from the requirements of the PIA. <em>Gov't Code 552.110(a)</em></th>
</tr>
</thead>
<tbody>
<tr>
<td>COMMERCIAL OR FINANCIAL INFORMATION</td>
<td>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. <em>Gov't Code 552.110(b)</em></td>
</tr>
<tr>
<td>AGENCY MEMORANDA</td>
<td>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. <em>Gov't Code 552.111; City of Garland v. Dallas Morning News, 22 S.W.3d 351 (Tex. 2000)</em> (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)</td>
</tr>
<tr>
<td>AUDIT WORKING PAPER</td>
<td>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. &quot;Audit working paper&quot; 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. <em>Gov't Code 552.116</em></td>
</tr>
<tr>
<td>STUDENT RECORDS</td>
<td>Information is 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. This chapter 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. <em>Gov't Code 552.114, .026 [See FL]</em></td>
</tr>
<tr>
<td>CONTACT INFORMATION</td>
<td>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:</td>
</tr>
</tbody>
</table>
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.

Gov't Code 552.117 [See PERSONAL INFORMATION, above]

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 ar-
chival 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 excepted 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

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)*
This introductory page outlines the contents of the public information policy. See the following sections for statutory provisions on:

SECTION I  Officer for Public Information and Required Notices  pages 2–3
  1. Duties
  2. Training
  3. Notice Regarding Public Information

SECTION II  Access to Public Information  pages 3–8
  1. Procedural Rules Regarding Access
  2. Treatment of Public Information Requests
  3. Location of Access
  4. Time for Response to Public Information Requests
  5. Clarifying or Narrowing Scope of a Request
  6. Time for Examination of Information
  7. Information in Electronic Format
  8. Repetitious or Redundant Requests

SECTION III  Attorney General Decisions  pages 8–14
  1. Time for Requests
  2. Notice to Requestor
  3. Information Submitted to Attorney General
  4. Private or Proprietary Information

SECTION IV  Charges Regarding Public Information Requests  pages 14–19
  1. Charges for 50 Pages or Less
  2. Statement of Labor Costs
  3. Statement of Estimated Charges
  4. Deposit or Bond
  5. Unpaid Amounts Owed by Requestor

SECTION V  Inspection of Public Information  pages 19–21
  1. Deposit or Bond Required to Make Information Available
  2. Electronic Records

SECTION VI  Miscellaneous Provisions  pages 21–24
  1. Large or Frequent Requests
  2. Filing Suit To Withhold Information
  3. Parent’s Request for Information
SECTION I: OFFICER FOR PUBLIC INFORMATION AND REQUIRED NOTICES

OFFICER FOR PUBLIC INFORMATION

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

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
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

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 officer 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)

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.

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.

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. 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. If, by the 61st day after the governmental body sends the written request for clarification or discussion or an officer for public information or agent sends a written request for additional information, the governmental body does not receive a written response from the requestor, the underlying request for public information is considered to have been withdrawn by the requestor.

Gov’t Code 552.222(b)–(f)

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

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)

A governmental body shall provide the requestor a written statement described below, if the governmental body determines:

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)

<table>
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<tr>
<th>RESPONSE TIME</th>
<th>WHEN PROGRAMMING OR MANIPULATION IS REQUIRED</th>
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<td>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)</td>
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<tr>
<th>FURTHER ACTION</th>
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<td>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:</td>
</tr>
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</table>

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.

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)

<table>
<thead>
<tr>
<th>PROCESSING OF REQUESTS</th>
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<tr>
<td>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)</td>
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<tr>
<th>REPETITIOUS OR REDUNDANT REQUESTS</th>
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<tr>
<td>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:</td>
</tr>
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</table>

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 previously 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 requested information is excepted from required disclosure. Tex. Atty. Gen. ORD-665 (2000)

CALCULATING TIME LINES
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)

RECEIPT OF REQUEST FROM REQUESTOR
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)
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 if 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

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 governmental 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)

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)
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)*

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)

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)

A governmental body that requests a decision from the attorney general about whether requested public information is excepted from public disclosure may submit that request for decision to the attorney general through the attorney general's designated elec-
tronic 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

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)

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)*

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**

**COSTS AND CHARGES** 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 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, de-
pos, 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)*

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)*

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 inform-
ing 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)*

<table>
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<th>ACTUAL CHARGES</th>
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<tr>
<td>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:</td>
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<tr>
<td>1. The amount estimated in the updated itemized statement; or</td>
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<tr>
<td>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.</td>
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*Gov't Code 552.2615(d)*

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<th>TIMING OF DEADLINES</th>
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<tr>
<td>An itemized statement or updated itemized statement is considered to have been sent by the governmental body to the requestor on the date that:</td>
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<tr>
<td>1. The statement is delivered to the requestor in person;</td>
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<tr>
<td>2. The governmental body deposits the properly addressed statement in the U.S. mail; or</td>
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<tr>
<td>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.</td>
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<tr>
<td>A requestor is considered to have responded to the itemized statement or the updated itemized statement on the date that:</td>
</tr>
<tr>
<td>1. The response is delivered to the governmental body in person;</td>
</tr>
<tr>
<td>2. The requestor deposits the properly addressed response in the U.S. mail; or</td>
</tr>
<tr>
<td>3. The requestor transmits the properly addressed response to the governmental body by electronic mail or facsimile transmission.</td>
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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

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

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

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**

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 publicly funded legal services organization that is exempt under Internal Revenue Code 501(c)(3).

Gov't Code 552.275(j)–(l)

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 STATEMENT OF PERSONNEL TIME

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)

WRITTEN ESTIMATE OF CHARGES
### 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.

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 gov-
ernmental 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)
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 TAC 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 TAC 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 shall 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 shall 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 shall 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 shall 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 shall 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 shall 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 shall 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 shall 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 x .20 = $3; or programming labor charge, $28.50 x .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 x .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 shall 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 TAC 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),...
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 shall 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:

<table>
<thead>
<tr>
<th>Type of System</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mainframe</td>
<td>$10.00 per CPU minute</td>
</tr>
<tr>
<td>Midsize</td>
<td>$ 1.50 per CPU minute</td>
</tr>
<tr>
<td>Client/Server</td>
<td>$ 2.20 per clock hour</td>
</tr>
<tr>
<td>PC or LAN</td>
<td>$ 1.00 per clock hour</td>
</tr>
</tbody>
</table>

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 TAC 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 x 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 TAC, 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)
### 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.
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
“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)

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. 20 U.S.C. 1092(f)(8); 34 C.F.R. 668.46(b)(11) [See FA]

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). 20 U.S.C. 1092(j); 34 C.F.R. 668.46(b)(14), (h) [See FG]

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)
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)

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)

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)

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)

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)
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)

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)

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)

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)
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.  

_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 (1995); _City of Madison v. Wis. Emp. Rel. Comm’n_, 429 U.S. 167 (1976); _Pickering v. Bd. of Educ._, 391 U.S. 563 (1968)

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 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 Dist._, 678 S.W.2d 94 (Tex. App.—El Paso 1984, writ ref'd n.r.e.)

A recipient of federal financial assistance that employs fifteen 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).  29 U.S.C. 794; 34 C.F.R. 104.7(b)

A public entity, including a college district, that employs 50 or more persons shall adopt and publish grievance procedures providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by the Code of Federal Regulations, Title 28, Part 35 (Americans with Disabilities Act regulations).  28 C.F.R. 35.107(b), .140

The board may conduct a closed meeting on a public complaint to the extent required or provided by law.  [See BDA]

A person commits an offense if, with intent to prevent or disrupt a lawful meeting, the person substantially obstructs or interferes with the ordinary conduct of the meeting by physical action or verbal utterance and thereby curtails the exercise of others’ First Amend-
ment rights. *Penal Code 42.05; Morehead v. State*, 807 S.W.2d 577 (*Tex. Crim. App. 1991*)
The Board encourages the public to discuss concerns with an appropriate administrator who has the authority to address the concerns.

Concerns should be expressed as soon as possible to allow early resolution at the lowest possible administrative level.

