Update 23 for the **TACC Policy Reference Manual** encompasses changes from the 80th Legislature, as well as new legal materials arising from administrative action and federal legislation over the past year that affect the governance and management of Texas community colleges. Of particular significance are policy revisions/additions that address:

- Board Elections
- Conflict Disclosure Statements
- Board Meetings
- Purchasing
- Limits on Dropped Courses
- Tuition

As a housekeeping matter, we have also made numerous editorial and citation adjustments throughout this Update to more closely track the law.

Please remember that the **TACC Policy Reference Manual**, a comprehensive collection of federal and state statutes and regulations, case law, and attorney general opinions affecting Texas community colleges, is now located on the **TACC Web site**. The policies in this Update have already been incorporated into the **TACC Policy Reference Manual**.

Please note:

- This **Update 23** 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.

- By early March, Policy Service will issue localized updates to college districts that have adopted TASB Localized Policy Manuals. The localized update will address the issues raised within the reference manual update and will include college district-specific and
adoptable (LOCAL) policy recommendations and language to ensure harmony with evolving law and practice.

- This Update 23 packet may not be considered as legal advice and is not intended as a substitute for the advice of the board's own legal counsel.

- This annual Update is the result of collaboration among TASB Legal and Policy Services and the Texas Association of Community Colleges. Questions regarding this Update may be addressed to Dr. Rey Garcia, TACC President, at 512-476-2572, or Eric Narcisse or Amy Kadlecik, TASB Policy Consultants/Analysts and Community College Liaisons, at 800-580-7529 or 512-467-0222.
## Instruction Sheet

### TACC Policy Reference Manual Update 23

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AC (EXHIBIT) GEOGRAPHIC BOUNDARIES AND SERVICE AREAS

Several changes to service areas resulted from legislation in the 80th Legislature, effective with the fall 2007 semester. They include:

HB 1374:
- Expands the Amarillo College District service area to include all of Moore County, which was previously in the Borger Junior College District service area.
- Expands the Midland Community College District service area to include Pecos and Terrell counties, formerly included in the Odessa College District service area.

During the 2007–08 school year, both the Borger Junior College District and the Odessa College District may continue to serve the areas removed from their respective service areas.

HB 3236:
- Moves the territory within Lexington ISD that is located in Bastrop, Milam, and Williamson counties from the Austin Community College District service area to the Blinn Junior College District service area.
- Moves the part of Elgin ISD located in Lee County and the part of Smithville ISD located in Fayette County from the Blinn Junior College District service area into the Austin Community College District service area.

During the 2007–08 school year, both the Austin Community College District and the Blinn Junior College District may continue to serve the areas affected by these changes.

BA (LEGAL) BOARD LEGAL STATUS

Language establishing the basic statutory authority of the board has been revised to more closely track the Education Code sections cited.

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

At GOVERNANCE, we have deleted a provision from Chapter 11 of the Education Code on the board's power to govern and oversee the management of the college district. This broad authority of the board is currently specified in item 1 of this section. On page 2, a provision has been added stating the board's duty to adopt a TAX RATE each fiscal year. Also, provisions formerly at TITLE TO PROPERTY and REAL ESTATE BROKER, regarding property acquisition, have been deleted since they do not apply to college districts.

BBA (LEGAL) BOARD MEMBERS ELIGIBILITY/QUALIFICATIONS

Provisions from HB 417 have been added regarding board member candidate ELIGIBILITY. The candidate eligibility provisions already barred individuals determined by a court to be mentally incompetent. Now the mental incapacity provisions distinguish between total and partial mental incapacity and address a court's restoration of a person's mental capacity. HB 417 also made corresponding changes to the definition of "qualified voter" in this policy.
BBB  (LEGAL)  BOARD MEMBERS

ELECTIONS

Changes arising from the 80th Legislative Session are as follows:

- A new provision from SB 493 has been added allowing a college district to create the position of JOINT ELECTIONS ADMINISTRATOR.
- A new provision, USE OF CERTAIN DEVICES AT POLLING PLACES PROHIBITED, contains a prohibition regarding the use of certain wireless communication devices and recording devices within 100 feet of a voting station. This material is from HB 1921.
- HB 2926 prompted the removal from POLLING PLACES of a provision applicable only to districts in Harris County and surrounding counties regarding the use of county polling places for November elections.
- At VOTERS WITH DISABILITIES, HB 556, adds details regarding when a college district is required to meet the requirements for disabled voter accessibility.
- SB 397 requires revision of text at OATH OF OFFICE to allow a judge, retired judge, or clerk of a municipal court to administer the oath.

BBE  (LEGAL)  BOARD MEMBERS

AUTHORITY

Provisions on BOARD MEMBER IMMUNITIES from Chapter 22 of the Education Code have been removed, as these provisions do not apply to community college board members. Common law official and governmental immunity will still apply to board members.

At RIGHT OF ACCESS the citation referencing Education Code Chapter 11, regarding access to student records, has been deleted since it is not applicable to college districts.

BBFA  (LEGAL)  ETHICS

CONFLICT OF INTEREST DISCLOSURES

HB 1491 made several changes to Chapter 176 of the Local Government Code, prompting revisions to this policy as follows:

- At CONFLICTS DISCLOSURE STATEMENT:
  - Local government officers must file conflict disclosure statements ("statement") regarding an applicable vendor if the vendor enters into a contract with a college district or a college district is “considering entering into a contract” with the vendor. Previously, the filing of a statement was triggered if a college district was “considering doing business” with a vendor, a much broader standard.
  - Also beneficial is the change to the amount of taxable income that triggers the filing of a statement. Previously, any amount of taxable income was considered; now only income exceeding $2,500 is considered.
  - HB 1491 also clarifies that political contributions do not trigger the filing of a statement, nor do gifts given by family members.
• At VIOLATIONS, a local government officer does not commit a Class C misdemeanor for failing to file a statement if the officer files the statement within seven business days after the college district notifies the officer of the alleged violation. Previously, it was not clear which entity would give notice to the officer.

• At DEFINITIONS:
  • A “LOCAL GOVERNMENT OFFICER” now includes an employee of a college district to whom the college district has extended the filing requirements of Chapter 176.
  • The term “FAMILY MEMBER” excludes certain individuals when a marriage ends in death or divorce and a child of the marriage is still living.
  • A college district may designate someone other than the college president to be the “RECORDS ADMINISTRATOR.”
  • New text from HB 1491 defines the term “INVESTMENT INCOME.”

• At INTERNET POSTING REQUIREMENT, HB 1491 clarifies that only required statements and questionnaires must be posted.

The Texas Ethics Commission has released revised conflict of interest statement and questionnaire forms to comply with these changes. [See http://www.ethics.state.tx.us/whatsnew/conflict_forms.htm] See the explanatory note at CFE(LEGAL) for changes to vendor conflict disclosure questionnaires.

BBFB (LEGAL) ETHICS PROHIBITED PRACTICES

For a more complete presentation of Penal Code provisions regarding ILLEGAL GIFTS to public servants, the seven EXCEPTIONS—found on page 2—have been added. They range from campaign contributions to gifts given independent of the recipient’s status as a public servant.

The provision formerly at DEPOSITORY CONFLICT has been removed since it is not applicable to college districts.

Please note: While this policy focuses on legal restrictions on a public servant, Chapter 36 of the Penal Code also identifies offenses committed by anyone who attempts to coerce a public servant, tamper with a witness in an official proceeding, or obstruct or retaliate against a public servant.

BBG (LEGAL) BOARD MEMBERS COMPENSATION AND EXPENSES

The restructuring of the Texas Building and Procurement Commission resulted in some responsibilities being shifted to other agencies. This policy has been revised to reflect that travel services is now under the authority of the comptroller’s office. The reference to the appropriate section in the Texas Administrative Code has also been updated.

BCAE (LEGAL) BOARD OFFICERS AND OFFICIALS SELECTION AND DUTIES OF CHIEF TAX OFFICIALS

On page 1, at ASSESSOR, item 2, is a provision from HB 923 stating that, if the tax assessor mails a tax bill to the mortgagee, the assessor is not required to also mail the tax bill to the mortgagor.
BD (LEGAL) BOARD MEETINGS

Changes arising from the 80th Legislative Session are as follows:

- At SOCIAL FUNCTION OR CONVENTION: SB 1306 adds to the definition of “meeting” exceptions for ceremonial events and press conferences. If formal action is not taken and discussion of public business at these events is only incidental, the events do not need to comply with the Open Meetings Act.

- At EMERGENCY MEETING OR EMERGENCY ADDITION TO AGENDA, on page 4: SB 1499 adds a reason for which a board may hold an emergency meeting when immediate board action is required. The sudden relocation of a large number of residents from a declared disaster area to a college district’s jurisdiction is considered a reasonably unforeseeable situation. The notice of the meeting must be given to the news media at least one hour before the meeting.

- At SPECIAL NOTICE TO NEWS MEDIA, on page 5: SB 592 removes outdated provisions allowing notice to the media by telegraph and now permits notice by facsimile transmission or electronic mail.

- At DISASTER, on page 5, SB 61 permits less than a quorum of a board to act where a disaster has been declared and a majority of board members are unable to be present because of the disaster.

- At MEETING BY CONFERENCE CALL, on page 5, HB 3827 permits a college district board to conduct a meeting by telephone conference call if a quorum of the board is physically present at the location where the board meetings are usually held. A board member who is not present at the location where the board meeting is held and who participates by telephone is considered to be absent from the meeting for purposes of board member removal from office for nonattendance.

- At ATTORNEY CONSULTATION, on page 7, SB 1046 permits the board to consult with its attorney through electronic methods—by telephone conference call, videoconference call, or over the Internet—even if the attorney is an employee of the college district. Previously, the board could not use these methods to meet with an attorney who was a college district employee.

BDA (LEGAL) BOARD MEETINGS

CLOSED MEETINGS

At SECURITY, on page 2, is a new provision from SB 11 that permits the board to go into closed session to discuss a security audit. The law already permitted a board to go into closed session to discuss the deployment of security personnel or devices; now college districts may discuss sensitive safety and security information not previously covered by the closed meeting exception on security.

BDB (LEGAL) BOARD MEETINGS

PUBLIC PARTICIPATION

Citations have been updated.

BFB (LEGAL) COLLEGE PRESIDENT

CONTRACT

Citations have been updated.
Citations have been updated.

C (LEGAL) BUSINESS AND SUPPORT SERVICES

The title for policy code CS has been changed to INFORMATION RESOURCES.

CAB (LEGAL) APPROPRIATIONS AND REVENUE SOURCES FEDERAL

HB 2358 changes the account into which college districts must deposit federal funds received to pay for state RETIREMENT AND INSURANCE CONTRIBUTIONS. Previously, the deposit was made to the General Revenue Fund; now the deposit must be made to the state contribution account.

CAI (LEGAL) APPROPRIATIONS AND REVENUE SOURCES AD VALOREM TAXES

Under SPLIT PAYMENT on page 5, SB 796 allows a college district located in a county with a population of 250,000 or more that borders Harris County and the Gulf of Mexico and that has its taxes collected by another taxing unit that has adopted the split-payment option to decline the option for the college district’s taxes.

On page 8, a citation at ADDITIONAL EXEMPTIONS, was broadened to encompass all possible exemptions, including the exemption resulting from the constitutional amendment passed November 2007.

Beginning on page 14, HB 621, effective January 1, 2008, provides that property that meets the statutory definition of GOODS-IN-TRANSIT is exempt from taxation. A college district board, however, may provide for the taxation of goods-in-transit by official action. Such action must be taken before January 1 of the first tax year in which the college district proposes to tax the goods, and the board must conduct a public hearing prior to taking action.

CAJ (LEGAL) APPROPRIATIONS AND REVENUE SOURCES APPRAISAL DISTRICT

At PARTICIPATION, a provision allowing college districts that extend into two or more counties to participate in only one appraisal district is deleted by HB 1010.

We have added several existing statutory provisions to this policy, which address the board’s participation in the ELECTION OF BOARD OF DIRECTORS of the appraisal district and the eligibility of individuals to serve on the appraisal district board of directors.
CAK (LEGAL)  APPROPRIATIONS AND REVENUE SOURCES
INVESTMENTS

To better match statutory text, we have revised the provision at INVESTMENT STRATEGIES. The policy now states that the board must adopt a separate written investment strategy for each of the funds or group of funds under the board’s control.

At GENERAL DEPOSITS, on page 11, SB 1233 clarifies that funds received from students as general deposits to insure the college district against losses, damages, or other amounts owed by a student, may be invested in certain ways.

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

A constitutional amendment passed in November 2007 allows, in certain circumstances, a college district to sell PROPERTY ACQUIRED THROUGH EMINENT DOMAIN to the individual who owned the property immediately before the college district acquired the property at the price that the college district paid.

At LEASE OF PROPERTY TO A GOVERNMENTAL ENTITY, beginning on page 2, is a new provision from HB 2618. To promote a public purpose of the college district, a college district may lease college district property or provide office space to another governmental entity. While the college district must ensure that the terms of the lease or agreement promote the public purpose, the college district is not required to comply with competitive purchasing and may provide the lease or office space for less than fair market value.

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

At APPLICATION FOR GRANT, HB 2358 changes the account into which college districts must deposit grant funds received to pay for state contributions to the retirement system and to the group insurance program for retirees. Previously, the deposit was made to the General Revenue Fund; now the deposit must be made to the state contribution account.

SB 469 permits a college district to request a CERTIFICATE OF RECOGNITION from the Texas Higher Education Coordinating Board to give to an individual who donates at least $10,000 to the college district.

CB (LEGAL)  DEPOSITORY OF FUNDS

Previous provisions on depositories from Education Code chapter 45 have been replaced by depository provisions that apply more specifically to college districts. The board must still use competitive bids in the SELECTION of the depository. In addition, the board must require adequate SURETY BONDS to secure the deposits, and the depository must pay INTEREST on the deposits.

CDA (LEGAL)  ACCOUNTING
FINANCIAL REPORTS AND STATEMENTS

Two bills affect a college district’s FINANCIAL ACCOUNTING AND REPORTING:
HB 2365 adds Chapter 2264 to the Government Code. Primarily focusing on accounting principles for post-employment benefits extended to retired employees, Chapter 2264 also contains requirements for accounting and reporting financial activities.

SB 470 requires college districts to report expenditures in a uniform manner as required by the comptroller.

At PUBLICATION AND FILING is a change prompted by HB 978. A college district must publish its annual financial statement not later than the 150th day after the end of the fiscal year, an extension of the previous 120-day deadline.

Provisions from HB 3430 have been added regarding the newly created STATE EXPENDITURE DATABASE, a single, searchable, and publicly available online database of state expenditures. College districts must provide information to the comptroller as necessary for implementation and administration of the database and must include a link to the database on the college district's Internet site.

Citations have been updated.

Legislative changes affecting this policy are as follows:

- HB 2918 removes certain catalog purchases made through the state from the list of permissible purchasing methods for PURCHASES VALUED AT OR ABOVE $25,000, on page 1.

- HB 273 requires a college district to consider certain items, listed at FACTORS, in awarding a contract entered into after June 16, 2007, the effective date of the bill. Prior to HB 273, consideration of these items was permissive.

- At PROFESSIONAL SERVICES, provisions have been added from HB 1886 prohibiting the use of an interlocal contract after September 1, 2007, to purchase engineering or architectural services.

- At COMPUTERS, the reference to the Texas Building and Procurement Commission (BPC) has been changed to the Department of Information Resources, in accordance with HB 3560. HB 3560 also transfers several duties from the BPC to the comptroller, requiring conforming changes at several locations in the policy.

- On page 5, a new section, AUTOMATED INFORMATION SYSTEM, has been added, specifying permissible methods to purchase such systems after September 1, 2007, in accordance with HB 2918.

- For certain contracts valued at or above $25,000, a college district must document contract-related fees, including any management fees in a report to be included in the minutes of a board meeting. This material, from HB 273, has been added at CONTRACT-RELATED FEE REPORT on page 10.

HB 1491 clarifies that a vendor must file a conflicts disclosure questionnaire only for certain business relationships, not mere affiliations. The section DEFINITION OF BUSINESS RELATIONSHIP has been added to help determine when vendors must file.
The Texas Ethics Commission has released revised conflict of interest statement and questionnaire forms to comply with these changes. [See http://www.ethics.state.tx.us/whatsnew/conflict_forms.htm.] See the explanatory note at BBFA(LEGAL) for changes to local government officer conflict disclosure statements.

CFG (LEGAL) PURCHASING AND ACQUISITION
REAL PROPERTY AND IMPROVEMENTS

Citations have been updated.

CH (LEGAL) SITE MANAGEMENT
At REDUCTION OF ENERGY CONSUMPTION is new language requiring boards to establish goals to reduce electricity consumption as provided by SB 12.
At FINANCING, on page 3, SB 831 enables college districts to finance energy savings performance contracts under a lease/purchase contract for a longer term than previously allowed. Financing may now be for 20 years from the final date of installation, rather than 15 years, as before. The bill also extends the permissible financing term when the provider of the energy or water conservation measure provides the financing.
SB 831 also adds detail about CONTRACT PROCUREMENT of an energy savings performance contract.
Two other provisions are also added from HB 3693 at ENERGY USAGE REPORT and LIGHT BULBS, on page 4. A college district must electronically record and report on the college district's Web site utility usage amounts and the respective costs. In addition, light fixtures in educational and housing facilities must have energy efficient light bulbs.
The Texas Building and Procurement Commission's obligation to work with college districts to develop a RECYCLING PROGRAM has been shifted to the comptroller. This change, reflected on page 5, comes from HB 3560.

CHE (LEGAL) SITE MANAGEMENT
MAIL AND DELIVERY

Citations have been updated.

CIA (LEGAL) EQUIPMENT AND SUPPLIES MANAGEMENT
RECORDS MANAGEMENT
Provisions addressing the destruction and preservation of records, as well as exceptions to the destruction of records for purposes of litigation and Public Information Act requests, have been added to pages 3 and 4 of this code from GAB(LEGAL) since these provisions pertain to the records management program.

CKD (LEGAL) INSURANCE AND ANNUITIES MANAGEMENT
HEALTH AND LIFE INSURANCE
The period for which an employee on military leave may continue health insurance coverage has been extended by federal law from 18 to 24 months. This change is reflected at CONTINUATION COVERAGE, DURING MILITARY LEAVE on page 2.
A portion of the material at CONTINUATION COVERAGE, DURING FMLA LEAVE has been deleted as this text is duplicated at DEC(LEGAL).

CKE (LEGAL) INSURANCE AND ANNUITIES MANAGEMENT WORKERS’ COMPENSATION

Citations have been updated.

CLA (LEGAL) FACILITIES PLANNING NEW FACILITIES

Citations have been updated.

CLB (LEGAL) FACILITIES PLANNING EXISTING FACILITIES

Citations have been updated.

CM (LEGAL) FACILITIES CONSTRUCTION

Various bills from the 80th Legislative Session affect this policy:

- HB 2918 removes certain catalog purchases made through the state from the list of permissible purchasing methods for CONTRACTS VALUED AT OR ABOVE $25,000, on page 1.