Informal resolution shall be encouraged but shall not extend any deadlines in this policy, except by mutual written consent.

An individual may initiate the formal process described below by timely filing a written complaint form.

Even after initiating the formal complaint process, individuals are encouraged to seek informal resolution of their concerns. An individual whose concerns are resolved may withdraw a formal complaint at any time.

The process described in this policy shall not be construed to create new or additional rights beyond those granted by law or Board policy, nor to require a full evidentiary hearing or “mini-trial” at any level.

Neither the Board nor any College District employee shall unlawfully retaliate against any individual for bringing a concern or complaint.

In this policy, the term “complaint” and “grievance” shall have the same meaning.

This policy shall apply to all complaints from the public except complaints regarding a commissioned peace officer who is an employee of the College District. [See CHA] The policy may require appeals to be submitted in accordance with GB after the relevant complaint process.

Complaint forms and appeal notices may be filed by hand-delivery, by electronic communication, including e-mail and fax, or by U.S. Mail. Hand-delivered filings shall be timely filed if received by the appropriate administrator or designee by the close of business on the deadline. Filings submitted by electronic communication shall be timely filed if they are received by the close of business on the deadline, as indicated by the date/time shown on the electronic communication. Mail filings shall be timely filed if they are postmarked by U.S. Mail on or before the deadline and received by the appropriate administrator or designated representative no more than three days after the deadline.

The College District shall make reasonable attempts to schedule conferences at a mutually agreeable time. If the individual fails to
appear at a scheduled conference, the College District may hold the conference and issue a decision in the individual's absence.

**RESPONSE**

At Levels One and Two, “response” shall mean a written communication to the individual from the appropriate administrator. Responses may be hand-delivered, sent by electronic communication to the individual's e-mail address of record, or sent by U.S. Mail to the individual's mailing address of record. Mailed responses shall be timely if they are postmarked by U.S. Mail on or before the deadline.

**DAYS**

“Days” shall mean College District business days. In calculating time lines under this policy, the day a document is filed is “day zero.” The following day is “day one.”

**REPRESENTATIVE**

“Representative” shall mean any person who or organization that is designated by an individual to represent the individual in the complaint process.

The individual may designate a representative through written notice to the College District at any level of this process. If the individual designates a representative with fewer than three days' notice to the College District before a scheduled conference or hearing, the College District may reschedule the conference or hearing to a later date, if desired, in order to include the College District's counsel. The College District may be represented by counsel at any level of the process.

**CONSOLIDATING COMPLAINTS**

Complaints arising out of an event or a series of related events shall be addressed in one complaint. An individual shall not file separate or serial complaints arising from any event or series of events that have been or could have been addressed in a previous complaint.

**UNTIMELY FILINGS**

All time limits shall be strictly followed unless modified by mutual written consent.

If a complaint form or appeal notice is not timely filed, the complaint may be dismissed, on written notice to the individual, at any point during the complaint process. The individual may appeal the dismissal by seeking review in writing within ten days from the date of the written dismissal notice, starting at the level at which the complaint was dismissed. Such appeal shall be limited to the issue of timeliness.

**COSTS INCURRED**

Each party shall pay its own costs incurred in the course of the complaint.

**COMPLAINT AND APPEAL FORMS**

Complaints and appeals under this policy shall be submitted in writing on a form provided by the College District.
Copies of any documents that support the complaint should be attached to the complaint form. If the individual does not have copies of these documents, they may be presented at the Level One conference. After the Level One conference, no new documents may be submitted by the individual unless the individual did not know the documents existed before the Level One conference.

A complaint or appeal form that is incomplete in any material aspect may be dismissed, but may be refilled with all the required information if the refiling is within the designated time for filing.

LEVEL ONE

Complaint forms must be filed:

1. Within 15 days of the date the individual first knew, or with reasonable diligence should have known, of the decision or action giving rise to the complaint or grievance; and

2. With the lowest level administrator who has the authority to remedy the alleged problem.

If the only administrator who has authority to remedy the alleged problem is the College President or designee, the complaint may begin at Level Two following the procedure, including deadlines, for filing the complaint form at Level One.

The appropriate administrator shall investigate as necessary and schedule a conference with the individual within ten days after receipt of the written complaint. The administrator may set reasonable time limits for the conference.

Absent extenuating circumstances, the administrator shall provide the individual a written response within ten days following the conference. The written response shall set forth the basis of the decision. In reaching a decision, the administrator may consider information provided at the Level One conference and any relevant documents or information.

LEVEL TWO

If the individual did not receive the relief requested at Level One or if the time for a response has expired, he or she may request a conference with the College President or designee to appeal the Level One decision.

The appeal notice must be filed in writing, on a form provided by the District, within ten days of the date of the written Level One response or, if no response was received, within ten days of the Level One response deadline.

After receiving notice of the appeal, the Level One administrator shall prepare and forward a record of the Level One complaint to
the Level Two administrator. The individual may request a copy of the Level One record.

The Level One record shall include:

1. The original complaint form and any attachments.
2. All other documents submitted by the individual at Level One.
3. The written response issued at Level One and any attachments.
4. All other documents relied upon by the Level One administrator in reaching the Level One decision.

The Level Two administrator shall schedule a conference within ten days after the appeal notice is filed. The conference shall be limited to the issues and documents considered at Level One. At the conference, the individual may provide information concerning any documents or information relied upon by the administration for the Level One decision. The Level Two administrator may set reasonable time limits for the conference.

The Level Two administrator shall provide the individual a written response within ten days following the conference. The written response shall set forth the basis of the decision. In reaching a decision, the Level Two administrator may consider the Level One record, information provided at the Level Two conference, and any other relevant documents or information the Level Two administrator believes will help resolve the complaint.

Recordings of the Level One and Level Two conferences, if any, shall be maintained with the Level One and Level Two records.

LEVEL THREE

If the individual did not receive the relief requested at Level Two or if the time for a response has expired, he or she may appeal the decision to the Board.

The appeal notice must be filed in writing, on a form provided by the College District, within ten days of the date of the written Level Two response or, if no response was received, within ten days of the Level Two response deadline.

The College President or designee shall inform the individual of the date, time, and place of the Board meeting at which the complaint will be on the agenda for presentation to the Board.

The College President or designee shall provide the Board with the record of the Level Two complaint. The individual may request a copy of the Level Two record.

The Level Two record shall include:
1. The Level One record.

2. The written response issued at Level Two and any attachments.

3. All other documents relied upon by the administration in reaching the Level Two decision.

The appeal shall be limited to the issues and documents considered at Level Two, except that if at the Level Three hearing the administration intends to rely on evidence not included in the Level Two record, the administration shall provide the individual notice of the nature of the evidence at least three days before the hearing.

The College District shall determine whether the complaint will be presented in open or closed meeting in accordance with the Texas Open Meetings Act and other applicable law. [See BD]

The presiding officer may set reasonable time limits and guidelines for the presentation including an opportunity for the individual and administration to each make a presentation and provide rebuttal and an opportunity for questioning by the Board. The Board shall hear the complaint and may request that the administration provide an explanation for the decisions at the preceding levels.

In addition to any other record of the Board meeting required by law, the Board shall prepare a separate record of the Level Three presentation. The Level Three presentation, including the presentation by the individual or his or her representative, any presentation from the administration, and questions from the Board with responses, shall be recorded by audio recording, video/audio recording, or court reporter.