- HB 1268 prohibits construction contracts from providing for an award of ATTORNEY FEES to the college district when the college district prevails in a dispute, unless the contract provides for such an award to the other parties should they prevail in a dispute.

- HB 1886 prohibits the use of an interlocal contract after September 1, 2007, to purchase engineering or architectural services, as reflected at PROFESSIONAL SERVICES beginning on page 2.

- HB 3560 transfers several duties from the Texas Building and Procurement Commission to the comptroller, requiring a conforming change at OUT-OF-STATE BIDDERS, on page 6.

- HB 2625 removes the requirement that a U.S. Department of Labor survey used by a college district to determine the PREVAILING WAGE ON PUBLIC WORKS be conducted within the previous three years.

Provisions at REGISTERED ENGINEER have been revised to more closely track statutory language.

CMF (LEGAL) FACILITIES CONSTRUCTION JOB-ORDER CONTRACTS

HB 1886 clarifies that when ARCHITECT/ENGINEER services are required for a job order contract, the college district shall follow the usual method of selection under Government Code Chapter 2254, which requires consideration of demonstrated competence and qualifications.

Repetitive language has also been removed in the second paragraph at AWARDING CONTRACTS.
CS (LEGAL) INFORMATION RESOURCES
This policy code has been retitled INFORMATION RESOURCES.
Also, beginning on page 3, provisions have been added from existing law governing access to and use of electronic and information resources by disabled employees and members of the public.
HB 1788 requires the college president or a designated representative of the college president to serve as the college district’s INFORMATION RESOURCES MANAGER.

DAA (LEGAL) EMPLOYMENT OBJECTIVES
EQUAL OPPORTUNITY EMPLOYMENT
Citations have been updated.

DBA (LEGAL) EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
CREDENTIALS AND RECORDS
This policy has been revised throughout for clarity and to more closely track statutory language. A key change is at ACCESS TO EMPLOYEE RECORDS, which now includes the general privacy rule drawn from the Government Code.
Under EMPLOYEE RIGHT OF ACCESS, language has been added, from SB 175, to clarify that the ten-day deadline to release the requested information is calculated using business days. In addition, a provision on public access to personnel records has been deleted, as this topic is addressed at GAA(LEGAL).

DBD (LEGAL) EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
CONFLICT OF INTEREST
As with BBFB(LEGAL), included in this update, Penal Code provisions regarding ILLEGAL GIFTS to public servants have been supplemented with the seven EXCEPTIONS found beginning on page 1.
These provisions focus on legal restrictions on a public servant. Chapter 36 of the Penal Code also identifies offenses committed by anyone who attempts to coerce a public servant, tamper with a witness in an official proceeding, or obstruct or retaliate against a public servant.
Text at CONFLICT DISCLOSURE STATEMENT has been amended based on HB 1491. A college district may extend the requirement to file a conflict disclosure statement to any employee who has the authority to approve contracts. These employees must be identified. Disciplinary action may be taken against such an employee for failing to file the statement only if the employee knowingly fails to file. A definition of “contract” has also been added.

DBE (LEGAL) EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
NEPOTISM
Pages 1 and 2 of this policy have been revised for clarity and to more closely track statute where appropriate. Substantively, however, the policy is unchanged.
DC (LEGAL) HIRING PRACTICES

A new provision from SB 228 provides information on civil PENALTIES that may be assessed against an employer that knowingly fails to comply with new hire reporting procedures.

Provisions from the federal Fair Credit Reporting Act were added to this policy, beginning at CONSUMER CREDIT REPORTS. These provisions address limitations on a college district’s ability to obtain consumer credit reports for employment purposes, identify when a college district may take adverse action against an applicant or employee based on a report, and include record disposal requirements added by the Fair and Accurate Credit Transactions Act.

DDA (LEGAL) CONTRACT AND AT-WILL EMPLOYMENT
TERM CONTRACTS

Citations have been updated.

DDC (LEGAL) CONTRACT AND AT-WILL EMPLOYMENT
AT-WILL EMPLOYMENT

Citations have been updated.

DEC (LEGAL) COMPENSATION AND BENEFITS
LEAVES AND ABSENCES

At STATE LEAVE FOR MEMBER OF MILITARY OR RESCUE TEAM on page 2, we have added language, from SB 11, that now requires a college district to provide a paid leave of absence for members of a state or federally authorized Urban Search and Rescue team to allow those individuals to attend training or fulfill duties. College districts were already required to provide leaves of absences in these circumstances for certain members of the military.

DG (LEGAL) EMPLOYEE RIGHTS AND PRIVILEGES

Citations have been updated.

DGBA (LEGAL) PERSONNEL-MANAGEMENT RELATIONS
EMPLOYEE COMPLAINTS

A duplicative provision regarding disruption of board meetings has been deleted. This provision remains at BDB(LEGAL).

On page 2, the STATE LAWS margin note has been added so as to distinguish the relevant state grievance and complaint statutes from those in federal law.

DHA (LEGAL) EMPLOYEE STANDARDS OF CONDUCT
SEXUAL HARASSMENT

Citations have been updated.
DHB (LEGAL) EMPLOYEE STANDARDS OF CONDUCT
SEARCHES AND ALCOHOL/DRUG TESTING

At REPORTS, on page 3, SB 328 clarifies that a college district must report a dilute specimen to the Department of Public Safety only if it results in a positive test. The definition of “dilute specimen” from the federal regulations has also been added.

DK (LEGAL) PROFESSIONAL DEVELOPMENT

We have deleted from this policy an outdated provision, which required college districts to report to the Texas Higher Education Coordinating Board descriptions of courses intended to assist faculty members, whose primary language is not English, to become proficient in English.

DMAA (LEGAL) TERM CONTRACTS
DISMISSAL

Citations have been updated.

ECC (LEGAL) INSTRUCTIONAL ARRANGEMENTS
COURSE LOAD AND SCHEDULES

SB 1231 resulted in new provisions at LIMITATION ON NUMBER OF DROPPED COURSES, which prohibit college districts from allowing a student from dropping more than six courses. The statute also provides for the circumstances in which a student may drop a course. The college district may adopt a policy setting a limit lower than the six-course limit established by law. Provisions on page 3 provide guidance on DETERMINING NUMBER OF COURSES dropped by a student.

In October 2007, the THECB adopted rules (19 TAC 4.10) providing for a GOOD CAUSE EXCEPTION TO THE LIMITATION that would allow a student to drop more courses than permitted by law or the college district’s locally adopted policy for:

- Severe illness or disability;
- Care of a sick, injured, or needy person;
- The death of a family member or someone with whom the student has a sufficiently close relationship;
- Active military duty;
- A change in the student’s work schedule; or
- Good cause as determined by the college district.

The THECB rules defining “a member of the student’s family” and “sufficiently close relationship” are provided at DEFINITIONS FOR GOOD CAUSE EXEMPTION.

A college district must adopt a local policy for determining a showing of good cause, and publish the policy in the college district’s catalogue and other print and Internet-based publications to timely notify students. A copy of the policy should also be submitted to THECB.
EDD  (LEGAL)  INSTRUCTIONAL RESOURCES
COPYRIGHTED MATERIALS

Citations have been updated.

EFAA  (LEGAL)  INSTRUCTIONAL PROGRAMS AND COURSES
ACADEMIC COURSES

Minor editorial revisions have been made to the provisions in this policy.

EI  (LEGAL)  TESTING PROGRAMS

At EXCEPTIONS FOR CERTAIN STUDENTS, references to exit-level testing have been changed to end-of-course assessment instruments in accordance with SB 1031, effective September 1, 2007. Now a student who achieves certain scores on end-of-course assessment instruments is exempt from academic testing to determine the student’s readiness to enroll in freshman-level academic coursework.

EJD  (LEGAL)  MISCELLANEOUS INSTRUCTIONAL POLICIES
NEUTRALITY IN RELIGIOUS MATTERS

Citations have been updated.

FBA  (LEGAL)  ADMISSIONS AND ATTENDANCE
ADMISSIONS REQUIREMENTS

Citations have been updated.

FBB  (LEGAL)  ADMISSIONS AND ATTENDANCE
TUITION

SB 1231 resulted in several changes regarding tuition and fee refunds and adjustments for courses that a student drops within the specified deadline. They are as follows:

- At REFUNDS AND ADJUSTMENTS OF TUITION AND FEES on page 12, new provisions have been added to address refunds for summer terms, sessions of five to ten weeks, and sessions of five weeks or less. In addition, the table providing guidance on refunds has been updated to address summer terms and the sessions of ten weeks or less. Item 3 in this section resulted from SB 1231; items 1 and 2 reflect existing statute. This section replaces outdated provisions and tables from 19 TAC 21, which have been removed since they conflict with current statute.

- On page 13, REFUND CREDITED TOWARDS OUTSTANDING TUITION AND FEES, we have added statutory language permitting the college district to credit the amount to be refunded toward any outstanding tuition and mandatory fees owed by the student.

- Beginning on page 14, AMOUNT OF REFUND MAY EXCEED STATUTORY AMOUNT has been added to specify how the college district can apply refunds provided beyond the statutory limits.

- Several minor revisions have been made to the section STUDENT SERVICES MAY BE TERMINATED AT WITHDRAWAL.
We have included from existing statute, the provisions at DONATED FUNDS REFUNDED TO SOURCE and WITHDRAWAL DUE TO MILITARY SERVICE.

Citations have also been updated throughout this policy.

FBC (LEGAL) ADMISSIONS AND ATTENDANCE RESIDENCY

A change in the Texas Administrative code clarifies that the term RESIDENTS includes a person who, as an alternative to high school graduation, received the equivalent of a diploma, including the successful completion of a nontraditional secondary education.

FDAB (LEGAL) HEALTH REQUIREMENTS AND SERVICES IMMUNIZATIONS

Citations have been updated.

FE (LEGAL) STUDENT FINANCIAL AID PROGRAM

SB 1325 prohibits the award of a scholarship to a relative of a member of the college district board of trustees except in certain situations. Scholarships to board member relatives are not prohibited if the scholarship is granted by a party not affiliated with the college district, is awarded exclusively on the basis of academic merit, or is an athletic scholarship. To help college districts administer this provision, a scholarship applicant must indicate in writing whether he or she is related to a board member.

FJ (LEGAL) STUDENT RECORDS

Provisions of this policy have been rearranged for better flow and improved readability. Changes have been incorporated as follows:

- A provision requiring college districts to maintain a list of types and locations of education records has been deleted. This provision applies only to educational institutions that receive funds for special education services and therefore is not applicable to college districts.

- Provisions addressing ACCESS TO EDUCATION RECORDS have been grouped together. Following that material are provisions on the proper REQUEST PROCEDURE for accessing education records and a college district's obligations for DESTRUCTION OF RECORDS.

- At TRANSFER NOT PERMITTED, beginning on page 5, language has been added detailing the college district's affirmative duty to notify certain parties of the limitations on use and disclosure of information released under FERPA.

- The section on DIRECTORY INFORMATION, on page 7, has been expanded to include a provision specifying that if a college district discloses directory information about a former student, the college district does not have to satisfy certain public notice requirements required to release directory information on a current student.

Citations have also been updated throughout the policy.
FKC (LEGAL) STUDENT ACTIVITIES
REGISTERED STUDENT ORGANIZATIONS

Based on a concern about injuries and fatalities occurring as a result of hazing, HB 2639, applicable beginning with the fall 2008 semester, requires college districts to provide a risk management program for members of student organizations registered at the institution. The program must address certain topics, including use of alcohol and drugs, hazing, sexual abuse and harassment, possession of weapons, travel, behavior at parties, and policies of the student organization. The college district chooses which organizations must send a representative to attend the program.

FLAA (LEGAL) STUDENT RIGHTS AND RESPONSIBILITIES
STUDENT EXPRESSION

Citations have been updated.

FLBH (LEGAL) STUDENT CONDUCT
DISRUPTIONS

Citations have been updated.

FLD (LEGAL) STUDENT RIGHTS AND RESPONSIBILITIES
STUDENT COMPLAINTS

Citations have been updated.

FM (LEGAL) DISCIPLINE AND PENALTIES

Citations have been updated.

FN (LEGAL) STUDENT FEES, FINES, AND CHARGES

At GENERAL DEPOSITS, SB 1233 expands the reasons for which a college district may collect a general deposit. Previously, such deposits were permitted to insure the college district against property damage in laboratories and libraries. Now a college district may collect a general deposit to cover any amount owed by the student to the college district. SB 1233 also includes a requirement that the college district return the unused portion of the deposit to the student within 180 days of withdrawal or graduation.

[See CAK(LEGAL) for information on how general deposit funds may be invested by a college district]

G (LEGAL) COMMUNITY AND GOVERNMENTAL RELATIONS

The table of contents has been revised to include the new policy code GGE, Emergency Management.

GAA (LEGAL) PUBLIC INFORMATION PROGRAM
ACCESS TO INFORMATION

Several bills from the 80th Legislative Session address release of information under the Public Information Act:
• At PARTICIPANT IN ADDRESS CONFIDENTIALITY PROGRAM, SB 74 adds an exception to release for the addresses of participants in the Attorney General’s Address Confidentiality Program for Victims of Family Violence, Sexual Assault, and Stalking.

• At VICTIMS OF CERTAIN CRIMES are provisions revised by HB 1042 allowing college district employees who are crime victims to elect whether to allow public access to information held by the college district that might identify the victim.

• At INFORMATION EXCEPTED FROM PUBLIC DISCLOSURE, SB 9 adds an exception for release of an audit working paper.

At SOCIAL SECURITY NUMBERS, HB 2061 clarifies that Social Security numbers are not confidential; however, a college district may redact them from any information the college district releases to the public.

GAB (LEGAL) PUBLIC INFORMATION PROGRAM REQUESTS FOR INFORMATION

Legislative changes affecting this policy are as follows:

• A new paragraph at TIME FOR RESPONSE contains material from HB 1497. If a college district sends an individual who has made a request under the Public Information Act a written demand to clarify the request, the requestor must respond by the 61st day or the request is considered withdrawn.

• At ATTORNEY GENERAL DECISIONS, on page 5, HB 2248 permits college districts to seek another decision from the attorney general regarding the precise information that was at issue in a previous attorney general decision if a lawsuit was timely filed concerning that prior decision; the attorney general determines the requestor has withdrawn the request; and the parties agree to dismiss the lawsuit.

• At DEPOSIT OR BOND, SB 175 clarifies that a requestor who is required to post a bond or make a deposit must do so before the tenth business day after the date the deposit or bond is required.

• A new section beginning on page 13, LARGE OR FREQUENT REQUESTS, contains material from HB 2564. Meant to address the concerns of governmental entities that receive frequent requests for large amounts of information from the public, the new law allows college districts to charge certain requestors if personnel time spent responding to requests exceeds a specified amount of time established by the college district, which may not be less than 36 hours. With each request, a college district must send the requestor a written statement with the amount of personnel time spent on the request. If the time spent exceeds the hourly limit, the college district must send a written estimate of the cost to the requestor. The attorney general will establish a fee schedule. The requestor must commit to paying the fee or the request is considered withdrawn. A college district may not apply these provisions to certain requestors, listed at EXCEPTION.

Additionally, text at DESTRUCTION OF RECORDS has been deleted, as this material was moved to CIA(LEGAL) in this update.

GAB (EXHIBIT) PUBLIC INFORMATION PROGRAM REQUESTS FOR INFORMATION

With the amendment of 1 TAC 70.3, college districts are no longer able to include the cost of fringe benefits in personnel charges associated with fulfilling a public information request.
Also, on page 4, a college district is now permitted to recover the transaction fee associated with credit card payments for copies of public information if the college district accepts credit card payments and the credit card company charges such a transaction fee.

GB (LEGAL) PUBLIC COMPLAINTS AND HEARINGS

Citations have been updated.

GF (LEGAL) STUDENT AND COMMUNITY USE OF COLLEGE DISTRICT FACILITIES

Citations have been updated.

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

It is now a DEFENSE TO PROSECUTION for a concealed handgun license holder who carries a handgun to interscholastic events or board meetings if the holder is a judge or justice of a federal court, an active judicial officer, a district or county attorney, or a bailiff at the time of the commission of the offense. This new text, on page 5, is from HB 1889 and HB 2300.

GGE (LEGAL) RELATIONS WITH GOVERNMENTAL AGENCIES AND AUTHORITIES EMERGENCY MANAGEMENT

This new policy was developed to gather together in a single code provisions on emergency management that involve other governmental entities. HB 1471, effective June 15, 2007, establishes the Texas Statewide Mutual Aid System, which permits a college district to render mutual aid to other local government entities. The term “local government entity” as defined includes entities defined as a political subdivision, such as college districts. If a college district receives a request for aid, the college district must determine whether it has sufficient local resources to provide assistance. The requesting governmental entity is responsible for reimbursing the provider college district for the cost of the aid.

An appointed public officer whose job includes emergency management responsibilities must complete a training course regarding the responsibilities of state and local governments under the mutual aid provisions. This new requirement, at EMERGENCY MANAGEMENT TRAINING on page 3, comes from SB 11, effective June 6, 2007.

GH (LEGAL) RELATIONS WITH SCHOOLS AND DISTRICTS

Changes are as follows:

- COLLEGE CREDIT PROGRAM, on page 3, has been revised to include language from HB 3485 to specify the manner by which a student may earn college credit while in high school under the college credit program.
• STUDENT ELIGIBILITY REQUIREMENTS, beginning on page 6, has been updated to reflect revisions to 19 TAC 4.85, which provides additional eligibility criteria for an 11th grade student to enroll in dual enrollment courses. A student who receives a combined score of 107 on the PSAT/NMSQT with a score of 50 on the subject relevant to the course to be taken, or who achieves a composite score of 23 on the PLAN (a pre-ACT test) with a 19 or higher in mathematics or English would now be eligible. A student qualifying under either of these new provisions would still be required to demonstrate eligibility to enroll in dual credit courses when in the 12th grade.

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

Subject to certain narrow exceptions, federal law prohibits adverse action against a person who refuses to disclose his or her Social Security number. While that law has long been recited at DC(LEGAL)—HIRING PRACTICES—the prohibition applies more broadly.

For that reason, the federal prohibition has been added to this policy on page 1.
The service areas of the junior college districts are listed as described in Education Code 130.162–130.211.

ALAMO COMMUNITY COLLEGE DISTRICT SERVICE AREA. The service area of the Alamo Community College District includes the territory within:

1. Bexar, Bandera, Comal, Kendall, Kerr, and Wilson Counties;
2. Atascosa County, except the territory within the Pleasanton Independent School District; and
3. Guadalupe County, except the territory within the San Marcos Independent School District.

ALVIN COMMUNITY COLLEGE DISTRICT SERVICE AREA. The service area of the Alvin Community College District includes the territory within:

1. The Alvin, Danbury, and Pearland independent school districts; and
2. The part of the Angleton Independent School District annexed by the Community College District before September 1, 1995.

AMARILLO COLLEGE DISTRICT SERVICE AREA. The service area of the Amarillo College District includes: the territory within Potter, Randall, Carson, Oldham, Deaf Smith, Parmer, Castro, Swisher, and Moore Counties.