The Board shall then consider the complaint. It may give notice of its decision orally or in writing at any time up to and including the next regularly scheduled Board meeting. If the Board does not make a decision regarding the complaint by the end of the next regularly scheduled meeting, the lack of a response by the Board upholds the administrative decision at Level Two.
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
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
A person commits an offense if the person erects or maintains outdoor advertising or a sign in violation of Transportation Code Chapters 391 through 395 and 43 Administrative Code Chapter 21. Transp. Code 391.003, .0031, .061, .067, 392.032, 393.005, 394.021; 43 TAC Chapter 21

“Outdoor advertising” means an outdoor sign. Transp. Code 391.001(10)

“Sign” means a sign, display, light, device, figure, painting, drawing, message, plaque, poster, billboard, or other thing designed, intended, or used to advertise or inform. Transp. Code 392.001, 393.001, 394.001, 395.002

“Electronic sign” means a sign, display, or device that changes its message or copy by programmable electronic or mechanical processes. 43 TAC 21.251

“Directional sign” means a sign that contains only a message that identifies an attraction or activity and provides directional information, such as mileage, route number, or exit number, useful to the traveler in locating the attraction or activity. 43 TAC 21.941

A college district that wishes to erect or maintain outdoor advertising that is visible from the main-traveled way of the interstate or primary system shall comply with Transportation Code Chapter 391 and 43 Administrative Code Chapter 21, Subchapter I.

“Interstate system” means that portion of the national system of interstate and defense highways that is located in this state and is designated officially by the Texas Transportation Commission and approved under Title 23, United States Code.

“Primary system” means that portion of connected main highways located in this state that is designated officially by the Texas Transportation Commission and approved under Title 23, United States Code.

Transp. Code 391.001

A college district that wishes to place or maintain a sign on a state highway right-of-way shall comply with Transportation Code Chapter 392.

“State highway right-of-way” means the right-of-way of a highway designated as part of the state highway system.

Transp. Code 392.001

A college district that wishes to place a sign on the right-of-way of a public road shall comply with Transportation Code Chapter 393.
A college district that wishes to erect or maintain an outdoor sign that is visible from the main-traveled way of a rural road shall comply with Transportation Code Chapter 394 and 43 Administrative Code Chapter 21, Subchapter K.

“Rural road” means a road, street, way, or bridge:

1. That is located in an unincorporated area;
2. That is not privately owned or controlled;
3. That any part of which is open to the public for vehicular traffic; and
4. That is under the jurisdiction of the state or a political subdivision.

_Transp. Code 394.002_

A college district that wishes to erect an electronic sign shall comply with 43 Administrative Code Subchapter J.

_A college district that wishes to erect a directional sign shall comply with 43 Administrative Code Subchapter Q._

A “raffle” is the awarding of one or more prizes by chance at a single occasion among a pool or group of persons who have paid or promised a thing of value for a ticket that represents a chance to win a prize. _Occupations Code 2002.002(6)_

An organization incorporated or holding a certificate of authority under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes) is a “qualified nonprofit organization” for the purposes of Occupations Code 2002 if the organization:
1. Does not distribute any of its income to its members, officers, or governing body, other than as reasonable compensation for services;

2. Has existed for the three preceding years;

3. Does not devote a substantial part of its activities to attempting to influence legislation and does not participate or intervene in any political campaign on behalf of any candidate for public office in any manner, including by publishing or distributing statements or making campaign contributions;

4. Qualifies for and has obtained an exemption from federal income tax from the Internal Revenue Service under Section 501(c), Internal Revenue Code of 1986; and

5. Does not have or recognize any local chapter, affiliate, unit, or subsidiary organization in this state.

**Occupations Code 2002.003(a)**

An organization that is formally recognized as and that operates as a local chapter, affiliate, unit, or subsidiary organization of a parent organization incorporated or holding a certificate of authority under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes) is a “qualified nonprofit organization” if both it and its parent organization meet the qualifications set out above at items 1 through 3 and either the local or parent organization satisfies item 4. The local organization must have been formally recognized as a local chapter, affiliate, unit, or subsidiary organization of the parent organization for the previous three years.

**Occupations Code 2002.003(b)**

An organization that is formally recognized as and that operates as a local chapter, affiliate, unit, or subordinate lodge of a grand lodge or other institution or order incorporated under, Vernon's Texas Civil Statutes Title 32, as authorized by Vernon's Texas Civil Statutes Article 1399 is a “qualified nonprofit organization” if it satisfies the provisions of Occupations Code 2002.003(b–1).

**Occupations Code 2002.003(b–1)**

An unincorporated organization, association, or society is a “qualified nonprofit organization” if it meets the qualifications described at items 1, 3, and 4 above and, for the three preceding years, has been affiliated with a state or national organization organized to perform the same purposes as the unincorporated organization, association, or society. **Occupations Code 2002.003(c)**

A nonprofit wildlife conservation association and its local chapters, affiliates, wildlife cooperatives, or units are “qualified nonprofit or-
"QUALIFIED ORGANIZATION"  "Qualified organization" means a qualified religious society, qualified volunteer fire department, qualified volunteer emergency medical service, or qualified nonprofit organization. *Occupations Code 2002.002(2)*

GENERALLY  A qualified organization may conduct a raffle subject to the conditions imposed by Occupations Code Chapter 2002, Subchapter B. *Occupations Code 2002.051*
PROMOTIONAL ACTIVITIES

College District facilities shall not be used to advertise, promote, sell tickets, or collect funds for any nonschool-related purpose without prior approval of the College President.

[For information relating to community use of College District facilities, see GF.]

ADVERTISING

For purposes of this policy, “advertising” shall mean a communication designed to attract attention or patronage by the public or college community and communicated through means under the control of the College District in exchange for consideration to the College District. “Advertising” does not include public recognition of donors or sponsors who have made contributions, financial or otherwise, to the College District or College District support organizations.

Advertising shall be accepted solely for the purpose of generating revenue for the College District and not for the purpose of establishing a forum for communication. The College District shall retain final editorial authority to accept or reject submitted advertisements in a manner consistent with the First Amendment. The College District shall retain the authority to determine the size and location of any advertising. The College District shall also reserve the right to reject advertising that is inconsistent with federal or state law, Board policy, College District or campus regulations, or curriculum, as well as any content the College District determines has a reasonable likelihood of exposing the College District to controversy, litigation, or disruption.

Acceptance of advertising shall not constitute College District approval or endorsement of any product, service, organization, or issue referenced in the advertising, nor shall acceptance of advertising from a vendor determine whether the College District will purchase goods or services from the vendor through the College District’s formal procurement process.

[For information relating to College District-sponsored publications, see FKA.]
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-
"LIMITED PUBLIC FORUM"

A “limited public forum” is a forum that an institution opens to a particular group of speakers or for discussion regarding a particular topic. Christian Legal Society v. Martinez, 130 S.Ct. 2971 (2010); Rosenberger v. Rector & Visitors of Univ. of Va., 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. Cornelius v. NAACP Legal Def. and Educ. Fund, Inc., 473 U.S. 788 (1985)

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. Justice for All v. Faulkner, 410 F.3d 760 (5th Cir. 2005); Chiu v. Plano Indep. School Dist., 260 F.3d 330 (5th Cir. 2001)

"NONPUBLIC FORUM"

If an institution has not opened a public forum, it remains a “nonpublic 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. Cornelius v. NAACP Legal Def. and Educ. Fund, Inc., 473 U.S. 788 (1985)

PROTECTED SPEECH

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. Papish v. Bd. of Curators, 410 U.S. 667 (1973); Healy v. James, 408 U.S. 169 (1972)

[See also CHE for use of the college district’s mail system]

FEES FOR USE

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. Education Code 130.123(c)

FACILITIES AS POLLING PLACES

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.
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)*

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 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*
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.

THE COLLEGE DISTRICT PROHIBITS POSSESSING, SERVING, OR CONSUMING ALCOHOLIC BEVERAGES ON COLLEGE DISTRICT PROPERTY OR IN COLLEGE DISTRICT FACILITIES. AN EXCEPTION MAY BE GRANTED FOR ANY SPECIFIC EVENT BEING HELD ON COLLEGE DISTRICT PROPERTY OR IN COLLEGE DISTRICT FACILITIES WITH PRIOR APPROVAL FROM THE BOARD OR THE BOARD’S DESIGNEE. STATE LAW SHALL BE STRICTLY ENFORCED AT ALL TIMES ON ALL PROPERTY CONTROLLED BY THE COLLEGE DISTRICT IN REGARD TO POSSESSING, SERVING, AND CONSUMING ALCOHOLIC BEVERAGES.

[FOR USE BY EMPLOYEES OR EMPLOYEE ORGANIZATIONS, SEE DGD. FOR USE BY STUDENTS AND REGISTERED STUDENT ORGANIZATIONS, SEE FLAA.]

TO REQUEST PERMISSION TO MEET ON COLLEGE DISTRICT PREMISES, INTERESTED COMMUNITY MEMBERS OR ORGANIZATIONS SHALL COMPLETE A FACILITY RENTAL FORM AND SUBMIT IT TO THE INFORMATION SERVICE SPECIALIST IN ACCORDANCE WITH ADMINISTRATIVE PROCEDURES.

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.

REQUESTS FOR COMMUNITY USE OF COLLEGE DISTRICT FACILITIES SHALL BE CONSIDERED ON A FIRST-COME, FIRST-SERVED BASIS.

ACADEMIC AND EXTRACURRICULAR ACTIVITIES SPONSORED BY THE COLLEGE DISTRICT SHALL HAVE PRIORITY WHEN ANY USE IS SCHEDULED. THE COLLEGE DISTRICT ADMINISTRATION SHALL HAVE THE AUTHORITY TO CANCEL A SCHEDULED USE BY A COMMUNITY MEMBER OR ORGANIZATION IF AN UNEXPECTED CONFLICT ARISES WITH A COLLEGE DISTRICT ACTIVITY.

WHEN CONSIDERING FACILITIES REQUESTS, NONDISCRIMINATION AND FREE SPEECH SHALL BE PROTECTED. THE APPLICANT SHALL BE NOTIFIED IN WRITING IF THE REQUEST IS DENIED BASED ON THE FOLLOWING:

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;
COMMUNITY USE OF COLLEGE DISTRICT FACILITIES

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.

NONPROFIT USE
The College District shall permit nonprofit organizations to conduct fund-raising events on College District property when these activities do not conflict with College District use or with this policy.

CAMPAIGN-RELATED USE
A College District facility may be used as an official polling place.

NO APPROVAL REQUIRED
No approval shall be required for nonschool-related recreational use of the College District’s unlocked, outdoor recreational facilities, such as the track, tennis courts, and the like, when the facilities are not in use by the College District or for another scheduled purpose.

EMERGENCY USE
In case of emergencies or disasters, the College President 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.

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 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.
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, technology services, and the like shall be published online.

**EXCEPTION**

Building fees shall not be charged when College District buildings are used for public meetings sponsored by state or local governmental agencies, including precinct, county, and senatorial district conventions.

**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 and policies, 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 on College District property; [See GFA]
4. Make no alteration, temporary or permanent, to College District property without prior written consent from the College President or designee; 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.

[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 and FFD];

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].

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.

For the purposes of this policy, “sign” shall be defined as a billboard, decal, notice, placard, poster, banner, or any kind of handheld sign; and “posting” shall be defined as any means used for displaying a sign. The College District shall require prior approval before a sign is posted on College District property by a community member or organization.

A community member or organization distributing materials on campus shall provide identification when requested to do so by a College District representative.
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.

Decisions made by the administration in accordance with this policy may be appealed in accordance with GB(LOCAL).
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*

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)*

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*

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-
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*

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
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.
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*

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*

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*

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
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

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

FIREARMS / WEAPONS

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) onto 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 pursuant to written regulations or written authorization of the institution, or on the premises of a polling place on the day of an election or while early voting is in progress. Penal Code 46.03 [See also FLBF]
“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)*

A concealed handgun license holder commits an offense if the license holder 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 with a concealed handgun was forbidden or that remaining on the property with a concealed handgun was forbidden and failed to depart.

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 holder of license to carry a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (concealed handgun 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 A misdemeanor. *Penal Code 30.06 (a)–(b), (c)(3), (d)*

It is an exception to the application of this law 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 premise 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)* [See also FLBF]

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, 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. *Penal Code 46.035(b)(2)*

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, at any meeting of a governmental entity, if the license holder was given effective notice under Penal Code 30.06. *Penal Code 46.035(c),(i)*

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;
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)*

**Note:** For information regarding the storage or transportation of firearms or ammunition in private vehicles on college district property, see CHC(LEGAL).

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)*
WEAPONS PROHIBITED

The College District prohibits the use, possession, or display of any firearm, illegal knife, club, or prohibited weapon, as defined at FLBF, on all College District property at all times.

EXCEPTIONS

No violation of this policy occurs when:

1. The use, possession, or display of an otherwise prohibited weapon takes place as part of a College District-approved activity supervised by proper authorities.

2. The firearm or ammunition is stored or transported in a locked, privately owned or leased motor vehicle by a person who holds a license to carry a concealed handgun and who lawfully possesses the firearm or ammunition:
   a. On a street or driveway located on the campus of the College District; or
   b. In a parking lot, parking garage, or other parking area located on the campus of the College District. [See CHC]
An agency or political subdivision of the state, including a college district, shall report to the Office of Federal-State Relations any contract between the agency or political subdivision and a federal-level government relations consultant.

A state agency or political subdivision shall submit one report not later than the 30th day after the contract is executed and a second report not later than the 30th day after the contract is terminated.

The report must include:

1. The name of the consultant or consulting firm;
2. The issue on which the consultant was hired to consult; and
3. The amount of compensation paid or to be paid to the consultant under the contract.

This section does not apply to a political subdivision whose federal-level government relations consultant is required by other law to disclose, report, and make available the required information to the public and a federal or state entity.

Gov't Code 751.016

In accordance with Education Code 130.0103, the board of trustees of a junior college district may establish and operate a dual usage educational complex to provide a shared facility for the educational activities of the district and other participating entities, including counties and municipalities located in whole or in part in the service area of the junior college district. Education Code 130.0103(a) [See GH and GI]
A local government, including a college district, may contract or agree with another local government, or a federally recognized Indian tribe, as listed by the U. S. 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 in accordance with Government Code Chapter 791. A party to an interlocal contract may contract with a state agency, as defined by Government Code 771.002, or similar agency of another state.

An interlocal contract may be to:

1. Study the feasibility of the performance of a governmental function or service by an interlocal contract; or
2. Provide a governmental function or service that each party to the contract is authorized to perform individually.

An interlocal contract must:

1. Be authorized by the governing body of each party to the contract unless a party to the contract is a municipally owned electric utility, in which event the governing body may establish procedures for entering into interlocal contracts that do not exceed $100,000 without requiring the approval of the governing body;
2. State the purpose, terms, rights, and duties of the contracting parties; and
3. Specify that each party paying for the performance of governmental functions or services must make those payments from current revenues available to the paying party.

A local government and an institution of higher education or a university system may contract with one another to perform any governmental function and service. If the terms of the contract provide for payment based on cost recovery, any law otherwise requiring competitive procurement does not apply to the functions and services covered by the contract.

An interlocal contract shall comply with the requirements at Government Code Chapter 791.

[See CF for interlocal purchasing contracts]

Gov't Code 791.011, .035(a)

A local government, including a college district, may contract with another local government authorized to provide health care and hospital services to provide those services for the local government’s officers and employees and their dependents. Gov't Code 791.030
EMERGENCY ASSISTANCE

A local government, including a college district, may provide emergency assistance to another local government, whether or not the local governments have previously agreed or contracted to provide that kind of assistance, if:

1. In the opinion of the presiding officer of the governing body of the local government desiring emergency assistance, a state of civil emergency exists in the local government that requires assistance from another local government and the presiding officer requests assistance; and

2. Before the emergency assistance is provided, the governing body of the local government that is to provide the assistance authorizes that local government to provide the assistance by resolution or other official action.