ANGELINA COUNTY JUNIOR COLLEGE DISTRICT SERVICE AREA. The service area of the Angelina County Junior College District includes the territory within:

1. Angelina, Houston, Nacogdoches, Polk, Sabine, San Augustine, Trinity, and Tyler Counties;
2. The Wells and Alto independent school districts, located in Cherokee County;
3. The Burkeville and Newton independent school districts, located in Newton County;
4. The Jasper Independent School District, located in Jasper County;
5. The Shepard and Coldspring-Oakhurst consolidated independent school districts, located in San Jacinto County;
6. The part of the Brookeland Independent School District that is located in Jasper and Newton Counties;
7. The part of the Colmesneil Independent School District that is located in Jasper County; and
8. The part of the Trinity Independent School District that is located in Walker County.

AUSTIN COMMUNITY COLLEGE DISTRICT SERVICE AREA. The service area of the Austin Community College District includes the territory within:

1. Hays, Gillespie, Caldwell, and Blanco Counties;
2. Travis County, except the territory within the Marble Falls Independent School District;
3. Williamson County, except the territory within the Florence, Granger, Hutto, Lexington, Taylor, and Thrall independent school districts;
4. The part of the Nixon-Smiley Consolidated Independent School District located in Gonzales County;
5. The part of San Marcos Consolidated Independent School District located in Guadalupe County;
6. Bastrop County, except the territory within the Lexington Independent School District;
7. The part of the Elgin Independent School District located in Lee County; and
8. The part of the Smithville Independent School District located in Fayette County.

BEE COUNTY COLLEGE DISTRICT SERVICE AREA. The service area of the Bee County College District includes the territory within:
1. Bee, Karnes, Live Oak, Jim Wells, McMullen, Duval, and Brooks Counties;
2. The Pleasanton Independent School District, located in Atascosa County; and
3. The Kingsville, Santa Gertrudis, and Ricardo independent school districts, located in Kleberg County.

BLINN JUNIOR COLLEGE DISTRICT SERVICE AREA. The service area of the Blinn Junior College District includes the territory within:
1. Washington, Burleson, Brazos, Madison, Grimes, and Waller Counties;
2. The Mumford, Hearne, and Franklin independent school districts located in Robertson County;
3. Austin County, other than the territory within the Wallis-Orchard Independent School District.
4. The Milano and Gause independent school districts located in Milam County;
5. The part of the Richards Independent School District that is located in Walker and Montgomery Counties;
6. The part of the Bryan Independent School District that is located in Robertson County;
7. Fayette County, other than the territory within the Smithville Independent School District;
8. Lee County, other than the territory within the Elgin Independent School District; and
9. The part of the Lexington Independent School District that is located in Bastrop, Milam, and Williamson Counties.

BORGER JUNIOR COLLEGE DISTRICT SERVICE AREA. The service area of the Borger Junior College District includes:
1. The territory within the Borger Independent School District;
2. The territory within the Spring Creek Independent School District that is also within the junior college district's taxing district; and

BRAZOSPORT COLLEGE DISTRICT SERVICE AREA. The service area of the Brazosport College District includes the territory within:
1. The Brazosport, Columbia-Brazoria, Sweeny, and Damon independent school districts; and
2. The Angleton Independent School District, except the part annexed by the Alvin Community College District before September 1, 1995.

CENTRAL TEXAS COLLEGE DISTRICT SERVICE AREA. The service area of the Central Texas College District includes the territory within:
1. The Killeen Independent School District, located in Bell County;
2. The Copperas Cove Independent School District, located in Coryell County;
3. Fort Hood and North Fort Hood, located in Bell County;
4. Coryell, Hamilton, Lampasas, Llano, Mason, Mills, and San Saba Counties;
5. The Brady, Lohn, and Rochelle independent school districts located in McCullough County;
6. The Burnet Consolidated Independent School District located in Burnet County;
7. The Florence Independent School District;
8. The part of the Lampasas Independent School District that is located in Burnet County;
9. The part of the Lampasas Independent School District that is located in Bell County;
10. The part of the Copperas Cove Independent School District that is located in Bell County; and

CISCO JUNIOR COLLEGE DISTRICT SERVICE AREA. The service area of the Cisco Junior College District includes the territory within:
1. The Cisco Independent School District; and
2. Callahan, Coleman, and Taylor Counties.

CLARENDON COLLEGE DISTRICT SERVICE AREA. The service area of the Clarendon College District includes the territory within:
COLLEGE OF THE MAINLAND DISTRICT SERVICE AREA. The service area of the College of the Mainland District includes the territory within:

1. The Santa Fe, Hitchcock, Texas City, La Marque, Dickinson, and Friendswood independent school districts; and
2. The part of the Clear Creek Independent School District that is located in Galveston County.

COLLIN COUNTY COMMUNITY COLLEGE DISTRICT SERVICE AREA. The service area of the Collin County Community College District includes the territory within:

1. Collin and Rockwall Counties; and
2. The part of Denton County that is within the municipality of The Colony, the municipality of Frisco, and the Celina and Prosper independent school districts.

DALLAS COUNTY COMMUNITY COLLEGE DISTRICT SERVICE AREA. The service area of the Dallas County Community College District includes the territory within:

1. Dallas County; and

DEL MAR COLLEGE-CORPUS CHRISTI JUNIOR COLLEGE DISTRICT SERVICE AREA. The service area of the Del Mar College-Corpus Christi Junior College District includes the territory within:

1. The Corpus Christi, West Oso, Calallen, Tuloso-Midway, and Flour Bluff independent school districts, and any area located outside of those school districts that is within the municipality of Corpus Christi;
2. Nueces, San Patricio, Aransas, and Kenedy Counties; and

EL PASO COUNTY COMMUNITY COLLEGE DISTRICT SERVICE AREA. The service area of the El Paso County Community College District includes the territory within El Paso and Hudspeth Counties.

GALVESTON COLLEGE DISTRICT SERVICE AREA. The service area of the Galveston College District includes:

1. The territory within the Galveston Independent School District;
2. The part of the Galveston and Chambers Counties located on the Bolivar Peninsula, including the municipality of High Island and the High Island Independent School District; and
3. The territory within the Sabine Pass and Hamshire-Fannett independent school districts in Jefferson County.

GRAYSON COUNTY JUNIOR COLLEGE DISTRICT SERVICE AREA. The service area of the Grayson County Junior College District includes the territory within:

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AC(EXHIBIT)-PJC
1. Grayson County; and
2. The Bonham, Dodd City, Wolfe City, Ector, Leonard, Savoy, Trenton, White-wright, and Sam Rayburn independent school districts located in Fannin County.

HILL COLLEGE DISTRICT SERVICE AREA. The service area of the Hill College District includes the territory within:

1. The Hillsboro, Itasca, Covington, Whitney, Abbott, and Bynum independent school districts; and

HOUSTON COMMUNITY COLLEGE SYSTEM DISTRICT SERVICE AREA. The service area of the Houston Community College System District includes the territory within:

1. The Houston, Alief, Katy, Spring Branch, and North Forest independent school districts;
2. The Stafford Municipal School District; and
3. The part of the Fort Bend Independent School District that is located in the municipality of Missouri City.

HOWARD COUNTY JUNIOR COLLEGE DISTRICT SERVICE AREA. The service area of the Howard County Junior College District includes the territory within Howard, Dawson, Martin, Glasscock, Sterling, Coke, Tom Green, Concho, Irion, Schleicher, Sutton, Menard, and Kimble Counties.

KILGORE JUNIOR COLLEGE DISTRICT SERVICE AREA. The service area of the Kilgore Junior College District includes the territory within:

1. The Kilgore, West Rusk, Overton, Leverett’s Chapel, White Oak, Sabine, Gladewater, Big Sandy, Union Grove, Gilmer, New Diana, Spring Hill, Pine Tree, Longview, Hallsville, Henderson, Carlisle, Laneville, and Mount Enterprise independent school districts; and
2. The Tatum Independent School District, except the part of the district that is located in Panola County.

LAREDO COMMUNITY COLLEGE DISTRICT SERVICE AREA. The service area of the Laredo Community College District includes the territory within:

1. The municipality of Laredo; and
2. Webb, Jim Hogg, and Zapata Counties.

LEE COLLEGE DISTRICT SERVICE AREA. The service area of the Lee College District includes the territory within:

1. The Goose Creek Consolidated Independent School District; and
2. The Crosby, Dayton, Liberty, Barbers Hill, Anahuac, Huffman, Devers, East Chambers, Hardin, and Hull-Daisetta independent school districts.
McLennan Community College District Service Area. The service area of the McLennan Community College District includes the territory within:

1. McLennan and Falls Counties; and
2. The Calvert and Bremond independent school districts.

Midland Community College District Service Area. The service area of the Midland Community College District includes the territory within:

1. Midland County, except the territory within the Greenwood Community; and
2. Reagan, Pecos, Terrell, and Crockett Counties.

Navarro College District Service Area. The service area of the Navarro College District includes the territory within Navarro, Ellis, Freestone, Limestone, and Leon Counties.

North Central Texas College District Service Area. The service area of the North Central Texas College District includes the territory within:

1. Cooke and Montague Counties; and
2. Denton County, except the territory within The Colony, the municipality of Frisco, and the Celina, Prosper, and Carrollton-Farmers Branch independent school districts.

North Harris Montgomery Community College District Service Area. The service area of the North Harris Montgomery Community College District includes the territory within:

1. The Aldine, Conroe, Cypress-Fairbanks, Humble, New Caney, Spring, Tomball, Magnolia, Willis, Montgomery, Splendora, Cleveland, Tarkington, and Klein independent school districts; and
2. The Huntsville and New Waverly independent school districts in Walker County.

Northeast Texas Community College District Service Area. The service area of the Northeast Texas Community College District includes the territory within:

1. Camp, Morris, and Titus Counties;
2. The Avinger and Hughes Springs independent school districts, located in Cass County;
3. The Mount Vernon Independent School District, located in Franklin County;
4. The Como-Pickton and Saltillo independent school districts, located in Hopkins County;
5. The Ore City, Union Hill, and Harmony independent school districts;
6. The Winnsboro Independent School District;
7. The part of the Pewitt Independent School District that is located in Cass County; and
8. The part of the Pittsburg Independent School District that is located in Upshur County.
ODESSA COLLEGE DISTRICT SERVICE AREA. The service area of the Odessa College District includes the territory within:

1. Ector, Brewster, Andrews, Crane, Jeff Davis, Ward, Winkler, Presidio, Upton, Reeves, Culberson, and Loving Counties; and
2. The Seminole Independent School District in Gaines County.

PANOLA COLLEGE DISTRICT SERVICE AREA. The service area of the Panola College District includes the territory within:

1. Panola, Marion, and Shelby Counties; and
2. Harrison County, except the territory within the Hallsville Independent School District.

PARIS JUNIOR COLLEGE DISTRICT SERVICE AREA. The service area of the Paris Junior College District includes the territory within:

1. The Paris Independent School District;
2. The part of the Prairiland Independent School District that was formerly the Cunningham School District;
3. The municipality of Paris;
4. Lamar and Delta Counties;
5. The Detroit and Clarksville independent school districts and the Talco-Bogata Consolidated Independent School District that is in Red River County;
6. The North Hopkins, Sulphur Bluff, Sulphur Springs, Miller Grove, and Cumby independent school districts in Hopkins County;
7. The Honey Grove Consolidated Independent School District in Fannin County;
8. The Fannindel Independent School District, located in Fannin and Delta Counties;
9. Hunt County, except the part of the county that is located in the Terrell Independent School District; and
10. The part of the Prairiland Independent School District that is located in Red River County.

RANGER JUNIOR COLLEGE DISTRICT SERVICE AREA. The service area of the Ranger Junior College District includes the territory within:

1. The part of the Ranger Independent School District that is located in Eastland County, except the area that is known as the old Bullock School Land; and
2. Comanche, Brown, Erath and Young Counties, except for the part of the Graham Independent School District that is located in Young County.

SAN JACINTO COLLEGE DISTRICT SERVICE AREA. The service area of the San Jacinto College District includes the territory within:
1. The Pasadena, La Porte, Deer Park, Channelview, Galena Park, and Sheldon independent school districts; and
2. The part of the Clear Creek Independent School District that is located in Harris County.

SOUTH PLAINS COLLEGE DISTRICT SERVICE AREA. The service area of the South Plains College District includes the territory within:

1. The Whiteface Consolidated Independent School District;
2. Bailey, Lamb, Hale, Floyd, Motley, Cochran, Hockley, Lubbock, Crosby, Yoakum, Terry, Lynn, and Garza Counties; and
3. Gaines County, except the territory within the Seminole Independent School District.

SOUTH TEXAS COMMUNITY COLLEGE DISTRICT SERVICE AREA. The service area of the South Texas Community College District includes the territory within Hidalgo and Starr Counties.

SOUTHWEST TEXAS JUNIOR COLLEGE DISTRICT SERVICE AREA. The service area of the Southwest Texas Junior College District includes the territory within Zavala, Uvalde, Real, Dimmit, Frio, Kinney, La Salle, Maverick, Medina, Val Verde, and Edwards Counties.

TARRANT COUNTY JUNIOR COLLEGE DISTRICT SERVICE AREA. The service area of the Tarrant County Junior College District includes the territory within Tarrant County.

TEMPLE JUNIOR COLLEGE DISTRICT SERVICE AREA. The service area of the Temple Junior College District includes the territory within:

1. The Temple Independent School District;
2. The municipality of Temple;
3. The Academy, Bartlett, Belton, Holland, Rogers, Troy, and Salado independent school districts located in Bell County;
4. The Buckholts, Cameron, Rockdale, and Thorndale independent school districts located in Milam County;
5. The Granger, Hutto, Taylor, and Thrall independent school districts located in Williamson County;
6. The part of the Rosebud-Lott Independent School District that is located in Milam County; and
7. The part of the Bartlett Independent School District that is located in Milam County.

TEXARKANA COLLEGE DISTRICT SERVICE AREA. The service area of the Texarkana College District includes the territory within:

1. The taxing district, which includes part of the municipality of Texarkana and part of the Pleasant Grove Independent School District;
2. Bowie County;
3. Cass County, except the territory within the Hughes Springs, Avinger, and Pewitt independent school districts; and

4. The Avery Independent School District located in Red River County.

TEXAS SOUTHEST COLLEGE DISTRICT SERVICE AREA. The service area of the Texas Southmost College District includes the territory within:

1. The Brownsville, Los Fresnos Consolidated, and Point Isabel independent school districts; and

2. Cameron and Willacy Counties.

TRINITY VALLEY COMMUNITY COLLEGE DISTRICT SERVICE AREA. The service area of the Trinity Valley Community College District includes the territory within:

1. The part of the Terrell Independent School District located in Hunt County;

2. Anderson, Henderson, Kaufman, and Rains Counties; and

3. Van Zandt County, except the territory within the Grand Saline, Lindale, and Van independent school districts.

TYLER JUNIOR COLLEGE DISTRICT SERVICE AREA. The service area of the Tyler Junior College District includes the territory within:

1. The Chapel Hill, Grand Saline, Lindale, Tyler, Yantis, Winona, Alba-Golden, Arp, Bullard, Hawkins, Jacksonville, Mineola, New Summerfield, Quitman, Rusk, Troup, and Whitehouse independent school districts; and

2. The Van Independent School District, except the part of the district that is located in Henderson County.

VERNON REGIONAL JUNIOR COLLEGE DISTRICT SERVICE AREA. The service area of the Vernon Regional Junior College District includes the territory within Wilbarger, Archer, Baylor, Clay, Cottle, Foard, Hardeman, Haskell, King, Knox, Throckmorton, and Wichita Counties.

THE VICTORIA COLLEGE DISTRICT SERVICE AREA. The service area of the Victoria College District includes the territory within:

1. Victoria, Lavaca, DeWitt, and Calhoun Counties;

2. Jackson County, except the territory within the Ganado Independent School District;

3. Refugio County, except the territory within the Woodsboro Independent School District; and

4. Gonzales County, except the territory within the Nixon-Smiley Consolidated Independent School District.

WEATHERFORD COLLEGE DISTRICT SERVICE AREA. The service area of the Weatherford College District includes the territory within Parker, Wise, Jack, and Palo Pinto Counties.
WESTERN TEXAS COLLEGE DISTRICT SERVICE AREA. The service area of the Western Texas College District includes the territory within Scurry, Fisher, Jones, Nolan, Runnels, Dickens, Stonewall, Borden, Mitchell, and Kent Counties.

WHARTON COUNTY JUNIOR COLLEGE DISTRICT SERVICE AREA. The service area of the Wharton County Junior College District includes the territory within:

1. Wharton County;
2. The Needville Independent School District in Fort Bend County;
3. The Wallis-Orchard Independent School District in Austin County;
4. The Columbus and Weimer independent school districts in Colorado County;
5. The Rice Consolidated Independent School District in Colorado County;
6. The Kendleton and Lamar independent school districts in Fort Bend County;
7. The Bay City, Boling, Matagorda, Palacios, Tidehaven, and Van Vleck independent school districts in Matagorda County;
8. The Ganado Independent School District in Jackson County; and
9. The incorporated area and extraterritorial jurisdiction of the city of Sugar Land located in Fort Bend County.
The Board 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), 130.084; Texas Ass’n of Steel Importers, Inc. v. Tex. Highway Comm’n*, 372 S.W.2d 525 (Tex. 1963)

All authority not vested by the laws of the state in the Coordinating Board or in the Central Education Agency shall be reserved and retained locally in the College District or in the Board as provided in the laws applicable. *Education Code 130.002*
RESPONSIBILITIES

The Board, being composed of lay members, shall exercise the traditional and time-honored role as it has evolved in the United States and shall constitute the keystone of the governance structure. In this regard, the 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 the College District under its governance.
3. Shall interpret the community to the campus and interpret the campus to the community.
4. Shall nurture the College District under its governance to the end that it achieves its full potential within its role and mission.
5. Shall insist on clarity of focus and mission of the College District under its governance.

Education Code 51.352(a)

EXTENT OF STATE AND LOCAL CONTROL

All authority not vested by the laws of the state in the Coordinating Board or in the Central Education Agency shall be reserved and retained locally in the College District or in the Board as provided in the laws applicable. Education Code 130.002

POWERS AND DUTIES

The Board shall have specific powers and duties imposed by statutes of the state. The Board has the legal power and duty to:

1. Be governed in the establishment, management, and control of the College District by the general laws governing the establishment, management, and control of independent school districts insofar as the general law is applicable. Education Code 130.084

TUITION AND FEES

2. Set and collect 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 subsection must satisfy the requirements of Section 54.051(n). The Board may set a different tuition rate for each program, course, or course level offered by the College District, including a program, course, or course level to which a provision of Section 54.051 applies, as the Board considers appropriate to reflect course costs or to promote efficiency or another rational purpose. Education Code 130.084

PROVIDE DIRECTION

3. Provide policy direction for the College District and adopt such rules, regulations, and bylaws as the Board deems advisable. Education Code 51.352(b), 130.082(d)
ESTABLISH GOALS 4. Establish goals consistent with the College District’s role and mission. 
Education Code 51.352(d)

TAX RATE 5. Adopt a tax rate each fiscal year as required by Tax Code 26.05. 
Education Code 130.121

Education Code 130.121(a), 130.122(a)

ANNUAL BUDGET 7. The Board shall approve an itemized current operating budget on or before September 1 of each year. 
19 TAC 13.42

ANNUAL AUDIT 8. Have the accounts audited in accordance with the approved financial reporting system. 
Education Code 61.065

ANNUAL REPORT 9. Submit the required annual reports to the governor and comptroller. 
Gov’t Code 403.013

BEQUESTS AND GIFTS 10. Receive bequests and donations or other monies or funds coming legally into their hands. 
Education Code 11.151(a)

ENDOWMENT FUND 11. Establish an endowment fund outside the state treasury in a depository selected by the Board. 
Education Code 130.007

DEPOSITORY 12. Select a depository for College District funds. 
Education Code 51.003

ELECTIONS 13. Order elections as required by law. 
Education Code 130.082(f), 130.122(b)

EMINENT DOMAIN 14. Exercise the right of eminent domain to acquire property. 

APPOINT PRESIDENT 15. Appoint the College President, evaluate the President, and assist the President in the achievement of performance goals. 
Education Code 51.352(d)

EMPLOYMENT OF PERSONNEL 16. Appoint or employ agents, employees, and officials as deemed necessary or advisable to carry out any power, duty, or function of the Board; employ a dean, or other administrative officer; upon the College President’s recommendation, employ faculty and other employees of the College District. 
Education Code 130.082(d)

PASSING RESOLUTIONS OR ORDERS 17. Proceed by and through resolutions or orders adopted or passed by the Board. The affirmative vote of a majority of all Board members shall be required to adopt or pass a resolution or order. 
Education Code 130.082(d)

RENTALS, RATES, AND CHARGES 18. Be authorized to fix and collect rentals, rates, charges, or fees from students and others for the occupancy, use, or availabil-
ity 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 the Board. *Education Code 130.123(c)*

**PROPERTY ACQUISITION**

19. Execute, perform, and make payments under a contract for the use or purchase or other acquisition of real property or an improvement to real property. *Local Gov’t Code 271.004*

**LEASE OF PERSONAL PROPERTY**

20. Execute, perform, and make payments under contracts, which may include leases, lease with option(s) to purchase, or installment purchase, with any person for the use, acquisition, or purchase of any personal property, or the financing thereof. The contracts shall be on terms and conditions that are deemed appropriate by the Board in accordance with state law. *Local Gov’t Code 271.005*

**LAWSUITS**

21. Sue and be sued. *Education Code 11.151(a); 130.084*

**COMMUNICATE WITH COORDINATING BOARD**

22. Ensure that its formal position on matters of importance to the College District is made clear to the Coordinating Board when such matters are under consideration by the Coordinating Board. *Education Code 51.352(d)*

23. Set campus admission standards consistent with the role and mission of the College District and considering admission standards nationwide having a similar role and mission, as determined by the Coordinating Board. *Education Code 51.352(d)*

**MANAGEMENT OF COLLEGE DISTRICT FUNDS**

24. Act as 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)*
ELIGIBILITY

To be eligible to be a candidate for, or elected or appointed to, the office of College District Trustee, 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 and the person’s mental capacity has not subsequently been completely restored by a final judgment of a court exercising probate jurisdiction; or
   b. Partially mentally incapacitated without the right to vote and the person’s guardianship has not been modified to include the right to vote or the person’s mental capacity has not 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. Be a resident of Texas.

6. Reside in the territory from which the office is elected. *Election Code 1.020, 141.001(a)*

QUALIFIED VOTER

A person may not be elected Trustee unless the person is a 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 and the person’s mental capacity has not subsequently been completely restored by a final judgment of a court exercising probate jurisdiction; or
   b. Partially mentally incapacitated without the right to vote and the person’s guardianship has not been modified to...
include the right to vote or the person’s mental capacity has not 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:
   a. Has fully discharged his or her sentence, including any term of incarceration, parole, or supervision;
   b. Has completed a period of probation ordered by any court; or
   c. Has been pardoned or otherwise released from the resulting disability to vote;

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 he or she seeks to represent. Trustees shall, during their term of office, reside within the trustee district from which they were elected. *Education Code 130.0821(b)*

**OFFICIAL OATHS**

A member of the Board must take the proper oath of office before taking up the duties of office. *Education Code 130.082(d)*

**CANDIDATE’S RESIDENCY TERM**

An individual seeking election to the office of Trustee by having his or her name placed on the ballot must have been a resident of the state for 12 months, and a resident of the territory from which the office is elected for six months, prior to the last date on which the candidate could file to be listed on the ballot.

**PREFILED CANDIDACY**

An individual seeking election to the office of Trustee by write-in vote must have been a resident of the state for 12 months and a resident of the territory from which the office is elected for six months, prior to the day of the election.

*Election Code 141.001(a)(5)*

**WRITE-IN CANDIDACY**

An individual appointed to the office of Trustee must have been a resident of the state for 12 months and a resident of the territory from which the office is elected for six months, prior to the day on which the appointment is made. A person appointed to fill a vacancy in a trustee district must be a resident of that trustee district. *Election Code 141.001(a)(5); Education Code 130.082(d)*

**‘RESIDENCE’ DEFINED**

“Residence” shall mean domicile, one’s home and fixed place of habitation to which one intends to return after any temporary ab-
sence; one does not lose one’s residence status by leaving to go to another place for temporary purposes only. Election Code 1.015
Election of Trustees shall be by at-large positions, except as otherwise provided. *Education Code 130.082(f), (h), 130.0821(b)*

Either two or three Trustees shall be elected at each election, the number of Trustees depending upon that required to constitute a board of __________ to serve terms of __________ years. *Education Code 130.082(e), (f), (g), 130.0821(f)*

The Board may order that all or a majority of the Trustees of the College 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.

If the Board orders that Trustees shall be elected from single-member Trustee districts, the Board shall divide the 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.

Not later than the 90th day before the day of the first regular Trustee election at which Trustees may officially recognize and act on the last preceding federal census, the Board shall redivide the College 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 College District shall be in the manner provided for the initial division of the College District.

After each redistricting, all positions on the Board shall be filled unless the Board 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.

The Board of any 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 College District is redistricted to serve for the remainder of their terms in accordance with Education Code 130.0826.

If the Board 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 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 the College District to continue in office after a redistricting plan takes effect if the member no longer resides in the district from which the Trustee was elected.

This method of election does not apply to a college district to which Education Code 130.081, 130.083, 130.0821, or 130.088 applies, or to a 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 college district in which the election of Trustees is governed by a court order so long as that order remains in effect. This method of election does apply to an independent school district junior college district governed by a separate board.

*Education Code 130.0822, 130.0826*

A college district 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 Trustees by position to serve the remainder of their terms and to represent a position for that term. *Education Code 130.0823*

The Board of a college district with a population of greater than one million may require that a candidate’s application be accompanied by a filing fee not to exceed $200 or a petition signed by a number
of registered voters of the college district not to exceed 200 as determined by the Board. *Education Code 130.044(g)*

**NOTICE TO VOTER REGISTRAR**

A college district that changes its boundaries or the boundaries of college districts used to elect members to the Board 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*

**FILING INFORMATION**

A candidate for any position may have his or her name printed on a ballot for election to any position to be filled at each regular election by filing a written statement, signed by the candidate, with the Secretary of the Board not later than 5:00 p.m. of the 62nd day before the day of the election except for an election to be held on the general election date for state and county officers, when the day of the filing deadline is the 70th day before election day. An application may not be filed earlier than the 30th day before the date of the filing deadline. The application must state the number of the position for which the candidate is filing or the name of the incumbent member of the Board holding the position sought. The application shall include all statutorily required information, including a statement that the candidate is aware of the nepotism law. 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 Code 31.0021, 141.031; 144.005*

**WRITE-IN VOTING**

In a general or special election for members of the governing body of the 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 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 the fifth day after the date for a place on the ballot is required to be filed, except for an election to be held on the general election date for state and county officers, when the day of the filing deadline is the 67th day before election day. Subchapter B, Chapter 146, Election Code, applies to write-in voting in an election for members of the governing body except to the extent of a conflict with this section. *Education Code 130.0825*
**ELECTION OF UNOPPOSED CANDIDATE**

The Board may declare each unopposed candidate elected to the office if:

1. Each candidate for an office that is to appear on the ballot is unopposed, and
2. No proposition is to appear on the ballot.

In the case of an election in which any members of the Board are elected from single-member districts, the unopposed candidate procedures can apply to the election in a particular single-member district if each candidate for an office that is to appear on the ballot in that College District is unopposed and the other requirements described above are met.

*Election Code 2.051*

The Board may declare each unopposed candidate elected to the office upon receipt of certification from the authority responsible for having the official ballot prepared. The certification must state that if the election were held, only the votes cast for that candidate in the election for that office may be counted. If the Board makes such a declaration, the election is not held. A copy of the order or ordinance must be posted on election day at each polling place that would have been used in the election. *Election Code 2.052, 2.053(a), (b)*

**LOYALTY OATH**

Before a candidate can have his or her name placed on the ballot, he or she must execute and have notarized the loyalty oath. *Election Code 141.031; The Socialist Workers Party v. Martin, 345 F. Supp. 1132 (S.D. Tex. 1972), aff’d 483 F.2d 554 (5th Cir. 1973)*

**NEPOTISM**

A candidate shall not take any affirmative action to influence a College District employee or current Trustee regarding the appointment, reappointment, employment, confirmation, reemployment, change in status, compensation, or dismissal of a person related to the candidate within a prohibited degree of relationship under the nepotism law. [See DBE(EXHIBIT)] However, this prohibition does not apply to a candidate’s actions taken with respect to a bona fide class or category of employees or prospective employees. *Gov’t Code 573.042*

**GENERAL ELECTION DATES**

Election of Trustees of the College District shall be on one of the following dates:

1. The second Saturday in May
2. The first Tuesday after the first Monday in November

*Election Code 41.001*
The Board may, not later than December 31, 2005, change the date on which it holds its general election for officers to another authorized uniform election date. *Election Code 41.0052(a)*

A college district with a service area that is primarily the same as that of a city with a population of more than 450,000 in which all members of the city’s governing body are elected at large shall hold a general or special election of officers on the spring uniform election date. *Election Code 41.0053*

The College District may seek to create the position of joint elections administrator under Election Code Chapter 31, Subchapter F. *Election Code 31.152*

The Board shall call the election not later than the 62nd day before election day, except that for an election to be held on the date of the general election for state and county officers, the election shall be called not later than the 70th day before the election day. Notice of the election shall be posted in at least three public places in the College District and shall also be published at least once, not earlier than the 30th day or later than the tenth day before election day, in a newspaper published within the College District’s boundaries or in a newspaper of general circulation in the College District if none is published within the College District’s boundaries. *Election Code 3.005, 4.003(a)(1); Education Code 130.082(f)*

The notice shall state the nature and date of the election, the location of each polling place, and the hours the polls will be open. The Board shall retain a copy of the published notice that contains the name of the newspaper and the date of publication and shall preserve that copy at least 22 months after election day. *Election Code 4.004, 4.005, 66.058(a)*

The Board shall also deliver notice of the election to the county clerk of each county in which the College District is located not later than the 60th day before election day. *Election Code 4.008*

In addition to the notice described above, the College District shall, not later than the 21st day before election day, post a copy of the notice on the bulletin board used for posting notices of the meetings of the Board. 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 Board after the last posting is made. *Election Code 4.003(b), 4.004, 4.005*

The ballot shall be printed in the form required by law. The Board shall appoint election judges, set the maximum number of election
clerks, and designate polling places. *Election Code 32.005(a), 32.033(a), 43.034, 52.061–.064, 52.069, 52.093–.094*

**POSTING SIGNS AT POLLING PLACES PROHIBITED**

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 area within 100 feet of an outside door through which a voter may enter the building in which the polling place is located. *Election Code 62.013(b)*

**USE OF CERTAIN DEVICES AT POLLING PLACES PROHIBITED**

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

**EXCEPTION**

The prohibition does not apply to:

1. An election officer in conducting the officer’s official duties; or
2. The use of election equipment necessary for the conduct of the election.

*Election Code 61.013*

**NOTICE OF VOTING RIGHTS HOTLINE**

A notice of voters’ rights, in the form prescribed by the secretary of state and including information required by the secretary of state, shall be publicized as provided by the secretary of state. The notice shall, in part, inform voters of the telephone number and purpose of the secretary of state’s toll-free hotline for reporting existing or potential abuse of voting rights. *Election Code 31.0055, 62.0115*

**POLLING PLACES**

Each polling place shall be accessible to and usable by the elderly and physically disabled. *Election Code 43.034*

If a college district holds an election on the November uniform election date, the College District shall follow procedures from the secretary of state and designate as the polling places for the election the regular county polling places in the county election precincts that contain territory from the College District. *Election Code 42.002(a)(5), 42.0621, 43.004(b)*

**VOTING MACHINES AND PUNCH-CARD BALLOTS**

Effective January 1, 2006, 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)*

**VOTERS WITH DISABILITIES**

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. Section 794) and its subsequent amendments, and the requirements for accessibility under 42 U.S.C. Section 15481(a)(3) and its subsequent amendments, and Title II of the federal Americans with Disabilities Act (42 U.S.C. Section 12131 et seq.) and its subsequent amendments and that provides a practical and effec-
tive 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), the College District is not required to meet the requirements for accessibility under 42 U.S.C. Section 15481(a)(3) and its subsequent amendments if the College District’s election is not held jointly with another election in which a federal office appears on the ballot and if the College District 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 College District provides at least one voting station that meets the requirements for accessibility under 42 U.S.C. Section 15481(a)(3) on election day;

3. With a population of 5,000 or more but less than 10,000, and the College District provides at least one voting station that meets the requirements for accessibility under 42 U.S.C. Section 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 College District:
   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 county;
   b. Provides at least one voting station that meets the requirements for accessibility under 42 U.S.C. Section 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. Section 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 College District 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 College District; or
b. For each portion of the College District located in a different county, to be considered a separate political subdivision.

_Election Code 61.013_

This requirement applies only to a polling place that uses an electronic voting system unless the secretary of state certifies that federal law requires application to all forms of voting at a polling place.

_Election Code 61.012_

A college district 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. _1TAC 81.55_ [See GL]

**BILINGUAL MATERIALS**

The College District shall provide bilingual election materials, as specified by law, when the director of the federal census determines that:

1. More than five percent of the citizens of voting age of the College District are members of a single language minority and are limited-English proficient, or more than 10,000 of the citizens of voting age of the College District are members of a single language minority and are limited-English proficient; and

2. The illiteracy rate of the citizens in the language minority as a group is higher than the national illiteracy rate, illiteracy defined as the failure to complete the fifth primary grade.

The term “limited-English proficient” means unable to speak or understand English adequately enough to participate in the electoral process.

The term “language minorities” or “language minority group” means people who are American Indian, Asian American, Alaskan natives, or of Spanish heritage.

_42 U.S.C. 1973aa-1a_

Except as provided by Election Code 272.003, 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 exempt from the bilingual requirement if official census information or other information indicates that per-
sons of Spanish origin or descent comprise less than five percent of the precinct’s inhabitants.

Election Code 272.002, 272.003

EARLY VOTING

The Board shall provide for early voting in Board elections as provided by law. Election Code 81.001, 88.004, 101.001–112.010

CANVASS RETURNS

Except as provided below, the Board shall canvass the returns at the time set by the presiding officer not earlier than the eighth day or later than the 11th day after election day.

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 Board constitute a quorum for purposes of canvassing an election.

Election Code 67.003, 67.004

CERTIFICATE OF ELECTION

After the completion of a canvass, the presiding officer 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.
A recount petition shall delay 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. A candidate who has received a certificate of election and qualified for an office before the submission of a recount petition shall not be affected by the 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 canvass shall also prepare a report of the precinct results as contained in the election register and shall deliver the report to the secretary of state as required by law.

_Election Code 67.016, 67.017, 212.0331_

**CERTIFICATE OF ELECTION FOR UNOPPOSED CANDIDATE**

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(c)_

**MAJORITY**

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

**VOTING SYSTEM MALFUNCTION**

If no private vendor supports the College District’s voting system, the College District must give notice to the secretary of state within 24 hours of a malfunction of the College District’s voting system software or equipment in an election. The notice may be verbal or in writing. _1 TAC 81.64_

**RUNOFF ELECTIONS**

If no candidate receives a majority of the votes cast for all candidates for a position, 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 2.025_

**TIE VOTES SECOND ELECTION**

If two or more candidates for the same office tie for the number of votes required to be elected, a second election to fill the office shall be held, unless the candidates agree to cast lots, one candidate withdraws, or an automatic recount resolves the tie. Not later than the fifth day after the automatic recount is completed or the final canvass following the automatic recount is completed, if applicable, the Board shall order the second election. This election shall be
held not less than 20 nor more than 30 days after the automatic recount is completed or the final canvass following the automatic recount is completed, if applicable. Notice of the second election shall be given in the same manner as for the first election. Only the names of the tying candidates shall be printed on the ballot; write-in votes shall not be permitted. Election Code 2.002(a)–(e)

CASTING LOTS
The tying candidates may agree to cast lots to resolve the tie. The agreement shall be filed with the Board, and the Board President shall supervise the casting of lots. Election Code 2.002(f)

WITHDRAWAL OF CANDIDATE
A tying candidate may resolve the tie by filing with the Board a written statement of withdrawal signed and acknowledged by the candidate. On receipt of the statement of withdrawal, the remaining candidate is the winner, and a second election or casting of lots is not held. Election Code 2.002(g)

RECOUNT
If a tie vote is not resolved by casting lots or by a candidate withdrawing, an automatic recount shall be conducted in accordance with Election Code Chapter 216. Election Code 2.002(i)

OFFICER’S STATEMENT
Newly elected and appointed Trustees, before taking the oath or affirmation of office and entering upon the duties of office, shall sign the required officer’s statement. The statement shall be retained with the official records of the office. Tex. Const. Art. XVI, Sec. 1(b) [See BBB(EXHIBIT)]

OATH OF OFFICE
After the statement has been signed and certificates of election have been issued, but before entering upon the duties of the office, the Trustee shall take the oath or affirmation of office and shall file it with the President of the Board. Tex. Const. Art. XVI, Sec. 1(a); Education Code 11.061 [See BBB(EXHIBIT)]

The oath may be administered and a certificate of the fact given by:

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. The Texas secretary of state.
6. The speaker of the house of representatives.
7. The lieutenant governor of Texas.
8. The governor of Texas.
9. A legislator or retired legislator.

10. The attorney general.

Gov’t Code 602.002, 602.006

VOTING RIGHTS ACT

The Board, being subject to the provisions of the Voting Rights Act of 1965, shall submit any changes that affect elections to the U.S. Justice Department for preclearance and shall implement such changes unless the Justice Department interposes an objection within 60 days after the date of submission. 42 U.S.C. 1973c; 28 CFR 51.6; Garza v. Gates, 482 F. Supp. 1211 (D.C. Tex. 1980)

REPORTING CAMPAIGN FUNDS

Candidates for the Board 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 251.001–254.001 et seq.

TERMINATION OF CAMPAIGN TREASURER APPOINTMENT

In accordance with statute, the Board by ordinance or order may adopt a process by which the secretary 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.