Gov't Code 791.027(a)

MUTUAL AID

A local government entity may render mutual aid to other local government entities under mutual aid agreements or the Texas Statewide Mutual Aid System (TSMAS).  Gov't Code 418.107(c)

A local government entity or organized volunteer group may provide mutual aid assistance on request from another local government entity or organized volunteer group. The chief or highest ranking officer of the entity from which assistance is requested, with the approval and consent of the presiding officer of the governing body of that entity, may provide that assistance while acting in accordance with the policies, ordinances, and procedures established by the governing body of that entity.  Gov't Code 418.109(d)

DEFINITIONS

"LOCAL GOVERNMENT ENTITY"

"Local government entity" means a county, incorporated city, independent school district, college district, emergency services district, other special district, joint board, or other entity defined as a political subdivision under the laws of this state that maintains the capability to provide mutual aid.  Gov't Code 418.004(10)

"MUTUAL AID"

"Mutual aid" means a homeland security activity, as defined by Government Code 421.001, performed under the system or a written mutual aid agreement.  Gov't Code 418.004(11)

"ORGANIZED VOLUNTEER GROUP"

"Organized volunteer group" means an organization such as the American National Red Cross, the Salvation Army, the Civil Air Patrol, the Radio Amateur Civil Emergency Services, a volunteer fire department, a volunteer rescue squad, or other similar organization recognized by federal or state statute, regulation, or memorandum.  Gov't Code 418.004(5)
A request for mutual aid assistance may be submitted verbally or in writing. If a request is submitted verbally, it must be confirmed in writing. *Gov't Code 418.115(a)*

When contacted with a request for mutual aid assistance, a local government entity shall assess local resources to determine availability of personnel, equipment, and other assistance to respond to the request.

A responding local government entity may provide assistance to the extent personnel, equipment, and resources are determined to be available. A local government entity is not required to provide mutual aid assistance unless the entity determines that the entity has sufficient resources to provide assistance, based on current or anticipated events in its jurisdiction. *Gov't Code 418.1151*

When providing mutual aid assistance under the system:

1. The response effort must be organized and function in accordance with the National Incident Management System guidelines;

2. The personnel, equipment, and resources of a responding local government entity being used in the response effort are under the operational control of the requesting local government entity unless otherwise agreed;

3. Direct supervision and control of personnel, equipment, and resources and personnel accountability remain the responsibility of the designated supervisory personnel of the responding local government entity;

4. The designated supervisory personnel of the responding local government entity shall:
   a. Maintain daily personnel time records, material records, and a log of equipment hours;
   b. Be responsible for the operation and maintenance of the equipment and other resources furnished by the responding local government entity; and
   c. Report work progress to the requesting local government entity; and

5. The responding local government entity’s personnel and other resources are subject to recall at any time, subject to reasonable notice to the requesting local government entity. *Gov't Code 418.1152*
### DURATION OF AID

The provision of mutual aid assistance under the system may continue until:

1. The services of the responding local government entity are no longer required; or
2. The responding local government entity determines that further assistance should not be provided.

*Gov't Code 418.1153*

### EMPLOYEE RIGHTS AND PRIVILEGES

A person assigned, designated, or ordered to perform duties by the governing body of the local government entity employing the person in response to a request under the TSMAS is entitled to receive the same wages, salary, pension, and other compensation and benefits, including injury or death benefits, disability payments, and workers' compensation benefits, for the performance of the duties under the system as though the services were rendered for the entity employing the person.

The local government entity employing the person is responsible for the payment of wages, salary, pension, and other compensation and benefits associated with the performance of duties under the system.

*Gov't Code 418.116*

### REIMBURSEMENT OF COSTS

If the division of emergency management in the office of the governor requests the provision of assistance and the local government entity responds, the state shall reimburse the actual costs of providing assistance, including costs for personnel, operation and maintenance of equipment, damaged equipment, food, lodging, and transportation, incurred by the responding local government entity. A request for reimbursement made to the division must be made in accordance with procedures developed by the division.

*Gov't Code 418.118(a)–(b)*

If a local government entity requests mutual aid assistance from another local government entity under the system that requires a response that exceeds 12 consecutive hours, the requesting local government entity shall reimburse the actual costs of providing mutual aid assistance to the responding local government entity, including costs for personnel, operation and maintenance of equipment, damaged equipment, food, lodging, and transportation, incurred by the responding local government entity in response to a request for reimbursement. Local government entities with a mutual aid agreement when the request for mutual aid assistance is made are subject to the agreement’s terms of reimbursement, as provided by Government Code 418.111.
The requesting local government entity shall pay the reimbursement from available funds. If federal money is available to pay costs associated with the provision of mutual aid assistance, the requesting local government entity shall make the claim for the eligible costs of the responding local government entity on the requesting entity's subgrant application and shall disburse the federal share of the money to the responding local government entity, with sufficient local funds to cover the actual costs of the responding local government entity in providing assistance.

Gov't Code 418.1181

[See CGC for emergency management within the college district]
The board of trustees of a junior college district may establish and operate a dual usage educational complex to provide a shared facility for the educational activities of the district and other participating entities.

The board of trustees may enter into a cooperative agreement governing the operation and use of the complex with the governing bodies of one or more of the following entities: a county, municipality, or school district located in whole or in part in the service area of the junior college district; or another institution of higher education with a campus or other educational facility located in the same state uniform service region as adopted by the Coordinating Board.

The junior college district shall coordinate and supervise the operation of the complex. The use and the costs associated with the establishment and operation of the complex shall be shared by the district and the other participating entities under the terms of the cooperative agreement.

*Education Code 130.0103*

An independent school district and an institution of higher education, including a college district, located wholly or partially in the boundaries of the county in which the district is located, may contract for the district to contribute district resources to pay a portion of the costs of the design or construction of an instructional facility or a stadium or other athletic facilities owned by or under the control of the institution of higher education. A district may contribute district resources only if the district and the institution of higher education enter into a written agreement authorizing the district to use that facility.

One or more independent school districts and an institution of higher education may contract for the district to contribute district resources to pay a portion of the costs of the design, improvement, or construction of an instructional facility owned by or under the control of the institution of higher education. A district may contribute district resources only if the district and the institution of higher education enter into a written agreement authorizing the district to use that facility, including authorizing the enrollment of the district’s students in courses offered at that facility.

*Education Code 45.109(a-1)–(a-2)*

Any independent school district, acting by and through its board of trustees, may contract with any institution of higher education located wholly or partially within its boundaries, for the use of any stadium and other athletic facilities owned by or under the control of the institution of higher education. The contract may be for any
period not exceeding 75 years and may contain terms agreed on by the parties. Education Code 45.109(a)

The trustees of an independent school district located in a county contiguous to, but not a part of, a community college district and the governing board of the community college district may enter into a contract providing for the community college to hold college courses in the school district’s facilities. The contract must be approved by resolution of the governing boards of the community college district and the school district.

For purposes of state funding, a course held in the school district facilities is considered to be a course held in the community college district if the course:

1. Has been approved by a regional higher education council recognized by rule of the coordinating board and in which the district has been designated a member by the coordinating board; and

2. Is approved by the coordinating board as an out-of-district course for the community college district.

Any statutory or regulatory requirement of local support of a community college program is satisfied by the school district providing its facilities without charge to the community college if the total community college enrollment in the school district does not exceed 1,000 full-time students, or the equivalent.

Either party may terminate a contract under this section by giving the other party at least one year’s written notice.

Education Code 130.006

The board of trustees of a school district may operate a school or program or hold a class on the campus of an institution of higher education in this state, including a college district, if the board obtains written consent from the president or other chief executive officer of the institution.

The president or other chief executive officer of an institution of higher education may provide written consent to a board of trustees of a school district regardless of whether the institution is located within the boundaries of the school district.

Education Code 11.166

Each public two-year college shall report student performance as prescribed below to the high school or public two-year college last attended during the first year a student is enrolled after graduation from high school.
A student performance report includes initial assessment student test scores, as prescribed under 19 Administrative Code Chapter 4, Subchapter C (relating to the Texas Success Initiative (TSI)), descriptions of developmental education courses required, and individual student grade point averages.

Appropriate safeguards shall be implemented to ensure student privacy in these reports.