For purposes of this statute, 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 Section 254.065 or 254.125, or a dissolution report under Election Code Section 254.126 or 254.159.

Before the Secretary of a political subdivision may terminate a campaign treasurer appointment, the Board 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 Board votes to terminate the appointment. Following that meeting, the Secretary 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
BOARD ACTIONS

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 ISD*, 466 S.W.2d 377 (Tex. Civ. App.-San Antonio, 1971, no writ); *Buchele v. Woods*, 528 S.W.2d 95 (Tex. Civ. App.-Tyler, 1975, no writ)

RIGHT OF ACCESS

Individual Trustees, in their official capacity as public officers entrusted with governing and overseeing the management of the District, have an inherent right of access to records maintained by the District, under Board policies for orderly access. *Atty. Gen. Op. No. JM-119 (1983)* [See FJ, GAA]

Each Board member shall have the legal responsibility of a fiduciary in the management of funds under the control of colleges subject to the Board’s control and management. *Education Code 51.352(e)*

PROTECTIONS FOR ACTING ON A LEGISLATIVE MEASURE

A Board member 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 actions relating to a legislative measure; or the substance, effects, or potential effects of a legislative measure.

*Gov’t Code 572.059*
If a local public official or a person related to a local public official in the first degree by either affinity or consanguinity has a substantial interest in a business entity or in real property, the local public official before a vote or decision on any matter involving the business entity or the real property, shall file an affidavit with the official Board recordkeeper 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.

Local Gov’t Code 171.004

A Board may contract with a business entity in which a Trustee has a substantial interest if the Trustee follows the disclosure and abstention procedure set out above. Atty. Gen. Op. JM-424 (1986)

A person has a “substantial interest” in a business entity if any of the following is the case:

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

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.

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

Local Gov’t Code 171.002
“Local public official” shall mean a member of the governing body or another officer, whether elected, appointed, paid, or unpaid, of any College District (including a College District), central appraisal district, or other local governmental entity who exercises responsibilities beyond those that are advisory in nature. *Local Gov’t Code 171.001(1)*

“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)*

If a Trustee is required to file and does file an affidavit, that Trustee shall not be required to abstain from further participation in the matter or matters requiring such an affidavit if a majority of the Trustees are likewise required to file and do file affidavits of similar interests on the same official action. *Local Gov’t Code 171.004*

A Board shall take a separate vote on any budget item specifically dedicated to a contract with a business entity in which a Trustee has a substantial interest. The affected Trustee shall not participate in that separate vote, but may vote on a final budget if he or she filed the affidavit and the matter in which he or she is concerned has been resolved. *Local Gov’t Code 171.005*

Except as provided above, the local public official shall not knowingly:

1. Participate in a vote or decision on a matter involving a business entity or real property in which the local public official has a substantial interest if it is reasonably foreseeable that an action on the matter will have a special economic effect on the business entity or value of the property that is distinguishable from the effect on the public.

2. Act as surety for a business entity that has a contract, work, or business with a College District.

3. Act as surety on any official bond required of an officer of a College District.

*Local Gov’t Code 171.003*

The finding by a court of a violation of Local Government Code Chapter 171 does not render an action of a Board voidable unless the measure that was the subject of an action involving a conflict of interest would not have passed without the vote of the person who violated the chapter. *Local Gov’t Code 171.006*
A local government officer shall file the required conflicts disclosure statement, as adopted by the Texas Ethics Commission, with respect to an applicable vendor if the vendor enters into a contract with the College District or the College District is considering entering into a contract with the vendor; and the vendor:

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 College District 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 such a contract has been executed; or the College District 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 Title 15, Election Code; 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 College District 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.

A local government officer commits a Class C misdemeanor if the officer knowingly violates this law. It is an exception to the application of the penalty that the local government officer filed the required conflicts disclosure statement not later than the seventh business day after receiving notice from the College District of the alleged violation.

Local Gov’t Code 176.003–.004
“Local government officer” means a member of the governing body of a College District, a director, superintendent, administrator, president, or other person designated as the executive officer of the College District; an employee of a College District who has the authority to approve contracts on behalf of the College District, including a person designated as the representative of the College District for purposes of Chapter 271, and with respect to whom the College District 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” shall mean a person related to another person within the first degree by consanguinity or affinity, as described by Subchapter B, Chapter 573, Government Code, 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” means the director, superintendent, or other person responsible for maintaining the records of the College District or another person designated by the College District to maintain statements and questionnaires filed under Local Government Code 176 and perform related functions. Local Gov’t Code 176.001(5) [See CPC]

“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)

A College District that maintains an Internet Web site shall provide access on the College District’s Internet Web site to the conflicts disclosure statements and questionnaires required to be filed with the records administrator. Local Gov’t Code 176.009

If a public servant has a legal or equitable interest in any property that is to be acquired with public funds, and has actual notice of the acquisition or intended acquisition of the property, the public servant shall file an affidavit as follows:
1. The affidavit shall 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 resides within ten days before the date on which the property is to be acquired by purchase or condemnation.

2. The affidavit must:
   
a. State the name of the public servant and the public office title or job designation held or sought.

b. Fully describe the property.

c. Fully describe the nature, type, and amount of interest in the property, including the percentage of ownership interest and the date the interest was acquired.

d. Include a verification of the truth of the information in the affidavit. [See BBFA(EXHIBIT)]

e. Include an acknowledgment of the same type required for recording a deed in the deed records of a county.

Gov’t Code 553.002, 553.003

A public servant who fails to file the affidavit when required is presumed to have the intent to commit an offense. An offense under this section is a Class A misdemeanor. Gov’t Code 553.003

“Public servant” shall mean 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
“Public servant” shall mean 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)(A), (E)*

Prohibited activities are covered by, but are not limited to, the following:

**Bribery**

1. A public servant shall not intentionally or knowingly offer, confer, agree to confer on another, solicit, accept, or agree to accept a benefit:
   a. As consideration for the public servant’s decision, opinion, recommendation, vote, or other exercise of discretion as a public servant.
   b. As consideration for a violation of a duty imposed on the public servant by law.
   c. That is a political contribution as defined by Title 15 of the Election Code or an expenditure made and reported as a lobbying expense 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.

   “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), 36.02*

**Illegal Gifts**

2. A public servant who exercises discretion in connection with contracts, purchases, payments, claims, or other pecuniary transactions shall not solicit, accept, or agree to accept any benefit from a person the public servant knows is interested in or likely to become interested in any such transactions of a College District. *Penal Code 1.07(41)(A), (E), 36.08(d)*

A public servant who receives an unsolicited benefit that the public servant is prohibited from accepting under this section 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

“Illegal gifts to public servants” does not apply to:

a. 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 he or she gives legitimate consideration in a capacity other than as a public servant;

b. 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;

c. A benefit to a public servant required to file a statement under Chapter 572, Government Code, or a report under Title 15, Election Code, that is derived from a function in honor or appreciation of the recipient if:

(1) The benefit and the source of any benefit in excess of $50 is reported in the statement; and

(2) 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;

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

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

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

g. 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 36.10

HONORARIA AND EXPENSES

3. A public servant commits a class A misdemeanor offense if he or she 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 his or her official posi-
tion or duties. However, a public servant is not prohibited from accepting transportation and lodging expenses or meals in connection with a conference or similar event in which he or she renders services, such as addressing an audience or engaging in a seminar, to the extent those services are more than merely perfunctory. Pen Code 36.07

**ABUSE OF OFFICE**

4. A public servant shall not, with intent to obtain a benefit or with intent to harm or defraud another, intentionally or knowingly violate a law relating to the office or misuse College District property, services, personnel, or any other thing of value, belonging to a College District, that has come into his or her custody by virtue of his or her office or employment. Pen Code 39.02(a)

“Law relating to the 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. Pen Code 39.01(1)

“Misuse” means to deal with property contrary to:

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

b. A contract of employment or oath of office of a public servant;

c. 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

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

Pen Code 39.01(2)

**NEPOTISM**

5. Except as provided by law, a public official may not appoint a person to a position that is to be directly or indirectly compensated from public funds or fees of office if:

a. The person is related to the public official by blood (consanguinity) within the third degree or by marriage (affinity) within the second degree [see below]; or

b. The public official holds the appointment or confirmation authority as a member of a local board and the person is related to another member of the Board by blood or marriage within a prohibited degree.

DEFINITION OF PUBLIC OFFICIAL

“Public official” shall mean:

c. An officer of this state or of a College District, county, municipality, precinct, College District, or other political subdivision of this state; or

d. 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)

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


FORMER TRUSTEE EMPLOYMENT

6. A Trustee of a College District may not accept employment with the College District until the first anniversary of the date the Trustee’s membership on the Board ends. Education Code 11.063

INCOMPATIBILITY OF OFFICE


TEXTBOOK VIOLATIONS - COMMISSIONS

8. A Trustee commits a class B misdemeanor offense if the Trustee receives any commission or rebate on any textbooks used in the schools with which the Trustee is associated. Education Code 31.152(a)

DATE ISSUED: 1/23/2008
UPDATE 23
BBFB(LEGAL)-PJC
9. A Trustee commits a class B misdemeanor offense if the Trustee accepts a gift, favor, or service that:

a. Is given to the person or the person's school;

b. Might reasonably tend to influence a Trustee in the selection of a textbook; and

c. Could not be lawfully purchased with funds from the state textbook fund.

“Gift, favor, or service” does not include staff development, in-service, or teacher training; or instructional materials, such as maps or worksheets, that convey information to the student or otherwise contribute to the learning process.

*Education Code 31.152(b)–(d)*
MEMBERS' EXPENSES  Board members shall not receive any remuneration or emolument of office.

Board members 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 College District 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)*
APPRAISAL

Appraisal of taxable property in the College District shall be conducted by the countywide appraisal district. *Tax Code 6.01(b)*

ASSESSMENT AND COLLECTION

Taxes may be assessed and/or collected by the tax assessor-collector for a county, city, taxing district, or other governmental subdivision in which all or any part of the College District is located. *Education Code 130.121(b), (c)*

REGISTRATION REQUIREMENTS

In accordance with the Property Taxation Professional Certification Act, the following district tax officials shall be registered with the Board of Tax Professional Examiners:

1. Tax assessor-collector.
2. Tax collector.
3. Chief administrator, as designated by the Board, of a district’s assessment and/or collecting functions.
4. All persons engaged in appraisals of real or personal property for ad valorem tax purposes.
5. Other persons, as required by the chief administrator, who perform assessment or collection functions for the College District.

*Occupations Code 1151.151*

SELECTION OF ASSESSOR AND COLLECTOR

The Board may, for a tax assessor or collector:

1. Require the county to assess and collect taxes for the College District. *Tax Code 6.22(c)*
2. Contract with another taxing unit or the countywide appraisal district(s) to assess and/or collect. *Tax Code 6.24(a)*

DUTIES

The assessor and collector shall assess, collect, or assess and collect taxes as applicable. *Tax Code 6.23(b)*

ASSESSOR

The assessor or designated officer or employee shall calculate the effective tax rate and the rollback tax rate and submit these rates to the Board. *Tax Code 26.04(c), (e)*

The assessor shall:

1. Calculate the tax on each property by applying the adopted rates to the appraised value. *Tax Code 26.09*
2. Prepare and mail a tax bill to each person, and authorized agent, in whose name property is listed on the tax roll. If the assessor mails a tax bill to a mortgagee of a property, the assessor is not required to mail a copy of the bill to any mortga-
gor under the mortgage or to the mortgagor's authorized agent.  *Tax Code 31.01(a)*


**COLLECTOR**

The collector shall:

1. Certify to the Board an estimate of the collection rate for the current year, the amount of debt taxes, if applicable, and other required information.  *Tax Code 26.04(b)*

2. At the request of any person, issue a certificate showing the amount of delinquent taxes, penalties, and interest due the College District on a property according to the College District’s current tax records. If the collector collects taxes for more than one taxing unit, the certificate must show the amount of delinquent taxes, penalties, and interest due to each of those taxing units.  *Tax Code 31.08(a)*

3. At the request of a property owner, or his or her agent, issue a receipt showing the amount of taxes imposed by the College District in the year(s) for which information is requested and the amount of taxes paid.  *Tax Code 31.075*

4. Prepare and submit to the Board each month a written report made under oath accounting for all taxes collected for the College District during the preceding month.  *Tax Code 31.10(a)*

5. Prepare and submit to the Board by the 60th day following the last day of the fiscal year an annual report made under oath accounting for all taxes collected or delinquent on property taxed by the College District during the preceding 12-month period.  *Tax Code 31.10(b)*

6. At least monthly, deposit in the College District’s depository(ies) all taxes collected for the College District. If taxes are collected by the collector or officer of another taxing unit or the appraisal district, deposits shall be made daily, unless the Board, by official action, provides that deposits may be made less often than daily.  *Tax Code 31.10(c), (d)*

7. Refund overpayments or erroneous payments of taxes as provided by law.  *Tax Code 31.11*

8. Refund duplicate payments of taxes as provided by law and inform a College District’s auditor monthly of refunds made during the preceding month.  *Tax Code 31.111*

9. Prepare a current and cumulative delinquent tax roll each year.  *Tax Code 33.03*
10. At least once each year deliver a delinquent tax notice to each person whose name appears on the delinquent tax rolls, unless the person’s address is undetermined or a tax bill was not mailed because the collector did not send a tax bill for an amount less than $15. Tax Code 31.01(f), 33.04

11. Perform other legal duties. Tax Code 6.23, 33.21–33.25

**COLLECTOR’S BOND**

A tax collector who is a College District employee shall give bond conditioned on the faithful performance of duties. The bond shall be made payable to and be approved by the Board in an amount determined by the Board.

If the College District’s taxes are collected by the collector of another taxing unit, by an officer or employee of another taxing unit or of an appraisal district, or any other person, the Board may require the person to give bond conditioned on the faithful performance of duties. The bond shall be payable to, approved by, and paid for by the Board in an amount determined by the Board.

The College District shall pay the premium for the required bond from its general fund or as provided by intergovernmental contract.

Tax Code 6.29

**LIMIT ON CONTRACTING**

The College District 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 the appraisal district or districts in which the College District participates or with a business entity in which a member of the appraisal Board has a substantial interest.

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 share 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(c), (d)
“Meeting” means a deliberation among a quorum of the Board, or between a quorum of the Board and another person, during which public business or public policy over which the Board has supervision or control is discussed or considered, or during which the Board takes formal action. “Meeting” also means a gathering:

1. That is conducted by the Board or for which the Board is responsible;
2. At which a quorum of members of the Board is present;
3. That has been called by the Board; and
4. At which the Board members receive information from, give information to, ask questions of, or receive questions from any third person, including an employee of the College District, about the public business or public policy over which the Board has supervision or control.

Gov’t Code 551.001(4)

“Deliberation” means a verbal exchange during a meeting among a quorum of the Board, or between a quorum of the Board and another person, concerning any issue within the jurisdiction of the Board or any public business.  Gov’t Code 551.001(2)

The term “meeting” does not include the gathering of a quorum of the Board at a social function unrelated to the public business that is conducted by the Board, or the attendance by a quorum of the Board 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)

The attendance by a quorum of the Board at a meeting of a committee or agency of the legislature is not considered to be a meeting of the Board if the deliberations at the meeting by the Board members consist only of publicly testifying, publicly commenting, and publicly responding to a question asked by a member of the legislative committee or agency.  Gov’t Code 551.0035

Every meeting of the Board shall be open to the public. The Board may, however, exclude a witness from a hearing during the examination of another witness in a matter being investigated and may enter into a closed meeting, as provided by law.  Gov’t Code 551.002, 551.084, Ch. 551, Subch. D, Subch. E [See BCB and BEC]
All or any part of an open meeting may be recorded by any person in attendance by means of a tape recorder, video camera, or any other means of aural or visual reproduction. The Board 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. These rules shall not prevent or unreasonably impair a person from exercising the right to record a meeting that is open to the public. *Gov’t Code 551.023*

The Board shall prepare and keep minutes or make a tape recording of each open meeting. The minutes shall state the subject matter of each deliberation and indicate each vote, order, decision, or other action taken. The minutes and tapes are public records and shall be available for public inspection and copying on request to the College President or designee. *Gov’t Code 551.021, 551.022*

The Board shall give written notice of the date, hour, place, and subject(s) of each meeting it holds. *Gov’t Code 551.041*

If the Board recesses an open meeting to the following regular business day, the Board is not required to post notice of the continued meeting if the action is taken in good faith and not to circumvent Government Code 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 Board body must give the required written notice of the meeting continued to that other day. *Gov’t Code 551.0411(a)*

If a member of the public or of the Board inquires at a meeting about a subject for which 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*

Notice of a Board meeting shall 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. That notice or a notice posted at another Board-designated place shall at all times be readily accessible to the public for at least 72 hours before the scheduled time of the meeting. *Gov’t Code 551.043(a), 551.051; City of San Antonio v. Fourth Court of Appeals, 820 S.W. 2d 762 (Tex. 1991)*

If the College District is required to post notice of a meeting on the Internet, the College District satisfies the requirement that the no-
tice 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 College District must still comply with the duty to physically post the notice in the central administration office and if the College District makes a good-faith attempt to continuously post the notice on the Internet during the prescribed period, the physically posted notice must be readily accessible to the general public during normal business hours.

*Gov’t Code 551.043(b)*

**INTERNET POSTING**

If the College District maintains an Internet Web site, in addition to the other place at which notice is required to be posted, the Board must also concurrently post notice of a meeting on the Internet Web site.

A College District 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 with the notice, post on the College District’s Internet Web site the agenda for a Board meeting, if the agenda differs from the posted notice.

The validity of a posting of a College District 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 College District.

*Government Code 551.056*

**SPECIFICITY OF AGENDA / NOTICE**

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 accomplish. *Cox Enterprises, Inc. v. Austin ISD*, 706 S.W.2d 956 (Tex. 1986); *Point Isabel ISD v. Hinojosa*, 797 S.W.2d 176 (Tex. App.—Corpus Christi, 1990, writ denied); Atty. Gen. Ops. M-494 (1969), H-419 (1974), H-662 (1975), H-1045 (1977)

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-0169 (2000)*
In an emergency or when there is an urgent public necessity, the notice of a meeting or the supplemental notice of a subject added to an agenda posted in accordance with law 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 because of an imminent threat to public health and safety or a reasonably unforeseeable situation. The Board shall clearly identify the emergency or urgent public necessity for each item in the notice of an emergency meeting and each item added in a supplemental notice.

The sudden relocation of a large number of residents from the area of a declared disaster to the College District’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 a situation described by this subsection 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

CATASTROPHE

A Board prevented from convening an open meeting that was otherwise properly posted under Government Code Section 551.041 because of a catastrophe may convene the meeting in a convenient location within 72 hours pursuant to Government Code Section 551.045 if the action is taken in good faith and not to circumvent Government Code Chapter 551. If the Board is unable to convene the open meeting within those 72 hours, the Board may subsequently convene the meeting only if the Board gives the required written notice of the meeting.

“Catastrophe” means a condition or occurrence that interferes physically with the ability of the Board 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 541.0411(b), (c)
SPECIAL NOTICE TO NEWS MEDIA

The College District shall provide special notice of each meeting by telephone, facsimile transmission, or electronic mail to any news media that has requested it and agreed to reimburse the College District for the cost of providing the special notice. When an emergency meeting is called or an emergency item added to an agenda, the Board President shall notify by telephone, facsimile transmission, or electronic mail any news media who have previously requested special notice of all meetings. *Gov't Code 551.047, 551.052*

QUORUM

A majority of the Board (e.g., four members of a seven-member Board or five members of a nine-member Board, regardless of the number of vacancies) constitutes a quorum for meetings of the Board. *Gov't Code 551.001(6), 311.013(b)*

DISASTER

Notwithstanding any other law, a quorum is not required for the Board to act if:

1. The College District’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 Board are unable to be present at a Board meeting as a result of the disaster.

*Gov’t Code 418.112*

SECRET BALLOT


MEETING BY CONFERENCE CALL

The Board may hold a meeting by telephone conference call if the meeting is a specially called meeting and immediate action is required, and the convening at one location of a quorum of the Board is difficult or impossible.

QUORUM AT ONE LOCATION

A meeting held by telephone conference call may be held if a quorum of the Board is physically present at the location where meetings of the Board are usually held. A Board member who participates in the 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.

PUBLIC ACCESS

Each part of the telephone conference call meeting that is required to be open shall be audible to the public at the location specified in the notice of the meeting. The location designated in the notice as 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 prior to speaking.
The telephone conference call meeting is subject to the notice requirements applicable to other meetings. The notice must specify as the location of the meeting, the location where meetings of the governmental body are usually held.

The conference call meeting shall be tape-recorded and made available to the public.

*Gov't Code 551.121-.122*

If a College District does not extend into three or more counties, a meeting may be held by videoconference call only if a quorum of the Board is physically present at one location of the meeting. If the College District extends into three or more counties, a meeting may be held by videoconference call if a majority of the quorum is physically present at one location of the meeting. A meeting held by videoconference call is subject to the notice requirements applicable to other meetings in addition to the notice requirements applicable to meetings by videoconference call.

*Gov't Code 551.127*

The notice of a meeting to be held by videoconference call must specify as a location of the meeting the location where a quorum of the Board will be physically present and specify the intent to have a quorum present at that location, except that the notice of a meeting to be held by videoconference call by the Board in a College District that extends into three or more counties must specify as a location of the meeting each location where a majority of the quorum of the Board will be physically present and specify the intent to have a majority of the quorum of the Board present at that location. The notice of the meeting must also specify where each participating member of the governmental body will be during the meeting.

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 each location specified in the notice.

Each location specified in the notice shall have two-way communication with each other location during the entire meeting. Each participant in the videoconference call, while speaking, shall be clearly visible and audible to each other participant and, during the open portion of the meeting, to the members of the public in attendance at a location of the meeting.

The Board shall make at least an audio recording of the meeting. The recording shall be made available to the public.
The quality of the audio and video signals perceptible at each location of the meeting must meet or exceed standards specified by the Department of Information Resources. The quality of the audio and video signals perceptible by members of the public at each location of the meeting must:

1. Meet or exceed the quality of the audio and video signals perceptible by the Board members participating in the meeting; and

2. Be of sufficient quality so that members of the public at each location of the meeting can observe the demeanor and hear the voice of each participant in the open portion of the meeting.

The Board may allow a member of the public to testify at a meeting from a remote location by videoconference call even if a Board member is not participating in the meeting from a remote location.

*Gov’t Code 551.127; 1 TAC 209.30–.33*

The Board may broadcast an open meeting over the Internet. If the Board broadcasts a meeting over the Internet, it shall establish an Internet site and provide access to the broadcast from that site. The Board shall provide on the Internet site the same notice of the meeting, within the time required for posting that notice, that the Board is required to post under the Open Meetings Act. *Gov’t Code 551.128*

The Board 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 Board or a private consultation with its attorney in a closed meeting of the Board. [See BDA]

Each part of a public consultation by the Board with its attorney in an open meeting 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*

The Board shall proceed by and through resolutions or orders adopted or passed by the Board. The affirmative vote of a majority of all Board members shall be required to adopt or pass a resolution or order. The Board shall adopt such rules, regulations, and bylaws as it deems advisable. *Education Code 130.082(d)*

In a proceeding before the Board in which the legal rights, duties, or privileges of a party are to be determined by the Board after an
adjudicative hearing, the Board shall supply for a party who is deaf or hearing impaired an interpreter who has qualifications approved by the Texas Department of Assistive and Rehabilitative Services.

For purposes of this requirement, “deaf or hearing impaired” means having a hearing impairment, regardless of the existence of a speech impairment, that inhibits comprehension of a proceeding or inhibits communication with others.

Gov’t Code 558.001, 558.003
EXCEPTIONS FOR CLOSED MEETINGS

ATTORNEY CONSULTATION
1. The Board may conduct a private consultation with its attorney only when it seeks the attorney’s advice about pending or contemplated litigation or a settlement offer or on a matter in which the duty of the attorney to the Board under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the requirement for open meetings. *Gov’t Code 551.071* [See BD for permissible methods of communication for attorney consultations]

REAL PROPERTY
2. The Board 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 Board’s position in negotiations with a third person. *Gov’t Code 551.072*

PROSPECTIVE GIFT
3. The Board may conduct a closed meeting to deliberate a negotiated contract for a prospective gift or donation to the College District if deliberation in an open meeting would have a detrimental effect on the Board’s position in negotiations with a third person. *Gov’t Code 551.073*

PERSONNEL MATTERS
4. The Board is not required 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. However, the Board may not conduct a closed meeting for these purposes 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 Board discusses an independent contractor who is not a College District employee, such as an engineering, architectural, or consultant firm, or when the Board discusses a class or group of employees, not a particular employee. *Atty. Gen. Op. MW-129 (1980), Atty. Gen. Op. H-496 (1975)*

EMPLOYEE-EMPLOYEE COMPLAINTS
The Board is not required to conduct an open meeting to deliberate in a case in which a complaint or charge is brought against a College District employee by another employee and the complaint or charge directly results in the need for a hearing. However, the Board may not conduct a closed meeting for this purpose if the employee against whom the complaint or charge is brought makes a written request for an open hearing. *Gov’t Code 551.082*
5. The Board is not required to conduct an open meeting to deliberate in a case involving discipline of a secondary school child. However, the Board may not conduct a closed meeting for this purpose if the child’s parent or guardian makes a written request for an open hearing. *Gov’t Code 551.082*

6. The Board is not required to conduct an open meeting to deliberate a matter regarding a secondary school student if personally identifiable information about the student will necessarily be revealed by the deliberation.

Directory information about a College District 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 College District that the directory information should not be released without prior consent. [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*

7. A Board that administers a public insurance, health, or retirement plan is not required to conduct an open meeting to deliberate:

a. The medical records or psychiatric records of an individual applicant for a benefit from the plan; or

b. 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*

8. The Board is not required to conduct an open meeting to deliberate:

a. The deployment, or specific occasions for implementation, of security personnel or devices; or

b. A security audit.

*Gov’t Code 551.076*

9. The Board shall conduct a closed meeting to discuss or adopt individual assessment instruments or assessment instrument items. *Education Code 39.030(a)*
10. The Board is not required to conduct an open meeting to deliberate information confidential under Government Code Sections 418.175–418.182, relating to Homeland Security. However, the Board must make a tape recording of the proceedings of a closed meeting held to deliberate the information. *Gov’t Code 418.183(f)*

11. The Board is not required to conduct an open meeting:

a. To discuss or deliberate regarding commercial or financial information that the Board has received from a business prospect that the Board seeks to have locate, stay, or expand in or near the College District and with which the Board is conducting economic development negotiations; or

b. To deliberate the offer of a financial or other incentive to such a business prospect.

*Gov’t Code 551.087*

If a closed meeting is allowed, the Board shall not conduct the closed meeting unless a quorum of the Board first convenes in an open meeting for which proper notice has been given [see BD] and the presiding officer has publicly announced that a closed meeting will be held and has identified the section or sections of the Open Meetings Act or other applicable law 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 shall be made only in an open meeting for which proper notice has been given. *Gov’t Code 551.102* [See BD]

The Board shall either keep a certified agenda or make a tape recording of the proceedings of each closed meeting, except for private consultation with the College District’s attorney. 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. The presiding officer shall certify that a certified agenda is a true and correct record of the proceedings. If a tape recording is made, it must include announcements by the presiding officer at the beginning and 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 Board. *Zamora v. Edwardwood ISD, 592 S.W.2d 649 (Tex. App.—San Antonio, 1979)*
<table>
<thead>
<tr>
<th>PRESERVATION</th>
<th>The Board shall preserve the certified agenda or tape recording of a closed meeting for at least two years after the date of the meeting. If a legal action involving the meeting is brought within that period, the Board shall preserve the certified agenda or tape recording while the action is pending. <em>Gov’t Code 551.104(a)</em></th>
</tr>
</thead>
<tbody>
<tr>
<td>PUBLIC ACCESS</td>
<td>A certified agenda or tape recording of a closed meeting is available for public inspection and copying only under a court order issued as a result of litigation involving an alleged violation of the Open Meetings Act. <em>Gov’t Code 551.104(b)(c)</em></td>
</tr>
</tbody>
</table>
| PROHIBITIONS | No Board member shall participate in a closed meeting knowing that neither a certified agenda nor a tape recording of the closed meeting is being made. *Gov’t Code 551.145*  
No individual, corporation, or partnership shall without lawful authority disclose to a member of the public the certified agenda or tape recording of a meeting that was lawfully closed to the public. *Gov’t Code 551.146*  
No Board member shall knowingly call or aid in calling or organizing a closed meeting that is not permitted under the Open Meetings Act, close or aid in closing a regular meeting to the public except as permitted under the Open Meetings Act, or participate in a closed meeting that is not permitted under the Open Meetings Act. *Gov’t Code 551.144(a)* |
| AFFIRMATIVE DEFENSE | It is an affirmative defense to prosecution under Subsection 551.144(a) that the Board member acted in reasonable reliance on a court order or a written interpretation of the open meetings law contained in an opinion of a court of record, the attorney general, or the Board’s attorney. *Gov’t Code 551.144(c)* |
The College District shall take no action abridging the freedom of speech or the right of the people to petition the Board for redress of grievances. *U.S. Const. Amend. I, XIV*


As long as the requirements of the Open Meetings Act 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]

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 term “public comment” provides sufficient notice, under the Open Meetings Act, 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 Gov’t 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-0169 (2000)*

It is a criminal offense for a person, with intent to prevent or disrupt a lawful meeting, to substantially obstruct or interfere with the ordinary conduct of a meeting by physical action or verbal utterance and thereby curtail the exercise of others’ First Amendment rights. *Penal Code 42.05; Morehead v. State*, 807 S.W.2d 577 (Tex. Crim. App. 1991)
There is no requirement that the Board negotiate or even respond to complaints. However, the Board must stop, look, and listen and must consider the petition, address, or remonstrance. Professional Ass’n. of Coll. Educators v. El Paso County Cmty District, 678 S.W.2d 94 (Tex. App.—El Paso 1984, writ ref’d n.r.e.)
A contract of employment with this 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)
The College President may be dismissed for good cause before the completion of the term fixed in the contract.

NOTICE

Before the College President is dismissed, the College President 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 College President desires to be heard and contest the proposed action of the Board, the College President shall give the Board written notice. The hearing shall be set on a date that affords the College President reasonable time to prepare an adequate defense.

_Cleveland Bd. of Educ. v. Loudermill_, 470 U.S. 532 (1985); _Ferguson v. Thomas_, 430 F.2d 852 (5th Cir. 1970); _Bexar Cty. Sheriff's Civ. Serv. v. Davis_, 802 S.W.2d 659 (Tex. 1990)

The Board may conduct the hearing in open session or in closed session unless the College President 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 College President may employ counsel. The College President 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 College President may be suspended with pay pending the outcome of the dismissal hearing. _Moore v. Knowles_, 482 F.2d 1069 (5th Cir. 1973)
The Board may decide by vote or inaction not to offer the College President further employment with the 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)
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PERKINS GRANTS

Except as provided in 20 U.S.C. 2352(b) and (c) and 20 U.S.C. 2353, the Coordinating Board shall distribute the portion of the funds made available under 20 U.S.C. 2322(a)(1) 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) 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

RETIREMENT AND INSURANCE CONTRIBUTIONS

If the College District applies to obtain money provided by the United States government or its agencies and if any of the money will pay part or all of any employee’s salary, the College District must also apply for any legally available funds to pay state contributions to the retirement system set out in Government Code 825.404, and to pay state contributions to the group insurance program for retired College District employees as set out in Insurance Code Chapter 1575.

When the College District receives funds to pay for state contributions for retirement and insurance pursuant to this application, it shall immediately send such funds to the retirement system for deposit in the state contribution account. The College District shall report monthly to the system, in a form it prescribes, the names 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 for state contributions for the employee by the grant, and such other information as the retirement system deems necessary.

The College District shall comply with applicable rules governing examination of its records by the Teacher Retirement System.

Gov’t Code, Sec. 825.406; Insurance Code 1575
TAX BONDS AND MAINTENANCE TAX

The Board shall be authorized to issue negotiable coupon bonds for the construction and equipment of school buildings and the purchase of the necessary sites. To provide funds, the Board shall levy and pledge annual ad valorem taxes sufficient to pay the principal of and interest on the bonds as they come due. The Board shall levy annual ad valorem taxes for the maintenance of the College District. The annual bond tax shall never exceed $.50 on the $100 valuation of taxable property in the College District. The annual bond tax, if any, together with the annual maintenance tax shall never exceed $1 on the $100 valuation of taxable property in the College District. *Education Code 130.122(a)*

NOTICE TO BOARD

By August 7 or as soon thereafter as practicable, the designated officer or employee shall submit the effective tax rate and the rollback tax rate to the Board, and

1. Publish those rates, with an explanation of how they were calculated, in a newspaper in the form prescribed by the Comptroller of Public Accounts; or

2. Deliver the rates by mail to each property owner in the College District.

*Tax Code 26.04(e)*

TAX RATE

The Board, before the later of September 30 or the 60th day after the date the certified appraisal roll is received by the Board, 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 College District for the next year.

The Board may not impose property taxes in any year until it has adopted a tax rate for that year, and the annual tax rate shall be set by ordinance, resolution, or order. The vote setting the tax rate must be separate from the vote adopting the budget.

*Tax Code 26.05(a), (b)*

EFFECTIVE TAX RATE

The vote on the ordinance setting a tax rate that exceeds the effective tax rate must be a record vote. A motion to adopt an ordinance...
setting a tax rate that exceeds the effective tax rate must be made in the following form: “I move that property taxes be increased by the adoption of a tax rate of (specify tax rate).”

If the ordinance 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 Board must include in the ordinance 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 RAISE TAXES FOR MAINTENANCE AND OPERATIONS ON A $100,000 HOME BY APPROXIMATELY $(Insert amount).” The College District shall also include on the home page of any Internet Web site operated by the College District 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 RAISE TAXES FOR MAINTENANCE AND OPERATIONS ON A $100,000 HOME BY APPROXIMATELY $(Insert amount).”

*Tax Code 26.05(b)*

**HIGHER RATE**

The Board may not adopt a tax rate that exceeds the lower of the rollback tax rate or the effective tax rate until the Board has held two public hearings on the proposed tax rate and has otherwise complied with Tax Code 26.06 and 26.065. The Board 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 in a public building inside the College District boundaries. If no suitable public building is available, the hearing may be held in some other suitable building to which the public normally has access. At the hearings, the Board must afford adequate opportunity for proponents and opponents of the tax increase to present their views. *Tax Code 26.06(a), (b)*
The notice of each of the public hearings shall be in the size and form as provided by law. The notice of a public hearing may be delivered by mail to each property owner in the College District, 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 College District operates an Internet Web site, the notice must be posted on the Web site from the date the notice is first published until the second public hearing is concluded. *Tax Code 26.06(c)*

At the public hearings the Board shall announce the date, time, and place of the meeting at which it will vote on the proposed tax rate. After each hearing, the Board shall give notice of the meeting at which it will vote on the proposed tax rate. This notice shall also be in the size and form as provided by law. *Tax Code 26.06(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 in a public building inside the College District boundaries. If no suitable public building is available, the meeting may be held in some other suitable building to which the public normally has access. If the Board 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 of Vote on Tax Rate” 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)*

In addition to the notice required under Tax Code 26.06, a Board required to hold a public hearing by Tax Code 26.05(d) shall give notice of the hearing in the manner provided by Tax Code 26.065.

If the College District owns, operates, or controls an Internet Web site, the College District shall post notice of the public hearing on the Web site 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 College District has free access to a television channel, the College District 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 Subsection (b) must contain a statement that is substantially the same as the statement required by Tax Code 26.06(b).

Tax Code 26.065 does not apply to a College District if the College District:

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 College District in which the property is taxable if the Board has, in good faith, attempted to comply with the requirements of this section.

Tax Code 26.065

ELECTION TO REPEAL INCREASE

If the Board adopts a tax rate that exceeds the rollback tax rate, the voters 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. Tax Code 26.07(a)

The petition to call an election to consider reducing the tax rate must be valid and must be presented as required by law. Tax Code 26.07(b)

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 26.04; otherwise, the tax rate for the current year is the one adopted by the Board. Tax Code 26.07(e)

CALL FOR ELECTION

A call for an election shall be made not later than the 62nd day before election day except that for an election to be held on the date of the general election for state and county officers, the election shall be called not later than the 70th day before the election day. Election Code 3.005 [See BBB]

NOTICE TO COUNTY CLERK

The Board shall deliver notice of the election to the county clerk of each county in which the College District is located not later than the 60th day before election day. Election Code 4.008

PRECLEARANCE REQUIRED

A rollback election is subject to federal preclearance requirements to the extent that the College District makes changes in the practices or procedures to be followed. Any discretionary setting of the date for a rollback election or scheduling of events leading up to or following a rollback election is subject to the preclearance requirement. 28 CFR 51.17 [See BBB]
DISCOUNTS
The Board may adopt one or both of the following discount options for early payment of College District taxes.

OPTION 1
If the Board adopts Option 1, the following discounts apply regardless of the date on which the College District 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.
3. One percent if the tax is paid in December.

Tax Code 31.05
This discount does not apply to taxes that are calculated too late for it to be available. Tax Code 31.04(c)

OPTION 2
If the Board adopts Option 2, the following discounts apply only when the College District 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.
3. One percent if the tax is paid during the third full calendar month following the date on which the tax bills were mailed.

BOTH OPTIONS
If the Board adopts both discount options, the discounts described at Option 1 apply unless the College District mails its tax bills after September 30, in which case only the discounts described at Option 2 apply.