*Education Code 51.403(e); 19 TAC 9.23*

Each school district shall implement a program under which students may earn the equivalent of at least 12 semester credit hours of college credit in high school. On request, a public institution of higher education in this state, including a college district, shall assist the school district in developing and implementing a program. The college credit may be earned through:

1. International baccalaureate, advanced placement, or dual credit courses;
2. Articulated postsecondary courses provided for local credit or articulated postsecondary advanced technical credit courses provided for state credit; or
3. Any combination of the courses described above.

A program implemented under the college credit program may provide a student the opportunity to earn credit for a course or activity, including an apprenticeship or training hours:

1. That satisfies a requirement necessary to obtain an industry-recognized credential or certificate or an associate degree; and is approved by the Coordinating Board; and
2. For which a student may earn credit concurrently toward both the student's high school diploma and postsecondary academic requirements.

*Education Code 28.009(a)–(a-1)*

A school district is not required to pay a student's tuition or other associated costs for taking a course under this section. *Education Code 28.009(a-2)*

Types of instructional partnerships between a public two-year college and a school district include:

1. Partnerships for award of high school credit only [see HIGH SCHOOL CREDIT-ONLY COURSES, below].
2. Partnerships for award of concurrent course credit [see DUAL CREDIT PROGRAMS, below].

3. Partnerships for tech-prep programs [see TECH-PREP PROGRAMS, below].

4. Partnerships for remedial or development instruction for high school graduates [see REMEDIAL PROGRAMS, below].

19 TAC 9.143

AGREEMENTS REQUIRED

For any instructional partnership between a secondary school and a public two-year college, an agreement must be approved by the governing boards of both the public school district or private secondary school and the public two-year college prior to the offering of courses. Any partnership agreement must address the following elements:

1. Student eligibility requirements;
2. Faculty qualifications;
3. Location and student composition of classes;
4. Provision of student learning and support services;
5. Eligible courses;
6. Grading criteria;
7. Transcripting of credit; and
8. Funding provisions.

19 TAC 9.144

HIGH SCHOOL CREDIT-ONLY COURSES

Public two-year colleges may contract to provide instruction for public secondary schools. An agreement between the public two-year college and the public secondary school must be approved by both governing boards.

Provision of instruction for public secondary schools by public two-year colleges must be in accordance with rules and guidelines established by the State Board of Education. Instruction provided under a contractual agreement may include only coursework necessary for students to complete high school. It does not apply to early admission programs for high school students entering college.

19 TAC 9.125(a), (b)(2), .143(a)

INSTRUCTORS

Instructors in contract programs with public secondary schools must meet qualifications required by the public two-year college as
well as the minimum guidelines approved by the State Board of Education. 19 TAC 9.125(b)(1)

**FUNDING**

Funding for this type of instruction must flow to the public secondary school as the contracting agency. An agreed cost for instruction must be negotiated between the public two-year college and the public secondary school. 19 TAC 9.125(b)(3)

**DUAL CREDIT PROGRAMS**

Under an agreement with a school district or, in the case of a private high school, with the organization or other person that operates the high school, a public junior college may offer a course in which a student attending a high school operated in this state by the school district, organization, or other person may enroll and for which the student may simultaneously receive both:

1. Course credit toward the student’s high school academic requirements; and
2. Course credit as a student of the junior college, if the student has been admitted to the college district or becomes eligible to enroll in and is subsequently admitted to the junior college.

A public junior college may enter into an agreement with a school district, organization, or other person that operates a high school to offer a course as provided by this section regardless of whether the high school is located within the service area of the junior college district.

*Education Code 130.008(a), (d)*

**STUDENT ELIGIBILITY REQUIREMENTS**

In admitting or enrolling high school students in a course offered for joint high school and junior college credit, a public junior college must apply the same criteria and conditions to each student wishing to enroll in the course without regard to whether the student attends a public school or a private or parochial school, including a home school. For purposes of this section, a student who attends a school that is not formally organized as a high school and is at least 16 years of age is considered to be attending a high school. *Education Code 130.008(e); 19 TAC 4.85(b)(5)*

To be eligible for enrollment in a dual credit course offered by a public college, students must meet all the college’s regular prerequisite requirements designated for that course (e.g., minimum score on a specified placement test, minimum grade in a specified previous course, etc.). *19 TAC 4.85(b)(6)*

**CLASS YEAR STANDING**

To be eligible for enrollment in a dual credit course offered by a public college, students must have at least junior year high school standing.
Exceptions to this requirement for students with demonstrated outstanding academic performance and capability (as evidenced by achieving TSI college readiness standards on SAT, ACT, or TSI Assessment) may be approved by the principal of the high school and the chief academic officer of the college. Students with less than junior year high school standing must demonstrate eligibility as outlined under 19 Administrative Code 4.85(b)(1).

19 TAC 4.85(b)(7)

A high school student is eligible to enroll in dual credit courses in the eleventh and/or twelfth grade if the student:

1. Demonstrates college readiness by achieving the minimum passing standards under the provisions of the TSI [see EI] on relevant section(s) of an assessment instrument approved by the Coordinating Board; or

2. Demonstrates that he or she is exempt under the provisions of the TSI.

19 TAC 4.85(b)(1)

An eleventh grade high school student is also eligible to enroll in dual credit courses that are TSI liable in reading, writing, and/or mathematics under any of the following conditions:

1. Courses that require reading/writing TSI complete:
   a. If the student achieves a Level 2 final recommended score, as defined by the Texas Education Agency (TEA), on the English II State of Texas Assessment of Academic Readiness End of Course (STAAR EOC); or
   b. If the student achieves a combined score of 107 on the PSAT/NMSQT with a minimum of 50 on the reading test; or
   c. If the student achieves a composite score of 23 on the PLAN with a 19 or higher in English or an equivalent score on the ACT-Aspire as determined by ACT.

2. Courses that require mathematics TSI complete:
   a. If the student achieves a Level 2 final recommended score, as defined by TEA, on the Algebra I STAAR EOC and passing grade in the Algebra II course; or
   b. If the student achieves a Level 2 final recommended score, as defined by TEA, on the Algebra II STAAR EOC; or
c. If the student achieves a combined score of 107 on the PSAT/NMSQT with a minimum of 50 on the mathematics test; or

d. If the student achieves a composite score of 23 on the PLAN with a 19 or higher in mathematics or an equivalent score on the ACT-Aspire as determined by ACT.

An eligible high school student who enrolls in a dual credit course requiring TSI completion in reading, writing, or mathematics during their junior year under the STAAR EOC provisions shall not be required to demonstrate further evidence of eligibility to enroll in dual credit courses in the twelfth grade.

An eligible high school student who enrolls in a dual credit course requiring TSI completion in reading, writing, or mathematics during their junior year under the PSAT/NMSQT, PLAN, or Aspire provisions and earns a grade of C or better has demonstrated eligibility to enroll in dual credit courses in the twelfth grade.

An eligible high school student who enrolls in a dual credit course requiring TSI completion in reading, writing, or mathematics during their junior year under the PSAT/NMSQT, PLAN, or Aspire provisions and does not earn a grade of C or better must demonstrate eligibility to enroll in dual credit courses in the twelfth grade.

19 TAC 4.85(b)(2)

A high school student is eligible to enroll in workforce education dual credit courses contained in a Level 1 certificate program, or a program leading to a credential of less than a Level 1 certificate, at a public junior college or public technical institute in the eleventh and/or twelfth grade and shall not be required to provide any additional demonstration of college readiness. 19 TAC 4.85(b)(3)

A high school student is eligible to enroll in workforce education dual credit courses contained in a Level 2 certificate or applied associate degree program in the eleventh and/or twelfth grade under the following conditions:

1. Courses that require reading/writing TSI complete:

   a. If the student achieves a Level 2 final recommended score, as defined by TEA, on the English II STAAR EOC; or

   b. If the student achieves a combined score of 107 on the PSAT/NMSQT with a minimum of 50 on the reading test; or
c. If the student achieves a composite score of 23 on the PLAN with a 19 or higher in English or an equivalent score on the ACT-Aspire as determined by ACT.

2. Courses that require mathematics TSI complete:
   a. If the student achieves a Level 2 final recommended score, as defined by TEA, on the Algebra I STAAR EOC and passing grade in the Algebra II course; or
   b. If the student achieves a Level 2 final recommended score, as defined by TEA, on the Algebra II STAAR EOC; or
   c. If the student achieves a combined score of 107 on the PSAT/NMSQT with a minimum of 50 on the mathematics test; or
   d. If the student achieves a composite score of 23 on the PLAN with a 19 or higher in mathematics or an equivalent score on the ACT-Aspire as determined by ACT.

An eligible high school student who enrolls in workforce education dual credit courses contained in a Level 2 certificate or applied associate degree program during their junior year under the STAAR EOC provisions shall not be required to demonstrate further evidence of eligibility to enroll in dual credit courses in the twelfth grade.

An eligible high school student who enrolls in workforce education dual credit courses contained in a Level 2 certificate or applied associate degree program during their junior year under the PSAT/NMSQT, PLAN, or Aspire provisions and earns a grade of C or better has demonstrated eligibility to enroll in dual credit courses in the twelfth grade.

An eligible high school student who enrolls in workforce education dual credit courses contained in a Level 2 certificate or applied associate degree program during their junior year under the PSAT/NMSQT, PLAN, or Aspire provisions and does not earn a grade of C or better must demonstrate eligibility to enroll in dual credit courses in the twelfth grade.

A student who is exempt from taking TAKS or STAAR EOC assessments may be otherwise evaluated by an institution to determine eligibility for enrolling in workforce education dual credit courses.

19 TAC 4.85(b)(4)
An institution may impose additional requirements for enrollment in courses for dual credit that do not conflict with 19 Administrative Code 4.85. *19 TAC 4.85(b)(9)*

High school students shall not be enrolled in more than two dual credit courses per semester. Exceptions to this requirement for students with demonstrated outstanding academic performance and capability, as evidenced by grade point average, ACT or SAT scores, or other assessment indicators, may be approved by the principal of the high school and the chief academic officer of the college to a maximum of 15 semester credit hours. Institutions of higher education must have established, written policies in place prior to approving a student to enroll in more than two dual credit courses per semester. A student enrolling in more than two dual credit courses in a semester must pass all courses during that semester with a grade of C or better to continue to enroll in more than two dual credit courses in following semesters. 19 Administrative Code 4.85(b)(8) does not apply to students enrolled in approved early college high school programs. *19 TAC 4.85(b)(8)*

A student may not enroll in more than three courses per academic year at a community college if the community college does not have a service area that includes the student’s high school, except to the extent approved by the commissioner of education. This provision does not apply to students enrolled in approved early college high school programs. *Education Code 130.008(f); 19 TAC 4.85(c)(1)–(2)*

The college shall select instructors of dual credit courses. These instructors must be regularly employed faculty members of the college or must meet the same standards, including minimal requirements of the Southern Association of Colleges and Schools, and approval procedures used by the college to select faculty responsible for teaching the same courses at the main campus of the college.

The college shall supervise and evaluate instructors of dual credit courses using the same or comparable procedures used for faculty at the main campus of the college. *19 TAC 4.85(e)*

Dual credit courses may be taught on the college campus or on the high school campus. For dual credit courses taught exclusively to high school students on the high school campus and for dual credit courses taught electronically, public colleges shall comply with applicable rules and procedures for offering courses at a distance in...
19 Administrative Code Chapter 4, Subchapters P and Q of this chapter (relating to Approval of Distance Education Courses and Programs for Public Institutions and Approval of Off-Campus and Self-Supporting Courses and Programs for Public Institutions). In addition, dual credit courses taught electronically shall comply with the board’s adopted Principles of Good Practice for Courses Offered Electronically. 19 TAC 4.85(c); 19 TAC 4.255–.264, .270–.279

Dual credit courses may be composed of dual credit students only or of dual and college credit students. Exceptions for a mixed class, which would also include high school credit-only students, may be allowed only under one of the following conditions:

1. If the course involved is required for completion under the State Board of Education high school program graduation requirements, and the high school involved is otherwise unable to offer such a course;

2. If the high school credit-only students are advanced placement students; or

3. If the course is a career and technology/college workforce education course and the high school credit-only students are earning articulated college credit.

19 TAC 4.85(d)

STUDENT SERVICES

Students in dual credit courses must be eligible to utilize the same or comparable support services that are afforded college students on the main campus. The college is responsible for ensuring timely and efficient access to such services (e.g., academic advising and counseling), to learning materials (e.g., library resources), and to other benefits for which the student may be eligible. 19 TAC 4.85(g)(2)

ELIGIBLE COURSES

Courses offered for dual credit by public two-year associate degree granting institutions must be identified as college-level academic courses in the current edition of the Lower Division Academic Course Guide Manual adopted by the Coordinating Board or as college-level workforce education courses in the current edition of the Workforce Education Course Manual adopted by the Coordinating Board.

Public colleges may not offer remedial and developmental courses for dual credit.

19 TAC 4.85(a)(1), (3)
The college shall ensure that a dual credit course and the corresponding course offered at the main campus of the college are equivalent with respect to the curriculum, materials, instruction, and method/rigor of student evaluation. These standards must be upheld regardless of the student composition of the class. *19 TAC 4.85(f)*

**ACADEMIC POLICIES AND TRANSCRIPTS**

Regular academic policies applicable to courses taught at the college’s main campus must also apply to dual credit courses. These policies could include the appeal process for disputed grades, drop policy, the communication of grading policy to students, when the syllabus must be distributed, etc. *19 TAC 4.85(g)(1)*

For dual credit courses, high school as well as college credit should be transcripted immediately upon a student’s completion of the performance required in the course. *19 TAC 4.85(h)*

**TUITION AND STATE FUNDING**

The junior college may waive all or part of the tuition and fees for a high school student enrolled in a course for which the student may receive joint credit.

The contact hours attributable to the enrollment of a high school student in a course offered for joint high school and junior college credit, excluding a course for which the student attending high school may receive course credit toward the physical education curriculum requirement under Education Code 28.002(a)(2)(C), shall be included in the contact hours used to determine the junior college’s proportionate share of the state money appropriated and distributed to public junior colleges under Education Code 130.003 and 130.0031, even if the junior college waives all or part of the tuition or fees for the student. The college may only claim funding for students getting college credit in core curriculum, career and technical education, and foreign language dual credit courses.

The funding provisions of *19 TAC 4.85(i)* do not apply to students enrolled in approved early college high school programs.

*Education Code 130.008(b)–(c); 19 TAC 4.85(i)*

**NO REQUIREMENT**

An institution is not required, under the provisions of 19 Administrative Code 4.85, to offer dual credit courses for high school students. *19 TAC 4.85(b)(10)*

**TECH-PREP PROGRAMS**

Public two-year colleges may partner with school districts to allow for the articulation of high school technical courses taught by the high school to high school students for immediate high school credit and later college credit to be awarded upon enrollment of the students in the two-year college in an associate degree or certificate program. *19 TAC 9.143(c)*
### REMEDIAL PROGRAMS

As outlined in 19 Administrative Code 9.125 [see HIGH SCHOOL CREDIT-ONLY COURSES, above], the governing board of a junior college district may contract with the governing board of an independent school district in the junior college district’s service area for the junior college to provide remedial programs for students enrolled in secondary schools in the independent school district in preparation for graduation from secondary school and entrance into college.

High school students who have passed all sections of the STAAR EOC assessments with the high school graduation standard may be permitted to enroll in state-funded developmental courses offered by a college at the college discretion if a need for such coursework is indicated by student performance on an assessment instrument approved by the Coordinating Board.

Remedial and developmental courses may not be offered for dual credit.

*Education Code 130.090(a); 19 TAC 9.143(d), .146(a)–(c)*

### TUITION AND FUNDING

The governing board of a junior college district may exempt from tuition a student enrolled in a remedial program.