Tax Code 31.05

SPLIT PAYMENT
The Board may provide for split payment of taxes. If a person pays one-half of the taxes before December 1, he or she may pay the remaining one-half of the taxes without penalty or interest at any time before July 1 of the following year. This payment option does not apply to taxes that are calculated too late for it to be available. Tax Code 31.03, 31.04(c)

IN CERTAIN COUNTIES
The Board of a College District located in a county having a population of 250,000 or more 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 College District's taxes collected by the other taxing unit. Tax Code 31.03(d)
INSTALLMENT PAYMENTS
CERTAIN HOMESTEADS
An individual who is disabled or at least 65 and qualifies for a homestead exemption may pay taxes on the residence homestead property in installments. To do so, the individual must pay at least one-fourth of the taxes due before the delinquency date. This payment must be accompanied by notice that the individual will pay the remaining taxes in installments. The person may pay the remaining taxes without penalty or interest. The first installment must be paid before April 1, the second before June 1, and the third before August 1. Tax Code 31.031

PARTIAL PAYMENTS
The tax collector may decide to accept partial payments of College District property taxes. Acceptance of a partial payment does not affect the delinquency date, but penalties and interest are incurred only by the portion of tax that remains unpaid on the date the tax becomes delinquent. The discounts described above do not apply to any portion of a partial payment of College District taxes. Tax Code 31.07(c)

DISASTER AREA
Owners of certain property are permitted to pay taxes in installment payments. Installment payments are an option for an owner of a residence homestead or property that:

1. Is used for residential purposes and has fewer than five living units;
2. Is located in a disaster area and has been damaged as a direct result of the disaster; and
3. Has had taxes imposed upon it by a taxing unit before the first anniversary of the disaster.

The owner of such property must pay at least one-fourth of the taxes imposed on the property before the delinquency date, accompanied by notice that the person will pay the remaining taxes in installments. The remainder of the payments may be made without penalty of interest in three equal installments.

Tax Code 31.032

PERFORMING SERVICES IN LIEU OF PAYING TAXES
* The Board may permit certain individuals or business entities to provide certain services to the College District in lieu of paying the College District property taxes. While performing services for the College District, the individual is not an employee of the College District and is not entitled to any benefit, including workers’ compensation coverage, that the College District provides to its employees. Tax Code 31.035

*(Optional provision)
DELINQUENCY DATE

Taxes are delinquent if not paid before February 1 of the year following the year in which imposed, except as provided below:

1. The College District has provided for split payments. *Tax Code 31.03*

2. The College District’s tax bills are mailed after January 10. *Tax Code 31.04(a)*

3. The College District’s tax bills are mailed after September 30 and the Board has adopted discounts provided by Tax Code 31.05(c). *Tax Code 31.04(d)*

*Tax Code 31.02*

DELINQUENT TAX COLLECTION

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

ADDITIONAL PENALTIES

If the College District or the tax collector for the College District has contracted with a private attorney for the collection of delinquent taxes, the Board may impose, by official action, an additional penalty on taxes that become delinquent on or after February 1 but not later than May 1 and remain delinquent on July 1 of the year in which they become delinquent. This 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 and shall be secured by a tax lien. The College District’s tax collector shall deliver notice to the property owner of the delinquency and the penalty 30 to 60 days before July 1. *Tax Code 33.07*

If the College District or the tax collector for the College District has imposed the penalty described above and has contracted with a private attorney for collection of delinquent taxes, the Board may impose, by official action, an additional penalty on all taxes that become delinquent on or after June 1 under Tax Code 26.07(f), 26.15(e), 31.03, 31.031, 31.032, or 31.04. This 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 and shall be secured by a tax lien. The College District’s tax collector shall send 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 33.08*
### ADDITIONAL EXEMPTIONS

The Board may grant additional tax exemptions for homestead, historic sites and charitable organizations, as provided by law. *Tax Code 11.13(d), 11.184, 11.24; Tex. Const. Art. VIII, Sec. 1-b*

### NATURAL DISASTER

If the College District is located partly or entirely inside an area declared by the governor to be a natural disaster area, the Board may authorize the 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

After presentation of a voter petition and with the prior approval of the College Coordinating Board and the authorization of the voters in an election called for that purpose, the College District may levy a branch campus maintenance tax at a rate not to exceed $.05 on each $100 valuation of all taxable property in its jurisdiction. *Education Code 130.087(a)*

The governing body of a county with a population of 150,000 or less, on completion of a needs assessment analysis showing adequate need and on approval by the Coordinating Board, on its own motion and without the presentation of a petition, may propose an election to authorize a branch campus maintenance tax. *Education Code 130.087(b)*

The proceeds of the branch campus maintenance tax may be used only to operate and maintain a branch campus and to support its programs and services in the area of a jurisdiction that levies a Junior College District branch campus maintenance tax to operate, maintain, and support the same Junior College District branch campus. *Education Code 130.087(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, cochair, 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 that 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 of Higher Education;

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 TAC 8.30(a) to appropriate authorities for certification in compliance with Texas Education Code, Section 130.087.

19 TAC 8.93

APPLICATION PROCEDURES

The steering committee and the College District that is planning the branch campus shall jointly file a letter of intent with the Commissioner of Higher Education 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 of Higher Education 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 that 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 of Higher Education. When the feasibility study is conducted by a professional individual or research organization, the steering committee shall fully advise the Commissioner of Higher Education 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 TAC 8.89 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 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 the Texas 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 subsection (b) of 19 TAC 8.98, 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, 8.97, 8.98
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.

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; and
   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.

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 College Districts or other institutions of higher education in the area; and

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

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 College and the District, 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 Board of the College District.

19 TAC 8.99, 8.100

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 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, 8.102

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

When a portion of the real property taxable by the College District is proposed for inclusion in a municipal or county reinvestment zone, the Board shall be notified of a description of the proposed boundaries of the zone, the tentative plans for the development or redevelopment of the zone and an estimate of the general impact of the proposed zone on property values and tax revenues. The College District may request additional information from the governing body of the municipality or county proposing to designate a zone, and Board members may attend the formal presentation required of the governing body of the municipality or county. Within 15 days of receipt of the notice, the Board shall designate a representative to meet with the governing body of the municipality or county proposing to designate a reinvestment zone to discuss the project plan and the reinvestment zone financing plan and shall
notify the municipality or county governing body of its designation.  
*Tax Code 311.003(e), (f), (g)*

**BOARD OF DIRECTORS**

The Board may appoint one member of the reinvestment zone’s board of directors or may waive that right.  *Tax Code 311.009(a)*

In certain reinvestment zones, the Board may be entitled to appoint more than one member of the reinvestment zone’s board of directors.  *Tax Code 311.009(a), (b)*

When the reinvestment zone has been designated upon petition of property owners under Tax Code 311.005(a)(4), the Board may appoint a member or members, as appropriate, 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 College District.  *Tax Code 311.009(b), 311.0091(c)*

**COLLECTION AND DEPOSIT OF TAX INCREMENTS**

The College District shall provide for the collection of its taxes in the zone as for any other property tax and shall pay into the zone’s tax increment fund the amount specified by law.  This payment shall be made no later than 90 days after the delinquency date for College District property taxes, except that the College District is not required to pay the portion attributable to delinquent taxes until those taxes are collected.  The College District shall not be required to pay a tax increment into the zone’s tax increment fund beyond three years from the date the zone was created, except as provided by law.  *Tax Code 311.013*

The College District is not required to pay into the tax increment fund any of its tax increment produced from a reinvestment zone created upon petition of property owners under Tax Code 311.005(a) unless it enters into an agreement to do so with the governing body of the municipality or county that created the zone.  *Tax Code 311.013(f)*

The College District is not required to pay into the tax increment fund any of its tax increment produced from property located in an area added to a reinvestment zone under Tax Code 311.007 unless the Board enters into an agreement to do so with the governing body of the municipality or county that created the zone.  *Tax Code 311.013(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.

The Board 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 Board proposes to tax goods-in-
Before acting to tax the exempt property, the Board must conduct a public hearing as required by Section 1-n(d), Article VIII, Texas Constitution. The goods-in-transit remain subject to taxation by the College District until the Board rescinds or repeals its previous action to tax goods-in-transit, or otherwise determines that the exemption prescribed above will apply to that College District.

**Tax Code 11.253**

The College District may enter into tax abatement agreements only if it has established guidelines and criteria for those agreements and has passed a resolution stating that it elects to be eligible to participate. The College District shall not enter into a tax abatement agreement unless it finds that agreement meets its guidelines and criteria.

The Board’s adoption of guidelines and criteria shall not:

1. Limit its discretion to decide whether to enter into a specific tax abatement agreement.

2. Limit its discretion to delegate to its employees the authority to determine whether or not the Board should consider a particular request or application for tax abatement.

3. Create any property, contract, or other legal right in any person to have the Board consider or grant a specific application or request for tax abatement.

**Tax Code 312.002**

When an area within the College District’s taxing jurisdiction is proposed for inclusion in a municipal reinvestment zone, the Board President must be delivered written notice of the public hearing on the designation at least seven days before the date of the hearing. At the hearing, College District representatives are entitled to speak and present evidence for or against the designation. **Tax Code 312.201(d)**

Not later than the seventh day before the municipality enters into a tax abatement agreement, the Board President shall be delivered written notice of that intention. 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**

If the College District is eligible to enter tax abatement agreements, it may execute a written agreement with owners of property within a municipal reinvestment zone. The College District’s agreement is not required to contain terms identical to those of the municipal agreement. The execution, duration, and other terms of an agree-
ment are governed by the provisions of Tax Code 312.204, 312.205, and 312.211.  Tax Code 312.206(a)
An appraisal district established in each county 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. *Tax Code 6.01(b)*

The Board shall participate in the election of the board of directors of the appraisal district or districts as provided by law.

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 board is not ineligible because of membership on the governing body of a taxing unit.

A college district employee is not eligible to serve on the board of directors unless the employee is also a member of another 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 if the individual 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 relating to property taxes or of representing property owners for compensation in proceedings relating to property taxes in the appraisal district. *Restrictions on Nepotism*

An individual is ineligible to serve on an appraisal district board of directors if the individual 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, or a suit to collect the delinquent taxes is deferred or abated. *Delinquent Taxes*

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.

*Conflict of Interest*
2. A taxing unit that participates in the appraisal district, if the contract relates to the performance of an activity relating to property taxes.

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*

**RECALL**

The Board, by resolution submitted to the county clerk, may call for the recall of a member of the board of directors of an appraisal district for whom the Board cast any of its votes in the appointment of the appraisal district board. *Tax Code 6.033*

**APPRAISAL REVIEW BOARD**

An appraisal review board is established for each appraisal district. Members of the appraisal review board are appointed by the appraisal district board of directors. *Tax Code 6.41(a), 6.412*
All investments made by the College District shall comply with the Public Funds Investment Act (Texas Government Code Chapter 2256, Subchapter A) and all federal, state, and local statutes, rules, or regulations. *Gov’t Code 2256.026*

**WRITTEN POLICIES**

Investments shall be made in accordance with written policies approved by the Board. The investment policies must primarily emphasize safety of principal and liquidity and address investment diversification, yield, and maturity and the quality and capability of investment management. The policies must 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; and
5. A requirement for settlement of all transactions, except investment pool funds and mutual funds, on a delivery versus payment basis.

*Gov’t Code 2256.005(b)*

**ANNUAL REVIEW**

The investment policy and the investment strategy shall be reviewed not less than annually. The Board shall adopt a written instrument 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 part of the investment policy, the Board shall adopt a separate written investment strategy for each of the funds or group of funds under the Board’s control. Each investment strategy must describe the investment objectives for the particular fund under the following priorities in order of importance:

1. Understanding of the suitability of the investment to the financial requirements of the College District;
2. Preservation and safety of principal;
3. Liquidity;
4. Marketability of the investment if the investment needs to be liquidated before maturity;

5. Diversification of the investment portfolio; and

6. Yield.

Gov’t Code 2256.005(d)

The Board shall designate one or more officers or employees as investment officer(s) to be responsible for the investment of its funds. If the Board 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 contracting Board’s College District. 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 Board retains the ultimate responsibility as fiduciaries of the assets of the College District. Unless authorized by law, a person may not deposit, withdraw, transfer, or manage in any other manner the funds of the investing entity. Authority granted to a person to invest an entity’s funds is effective until rescinded by the Board or until termination of the person’s employment by the College District. Gov’t Code 2256.005(f)

The College District or investment officer may use the College District’s employees or the services of a contractor of the College District 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 Board and its investment officer shall attend at least one training session, provided by the Texas Higher Education Coordinating Board, relating to the person’s responsibilities under the Public Funds Investment Act within six months after taking office or assuming duties. 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 in a two-year period and may receive training from any inde-
pendent source approved by the Board. The investment officer shall prepare a report on the Public Funds Investment Act and deliver it to the Board no later than the 180th day after the last day of each regular session of the legislature.

Gov’t Code 2256.007

Investments shall be made with judgment and care, under prevailing circumstances, that a person of prudence, discretion, and intelligence would exercise in the management of his or her own affairs, not for speculation, but for investment, considering the probable safety of capital and the probable income to be derived. Investments shall be governed by the following objectives in order of priority:

1. Preservation and safety of principal;
2. Liquidity; and
3. Yield.

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, rather than the prudence of a single investment, over which the officer had responsibility.
2. Whether the investment decision was consistent with the Board’s written investment policy.

Gov’t Code 2256.006

A College District investment officer who has a personal business relationship with a business organization offering to engage in an investment transaction with the College District 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 College District shall file a statement disclosing that relationship with the Board and with the Texas Ethics Commission. 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 Board a written report of investment transactions for all funds covered by the Public Funds Investment Act. This report shall be presented to the Board not less than quarterly, within a reasonable time after the end of the period. The report must:

1. Contain a detailed description of the investment position of the College District on the date of the report.

2. Be prepared jointly and signed by all College District investment officers.

3. 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). The report must be prepared in compliance with generally accepted accounting principles and must state:
   a. Beginning market value for the reporting period;
   b. Additions and changes to the market value during the period;
   c. Ending market value for the period; and
   d. Fully accrued interest for the reporting period.

4. State the book value and market value of each separately invested asset at the beginning and end of the reporting period by the type of asset and fund type invested.

5. State the maturity date of each separately invested asset that has a maturity date.

6. State the account or fund or pooled group fund in the College District for which each individual investment was acquired.

7. State the compliance of the investment portfolio of the College District as it relates to the College District’s investment strategy expressed in the College District’s investment policy and relevant provisions of Government Code, Chapter 2256.
If the College District 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 shall be formally reviewed at least annually by an independent auditor, and the result of the review shall be reported to the Board by that auditor.

*Education Code 51.0032; Gov’t Code 2256.023*

**SELECTION OF BROKER**

The Board 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 College District. *Gov’t Code 2256.025*

**AUTHORIZED INVESTMENTS**

The Board may purchase, sell, and invest its funds and funds under its control in investments described below, in compliance with its adopted investment policies and according to the standard of care set out in this policy. Investments may be made directly by the Board or by a nonprofit corporation acting on behalf of the Board or an investment pool acting on behalf of two or more local governments, state agencies, or a combination of the two. *Gov’t Code 2256.003(a)*

In the exercise of these powers, the Board 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 Board by order, ordinance, or resolution. *Gov’t Code 2256.003(b)*

The following investments are authorized:

1. Obligations, including letters of credit, of the United States or its agencies and instrumentalities; direct obligations of the state of Texas or its agencies and instrumentalities; 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; 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; 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 bonds issued, assumed, or guaranteed by the state of Israel. *Gov’t Code 2256.009(a)*
The following investments are not authorized:

a. Obligations whose payment represents the coupon payments on the outstanding principal balance of the underlying mortgage-backed security collateral and pays no principal.

b. Obligations whose payment represents the principal stream of cash flow from the underlying mortgage-backed security collateral and bears no interest.

c. Collateralized mortgage obligations that have a stated final maturity date of greater than ten years.

d. 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)*

2. Certificates of deposit or share certificates issued by a depository institution that has its main office or a branch office in Texas or a state or federal credit union domiciled in Texas that is guaranteed or insured by the FDIC or its successor or the National Credit Union Share Insurance Fund or its successor and is secured by obligations described in item 1 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 described in Section 2256.009(b)) or secured in any other manner and amount provided by law for the deposits of the investing entity. *Gov't Code 2256.010(a)*

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:

a. The funds are invested by the College District through a depository institution that has its main office or a branch office in this state and that is selected by the College District;

b. The depository institution selected by the College District 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 College District;
c. 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;

d. The depository institution selected by the College District acts as custodian for the College District with respect to the certificates of deposit issued for the account of the College District entity; and

e. At the same time that the funds are deposited and the certificates of deposit are issued for the account of the College District, the depository institution selected by the College District receives an amount of deposits from customers of other federally insured depository institutions, wherever located, that is equal to or greater than the amount of the funds invested by the College District through the depository institution.

Gov’t Code 2256.010(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)

3. Fully collateralized repurchase agreements that have a defined termination date, are secured by obligations of the United States or its agencies and instrumentalities, are pledged to the College District, held in the College District’s name, and deposited with the College District or a third party selected and approved by the Board, and placed through a primary government securities dealer, as defined by the Federal Reserve or a financial institution doing business in Texas. 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 the College District 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

4. A securities lending program if:

a. The value of securities loaned is not less than 100 percent collateralized, including accrued income, and the loan allows for termination at any time;

b. The loan is secured by:
(1) Pledged securities described by Government Code 2256.009;

(2) 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

(3) Cash invested in accordance with Government Code 2256.009, 2256.013, 2256.014, or 2256.016;

c. 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

d. The loan is placed through a primary government securities dealer 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

5. Banker’s acceptance, with a stated maturity of 270 days or fewer from the date of issuance that will be liquidated in full at maturity, which is eligible for collateral for borrowing from a Federal Reserve Bank, and is accepted by a bank meeting the requirements of Government Code 2256.012(4). Gov’t Code 2256.012

6. Commercial paper that has a stated maturity of 270 days or fewer from the date of issuance and 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 provided the commercial paper is fully secured by an irrevocable letter of credit issued by a bank organized and existing under U.S. law or the law of any state. Gov’t Code 2256.013

7. No-load money market mutual funds that:

a. Are registered with and regulated by the Securities and Exchange Commission;
b. Provide the College District 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.);

c. Have a dollar-weighted average stated maturity of 90 days or fewer; and

d. Include in their investment objectives the maintenance of a stable net asset value of $1 for each share.

However, investments in no-load money market mutual funds shall be limited to the percentages authorized by Government Code 2256.014(c).

8. No-load mutual funds that:
   
   a. Are registered with the Securities and Exchange Commission;

   b. Have an average weighted maturity of less than two years;

   c. Are invested exclusively in obligations approved by Government Code Chapter 2256, Subchapter A, regarding authorized investments (Public Funds Investment Act);

   d. Are continuously rated by at least one nationally recognized investment rating firm of not less than AAA or its equivalent; and

   e. Conform to the requirements in Government Code Section 2256.016(b) and (c) relating to the eligibility of investment pools to receive and invest funds of investing entities.

Investments in no-load mutual funds shall be limited to the percentages authorized by Government Code 2256.014(c). In addition, the College District may not invest any portion of bond proceeds, reserves, and funds held for debt service, in no-load mutual funds described in this item.