Remedial courses provided for students enrolled in public secondary schools in preparation for graduation from high school are not eligible for state appropriations. *Education Code 130.090(b)–(d); 19 TAC 9.146(d)*

### DROPOUT RECOVERY PARTNERSHIP PROGRAM

A public junior college may enter into an articulation agreement to partner with one or more school districts located in the public junior college district to provide on the campus of the public junior college a dropout recovery program for eligible students to successfully complete and receive a diploma from a high school of the appropriate partnering school district in accordance with Education Code 29.402.

A public junior college under this section may partner with a public technical institute, as defined by Education Code 61.003, to provide, as part of the dropout recovery program curriculum, career and technology education courses that lead to industry or career certification.

*Education Code 29.402(a), (c-1)*

### FINANCING

A public junior college may receive from each partnering school district for each student from that school district enrolled in a dropout recovery program under this section an amount negotiated between the junior college and that partnering district not to exceed the total average per student funding amount in that school district.
during the preceding school year for maintenance and operations, including state and local funding, but excluding money from the available school fund.

A public technical institute may receive from a partnering public junior college for each student enrolled in a career and technology education course as provided by Education Code 29.402(c-1), above, an amount negotiated between the public technical institute and the partnering public junior college.

To the extent consistent with the General Appropriations Act, a public junior college is eligible to receive dropout prevention and intervention program funds appropriated to the agency.

A public junior college may receive gifts, grants, and donations to use for the purposes of this section.

_Education Code 29.403, .404_

**HIGHER EDUCATION ASSISTANCE PLANS**

The institution of higher education, including a college district, in closest geographic proximity to a public high school in this state identified by the Coordinating Board for purposes of this section as substantially below the state average in the number of graduates who enroll in higher education institutions shall enter into an agreement with that high school to develop a plan to increase the number of students from that high school enrolling in higher education institutions. Under the plan, the institution shall:

1. Collaborate with the high school to:
   a. Provide to prospective students information related to enrollment in an institution of higher education or a private or independent institution of higher education, including admissions, testing, and financial aid information;
   b. Assist those prospective students in completing applications and testing related to enrollment in those institutions, including admissions and financial aid applications, and fulfilling testing requirements; and
   c. Target efforts to increase the number of Hispanic students and African-American male students enrolled in higher education institutions; and

2. Actively engage with local school districts to provide access to rigorous, high-quality dual credit opportunities for qualified high school students as needed.

An institution of higher education must include a plan developed by the institution under this section and the results of that plan in its
annual report to the Coordinating Board under Education Code 51.4032.

_Education Code 51.810(b)–(c)_

Not later than August 1 of the year in which a school district receives notice from the Texas Education Agency that Education Code 29.904 applies, the district shall enter into an agreement with the public institution of higher education in this state, including a college district, in closest geographic proximity to the district to develop a plan in accordance with Section 29.904 to increase the percentage of the district’s graduating seniors who enroll in an institution of higher education for the academic year following graduation. The public institution of higher education in this state in closest geographic proximity to the district shall enter into an agreement unless that institution or the district recruits another public institution of higher education in this state to enter into the agreement. A district and the public institution of higher education entering into the agreement with the district may also enter into an agreement with one or more other public institutions of higher education in this state to participate in developing the plan. _Education Code 29.904(c)_

_Notice_

Not later than May 1 of each year, the Coordinating Board shall notify each institution of public education in closest geographic proximity to a district to which this section applies of the applicability of Education Code 29.904 to the district unless the district is operating under a plan required by this section. _Education Code 29.904(b)_

_Affected School Districts_

This section applies only to a school district with one or more high schools that:

1. During the preceding five years, have had an average of at least 26 students in the high school graduating class; and

2. For any two consecutive years during the preceding five years, have been among the lowest ten percent of high schools in this state in the percentage of students graduating and enrolling for the following academic year in an institution of higher education.

_Education Code 29.904(a)_

_Texas public colleges and universities (C/U) are eligible to enter into agreements with Texas public schools to create Early College High Schools (ECHS) to be administered in accordance with 19 Administrative Code Chapter 4, Subchapter G. Any C/U that participates in the creation of an ECHS shall notify the Coordinating Board in accordance with provisions and schedules determined by the commissioner. 19 TAC 4.154_
PERMANENT ADVISORY COMMITTEE

Permanent advisory committees are established. Each committee consists of the president or the president’s designee of each general academic teaching institution and each public junior college within a 100-mile radius of the general academic teaching institution. *Education Code 51.3521(a), (b), .351(1)*

OFFICERS

Each committee shall biennially elect a presiding officer. Each committee may elect other officers. *Education Code 51.3521(c)–(d)*

RULES

Each committee shall adopt rules to govern the time and place of meetings and the transaction of business. *Education Code 51.3521(e)*

PURPOSE

Each committee shall periodically study regional higher education needs in this state and make recommendations to the governing boards of each general academic teaching institution and each public junior college represented regarding degree programs, core curricula, and joint faculty appointments to enhance the transfer of students and coordinate working relationships between those institutions. *Education Code 51.3521(f)*

PARTNERSHIP AGREEMENTS

With the approval of the Coordinating Board, the governing boards of a public community/junior college and another institution of higher education that are located in the same state uniform service region as adopted by the Coordinating Board may enter into a partnership agreement designed to coordinate the management and operations of the institutions. The agreements shall in no way abrogate the powers and duties of the boards with regard to the governance of their respective institutions. *Education Code 51.662*

LOCAL INSTITUTION OF HIGHER EDUCATION

TEXAS STATE TECHNICAL COLLEGE SYSTEM

With the approval of the Coordinating Board, the board of regents of the Texas State Technical College System and a public junior college may enter into a partnership agreement designed to coordinate the management and operations of the institutions and to enhance the delivery of technical education programs across this state in accordance with Education Code Chapter 135, Subchapter D. *Education Code 135.102(a)*

DUAL USAGE EDUCATIONAL COMPLEX

The board of trustees of a junior college district may establish and operate a dual usage educational complex to provide a shared facility for the educational activities of the district and other participating entities.

The board of trustees may enter into a cooperative agreement governing the operation and use of the complex with the governing bodies of one or more of the following entities: a county, municipality, or school district located in whole or in part in the service area of the junior college district; or another institution of higher educa-
tation with a campus or other educational facility located in the same state uniform service region as adopted by the Coordinating Board.

The junior college district shall coordinate and supervise the operation of the complex. The use and the costs associated with the establishment and operation of the complex shall be shared by the district and the other participating entities under the terms of the cooperative agreement.

*Education Code 130.0103*

**INSTRUCTIONAL ARRANGEMENTS**

Public two-year colleges may enter into cooperative undertakings or contractual agreements with other Texas public two-year colleges as permitted by law.

Public two-year colleges may enter into cooperative undertakings or contractual agreements with other Texas public institutions of higher education as part of a multi-institution teaching center as outlined under 19 Administrative Code 5.78 or other partnership agreements on a shared-cost basis as permitted by state law.

Public two-year colleges may enter into cooperative undertakings or contractual agreements with Southern Association of Colleges and Schools Commission on Colleges (SACSCOC)-accredited independent institutions of higher education as part of a multi-institution teaching center as outlined under 19 Administrative Code 5.78 or other partnership agreements on a shared-cost basis as permitted by law.

*19 TAC 9.126*

**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 that has not been approved by the commissioner, even if such course is taught under a contractual agreement.

*19 TAC 9.127–.128*
ACCESS TO PROGRAMS, SERVICES, AND ACTIVITIES

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.  
Civ. Prac. and Rem. Code 110.003(a)–(b)  [See also DAA and FA]

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  [See also DAA and FA]

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.  
42 U.S.C. 2000d  [See also DAA and FA]
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

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” 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)

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)

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)

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.

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)

"MAJOR LIFE ACTIVITIES"

“Major life activities” include caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. “Major life activity” also includes the operation of major bodily functions, including functions of the immune system, normal cell growth, and digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions. 42 U.S.C. 12102(2)

"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

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. 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” 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

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
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

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

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)

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. 28 C.F.R. 35.107(b) [See GB]
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. 34 C.F.R. 104.7(b), .11 [See GB]

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. 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 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).

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 security 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.