Gov’t Code 2256.014

9. A guaranteed investment contract, as an investment vehicle for bond proceeds, if the guaranteed investment contract:

   a. Has a defined termination date.

   b. Is secured by obligations described by Government Code Section 2256.009(a)(1), excluding those obliga-
tions described by Section 2256.009(b), in an amount at least equal to the amount of bond proceeds invested under the contract.

c. Is pledged to the College District and deposited with the College District or with a third party selected and approved by the College District.

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:

d. The Board must specifically authorize guaranteed investment contracts as eligible investments in the order, ordinance, or resolution authorizing the issuance of bonds.

e. The College District must receive bids from at least three separate providers with no material financial interest in the bonds from which proceeds were received.

f. The College District must purchase the highest yielding guaranteed investment contract for which a qualifying bid is received.

g. The price of the guaranteed investment contract must take into account the reasonably expected drawdown schedule for the bond proceeds to be invested.

h. 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

10. A public funds investment pool meeting the requirements of Government Code 2256.016 and 2256.019, if the Board authorizes the investment in the particular pool by resolution. Gov't Code 2256.016, 2256.019

CHANGE IN LAW

The College District is not required to liquidate investments that were authorized investments at the time of purchase. Gov't Code 2256.017

INVESTMENT OF DEBT SERVICE FUNDS

The 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 College District for the purpose of paying debt service on bonds issued by the College 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, College District must solicit and receive bids from at least three separate providers. The College 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 Board 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 this policy, 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 the College District shall execute a written instrument in a form acceptable to the College District and the business organization substantially to the effect that the business organization has:

1. Received and thoroughly reviewed the College District investment policy; and

2. Acknowledged that the business organization has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the College District and the organization that are not authorized by the College District’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 may not acquire or otherwise obtain any authorized investment described in the College District’s investment
**DONATIONS**

Investments donated to the College District for a particular purpose or under terms of use specified by the donor are not subject to the requirements of Government Code Chapter 2256, Subchapter A.  
*Gov’t Code 2256.004(b)*

**ELECTRONIC FUNDS TRANSFER**

The College District may use electronic means to transfer or invest all funds collected or controlled by the College District.  
*Gov’t Code 2256.051*

**PRIVATE AUDITOR**

The Board shall employ a private auditor if authorized by the legislative audit committee either on the committee’s initiative or on request of the Board.  
*Gov’t Code 2256.052*
Any sale or exchange of land by the College District, except as permitted by Local Government Code 272.001(b) or (g), shall be in accordance with the following legal requirements:

1. The Board shall publish in a newspaper of general circulation in the county where the land is located or in an adjoining county, if there is no such newspaper, a notice that the land is to be offered for sale or exchange to the general public, its description, its location, and the procedure under which sealed bids to purchase the land or offers to trade for the land may be submitted.

2. Notice shall be so given on at least two separate occasions and no sale or exchange shall be made until the fourteenth day after the last notice is published.

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 the College District. 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 property outright. The fair market value is determined by an appraisal obtained by the College District 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 College District 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 Board to accept any bid or offer or to complete a sale or exchange.

*Local Gov't Code 272.001(b)–(d)*

**PROPERTY ACQUIRED THROUGH EMINENT DOMAIN**

A College District may sell real property acquired through eminent domain to the person who owned the real property interest immediately before the College District acquired the property interest, or to the person’s heirs, successors, or assigns, at the price the College District 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.

*Tx. Const. Art. III, Sec. 52j*

**POLITICAL SUBDIVISIONS**

A political subdivision may donate, exchange, convey, sell, or lease land or an interest in real property to the College District, 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 land or interest in real property for less than its fair market value and without complying with the notice and bidding requirements of Local Government Code 272.001(a).

*Local Gov't Code 272.001(j)*

**LEASE OF PROPERTY TO A GOVERNMENTAL ENTITY**

To promote a public purpose of the College District, the College District may:

1. Lease property owned by the College District 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 College District to the other political subdivision or agency.
The College District:

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*
If the College District applies to obtain money from any privately sponsored source and if any of the money will pay part or all of any employee’s salary, the District must also apply for any legally available funds to pay state contributions to the retirement system as set out in Government Code 825.404 and 830.201 and to pay the state contribution to the group insurance program for retired school employees as set out in Insurance Code 1575, Subchapter E.

When the College District receives funds to pay for state contributions for retirement and insurance pursuant to this application, it shall immediately send such funds to the retirement system for deposit in the state contribution account. The College District shall report monthly to the system, in a form it prescribes, the names 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 for state contributions for the employee by the grant, and such other information as the retirement system deems necessary.

The College District shall comply with applicable rules governing examination of its records by the Teacher Retirement System.

Gov’t Code 825.406; Insurance Code 1575, Subchapter F

All gifts or bequests shall be included among the total receipts of the College District which are reported in the annual financial statement. Local Gov’t Code 140.005

A college district that 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 College District shall adopt rules governing the relationship between:

1. The donor or organization; and

2. The College District and its employees.

Rules adopted under this section shall govern all aspects of conduct of the College District and its employees in the relationship, including:

1. Administration and investment of funds received by the organization for the benefit of the College District;

2. Use of an employee or property of the College District by the donor or organization;

3. Service by an officer or employee of the College District as an officer or director of the donor or organization; and
4. Monetary enrichment of an officer or employee of the College District by the donor or organization.

A rule adopted under this section may not conflict with or supersede a requirement of a statute regulating:

1. The conduct of an employee of the College District; or
2. The procedures of the College District.

Gov't Code 2255.001

CERTIFICATE OF RECOGNITION

On receipt of a written request from the College District providing the information necessary to establish the donor’s eligibility for the certificate, the Texas Higher Education Coordinating Board (THECB) shall prepare and provide at no cost to the College District a certificate of recognition designed by the THECB recognizing the gifts or donations of a person who in any year contributes to the College District, for the support of any purposes, programs, or activities of the College District, one or more gifts or donations in a total amount of at least $10,000. Educ. Code 61.0901

ENDOWMENT FUND

The Board may establish an endowment fund outside the state treasury in a depository selected by the Board.

The Board may deposit local funds collected by the Board to the credit of the endowment fund.

The Board 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 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 College District.

Education Code 130.007
The Board that receives a conditional gift from a foreign person or his or her agent or representative shall file with the Secretary of State the prescribed disclosure statement in accordance with federal law.

A conditional gift shall be defined as any endowment, scholarship or other gift, donation, or grant of money or property of any kind or any contract award, the use of which is subject to the conditions of a foreign government or person and which conditions relate to what kinds of teachers or students may benefit from such gift or relate to the bias or slant with which subject matter supported by the gift may be taught.

*Education Code 51.571, 51.572*

Charitable trust funds donated to the College District for the restricted purpose of providing scholarships to needy students of the College District are not general assets of the College District. Accordingly, should the Trustees of the College District 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 District, subject to the continuing restriction that the funds may only be used for their original purpose as scholarship funds. Because of the trust impressed 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 District funds by the Trustees to the foundation would implicate such constitutional questions. *Atty. Gen. Op. JC-0138* (1999)
The Board 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 Chapter 2256, Government Code (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 collection.

The 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.

A depository shall pay interest on the deposits at a rate agreed on by the depository and the Board.

*Education Code 51.003*

In accordance with written Board policy, a College District shall determine if an investment security is eligible to secure deposits of public funds covered by the Public Funds Collateral Act.

The policy may include the security of the institution that obtains or holds an investment security, the substitution or release of an investment, and the method by which an investment security used to secure a deposit of public funds is valued.

*Gov't Code 2257.023*

The depository shall secure public funds by eligible securities to the extent and in the manner required by the Public Funds Collateral Act. *Gov't Code, Ch. 2257*
The system of accounting for and reporting the financial activities of the College District:

1. Must be consistent with state financial laws;

2. May not misrepresent the nature, scope, or duration of the financial activities of the College District; and


*Gov't Code 2264.002*

College Districts shall report expenditures in the uniform manner required by the comptroller pursuant to Government Code Chapter 2101. *Gov't Code 2101.035(h)*

The College District shall submit its audited annual financial report to the Coordinating Board by January 1st of each year. *19 TAC 13.62*

The College District shall keep accounts of all funds collected, all sums paid out, the persons to whom the funds were paid, and the purposes for which the sums were paid. The Board shall annually, between September 1 and January 1, print a complete report of all the sums collected, all expenditures, and all sums remaining on hand. The report shall show the true condition of all funds as of August 31 of the preceding year and the collections and expenditures for the preceding year.

The Board shall furnish one copy of the financial report to each of the following:

1. Governor.

2. Comptroller of Public Accounts.


4. Texas Higher Education Coordinating Board.

5. Legislative Budget Board.


7. Legislative Reference Library.

The College District shall retain five copies of the financial report for distribution to legislators or other state officials on request.

*Education Code 51.005(a), (c)*
The Board shall be responsible for the preparation of an annual financial statement showing total receipts from each fund, itemized according to source (i.e., taxes, grants of state money, gifts); showing total disbursements, itemized according to nature of expenditures; and showing the balance on hand in each fund at the close of the fiscal year. *Local Gov't Code 140.005*

The Board President shall submit this statement to a daily, weekly, or biweekly newspaper published within the boundaries of the College District. If no such newspaper is published in the College District, copies of the financial statement shall be submitted for publication in a newspaper in each county in which the College District or a part of the College District is located. If the College District is located in more than one county, however, publication may be in any newspaper having a general circulation in the College District. If no newspaper is published in the county, publication shall be in a newspaper in an adjoining county.

Publication shall be made within 150 days after the close of the fiscal year and in accordance with the required accounting method. *Local Gov't Code 140.006*

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 College District 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 College District that maintains a generally accessible Internet site or for which a generally accessible Internet site is maintained shall include a link on the College District's Internet site to the state expenditure database. *Gov't Code 2054.126*
The College District may not make a deduction from the compensation paid to an employee whose compensation is paid in full or in part from state funds unless the deduction is authorized by law. 


### AUTHORIZED DEDUCTIONS

The College District shall make the following periodic deductions from the salaries of its employees:

#### INCOME TAX

1. The College District shall deduct and withhold from the wages of all employees the amount of federal income tax required by federal law. *26 U.S.C. 3401–3402*

#### MEDICARE TAX

2. The College District shall deduct from the salary of an employee hired after March 31, 1986, the amount of Medicare tax required by law. *26 U.S.C. 3121(u)*

#### RETIREMENT

3. The College District shall pick up the employees’ contribution to the Teacher Retirement System of Texas by a corresponding reduction in the employees’ cash salary, by an offset against a future salary increase, or by a combination of reduction and offset. The required contributions shall be made for:
   
   a. Those employed on other than a temporary basis for at least one-half time at a regular rate of pay comparable to that of other persons employed in similar positions.
   
   b. Those faculty members who choose to and are eligible to participate.


#### OPTIONAL RETIREMENT PROGRAM

The contributions of participants in the optional retirement program shall be made by salary reduction pursuant to agreements between the participants and the College District made in accordance with Section 830.204 of the Government Code. *Gov't Code 830.204*

#### CHILD SUPPORT PAYMENTS

4. Upon receipt of an order or writ of withholding issued under Family Code Chapter 158, the College District shall withhold from an employee’s disposable earnings the amount specified in the order for child support payments. The amount withheld shall be remitted to the person or office named in the order on each regular due date or pay date. *Family Code Chapter 158*

The College District may deduct an administrative fee of not more than $10 from the employee’s disposable earnings in addition to the amount withheld as child support. *Family Code 158.204*
5. The College District shall withhold from an employee’s salary the amount specified in an order or writ of withholding issued under Family Code Chapter 8 for spousal maintenance. The amount withheld shall be remitted to the person or office named in the order or writ on each regular pay date. Family Code Chapter 8

The College District may deduct an administrative fee of not more than $5 from the employee’s disposable earnings in addition to the amount withheld as spousal maintenance. Family Code 8.204

6. The College District 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 CFR 31.3121(b)(7)-2

7. The College District shall withhold from an employee’s salary the amount directed in a withholding order issued by the Texas Guaranteed Student Loan Corporation or any other guaranty agency for federal education loans to recover delinquent federal education loan payments. The amount withheld shall be paid to the Texas Guaranteed Student Loan Corporation or the guaranty agency or its agent issuing the order. 20 U.S.C. 1095a(a)(6)

8. The College District shall withhold from an employee’s salary the amount designated by an employee to prepay the tuition and required fees for a beneficiary to attend an institution of higher education. Education Code 54.626

9. The College District shall withhold from an employee’s salary the amount designated by an employee as contributions to a higher education savings trust account established under the higher education savings plan. Education Code 54.708

10. The College District shall deduct from the salary of all employees an amount each pay period as authorized by the employee 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. Gov’t Code 659.202(a)

11. The College District shall withhold from an employee’s salary a deduction each pay period for the payment of any fee or charge for parking or for a club membership, recreational sports membership, or similar activity or program. Gov’t Code 659.202(b)

If authorized by federal law, a salary deduction or salary reduction under Subchapter J, Chapter 659 of the Government Code may be made on a pretax basis.

Gov’t Code 659.205

13. For purposes of Government Code Chapter 659, Subchapter H, a college is considered to be an institution of higher education and employees of the College District 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 Board not later than April 1 of the preceding state fiscal year. An employee of a public junior college district 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 Board. Gov’t Code 659.1311

14. An employee 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.

Education Code 51.946

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. Education Code 51.946

15. *The College District may, in accordance with provisions of the law, deduct from the salary of any school employee who has made a valid assignment, transfer, or pledge of his or her salary or wages as security for indebtedness, the amount stated in the terms of such valid assignment, transfer, or pledge. Education Code 51.934; Atty. Gen. Op. 0-3474 (1941)

16. *The College District shall deduct from the salaries of all employees participating in approved deferred compensation and annuity programs the amounts designated by those employees. Art. 6228a-5, V.A.T.S.; Gov’t Code, Ch. 609 [See CKC]
OTHER CAFETERIA-PLAN OPTIONS

17. *The College District shall withhold from an employee’s salary the amount designated by an employee for participation in any other cafeteria-plan options authorized under Section 125 of the Internal Revenue Code. 26 U.S.C. 125

* (Optional provisions)

ADMINISTRATIVE FEE

If the College District is required by state or federal law to deduct from the current wages of an employee an amount garnished under a withholding order, the College District 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 College District in complying with the withholding order; or

2. $10.

APPLICABLE LAW

The provisions of Subchapter B, Chapter 44, Education Code, 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 Subchapter B, Chapter 44, prevail over any other law relating to the purchase of goods and services by a junior college district.

*Education Code 130.010, 44.0311*

BOARD AUTHORITY

The Board may adopt rules and procedures for the acquisition of goods and services. *Education Code 44.031(d)*

DELEGATION OF AUTHORITY

The Board may delegate its authority regarding an action authorized or required to be taken by the College District by Education Code Chapter 44, Subchapter B to a designated person, representative, or committee.

The Board may not delegate the authority to act regarding an action authorized or required to be taken by the Board by Education Code Chapter 44, Subchapter B.

*Education Code 44.0312*

CONTRACT WITH ANOTHER AGENCY

Subject to legal limitations, 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*

INJUNCTION

A court may enjoin performance of a contract made in violation of Education Code Chapter 44, Subchapter B. A county attorney, district attorney, criminal district attorney, 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 subsection is entitled to reasonable attorney’s fees as approved by the court. *Education Code 44.032(f)*

PURCHASES VALUED AT OR ABOVE $25,000

All College District contracts, except contracts for the purchase of produce or vehicle fuel, valued at $25,000 or more in the aggregate for each 12-month period, shall be made by the method that provides the best value for the College District:

1. Competitive bidding.
2. Competitive sealed proposals.
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 for design/build contracts; CMD, CME for contracts using a construction manager; and CMF for job order contracts for minor repairs/alterations.

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**FACTORS**

In awarding a contract, the College District shall consider:

1. 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 College District's needs.

5. The vendor’s past relationship with the College District.

6. The impact on the ability of the College District to comply with laws relating to historically underutilized businesses.

7. The total long-term cost to the College District to acquire the goods or services.

8. 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(b), 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 section does not apply to the purchase of telecommunications services or information services, as those terms are defined by 47 U.S.C. Section 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.).

The Board may, by resolution, establish regulations permitting the College District to refuse to enter into a contract or other transaction with a person indebted to the College District. The College District may 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 Board approval.

*Education Code 44.044*

Before the College District may award a major contract, with a value of at least $1 million for the purchase of goods or services, to a business entity, each of the College District’s purchasing personnel who makes decisions or recommendations concerning the contract must disclose in writing to the administrative head of the College District any relationship the purchasing employee is aware about that the purchasing 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 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. *Government Code 2262.004*

Notice of when and where bids or proposals or the responses to a request for qualifications will be received and opened shall be published in the county where the College District’s central administrative office is located, once a week for at least two weeks prior to deadline for receiving bids, proposals, or responses to a request for qualifications. If there is no 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 College 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)*
When the College District seeks to purchase personal property of a value of at least $10,000 but less than $25,000, in the aggregate, for a 12-month period, the College District may either purchase those items in accordance with Education Code 44.031(a) and (b) described above or follow the vendor list procedures described below. *Education Code 44.033(a)*

**NOTICE**

For each 12-month period, the College District shall publish a notice in two successive issues of any newspaper of general circulation in the county in which the school is located. If there is no newspaper in the county in which the school is located, the advertising shall be published in a newspaper in the county nearest the county seat of the county in which the school is located, specifying the categories of personal property to be purchased and soliciting the names, addresses, and telephone numbers of vendors that are interested in supplying any of the categories to the College District. *Education Code 44.033(b)*

**VENDOR LIST**

For each category, the College District shall create a vendor list consisting of each vendor that responds to the published notice and any additional vendors the College District elects to include. Before the College District makes a purchase from a category of personal property, it must obtain written or telephone price quotations from at least three vendors from the list for that category. If fewer than three vendors are on the list, the College District shall contact each vendor. Whenever possible, telephone quotes should be confirmed in writing by mail or facsimile. The bidding records shall be retained with the College District’s competitive bid records and are subject to audit. Purchases shall be made from the lowest responsible bidder, except as provided by Education Code 44.033(f). *Education Code 44.033(b)(c)*

**LOCATION OF BIDDER**

In awarding a contract by competitive sealed bid under Education Code 44.031(b) and (c), 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 section does not apply to the purchase of telecommunications services or information services, as those terms are defined by 47 U.S.C. Section 153. *Education Code 44.033(f)*

**PRODUCE OR FUEL PURCHASES**

When the College District purchases produce or fuel valued at $10,000 or more in the aggregate, for a 12-month period, the College District must either purchase those items in accordance with Education Code 44.031(a) and (b) described above or follow the vendor list procedures described immediately above. *Education Code 44.033(a)(d)*
The purchasing requirements of Education Code 44.031 do not apply to a contract for professional services rendered, including the services of an architect, attorney, or fiscal agent.

The College District may 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)*  
Competitive bids shall not be solicited for professional services of any licensed or registered certified public accountant, architect, landscape architect, land surveyor, physician, optometrist, professional engineer, state-certified or state-licensed real estate appraiser, or registered nurse. Contracts for these professional services shall be made on the basis of demonstrated competence and qualifications to perform the services and for a fair and reasonable price. *Gov't Code 2254.002, 2254.003(a)*  [See also CM]  
An interlocal contract between a College District and a purchasing cooperative may not be used to purchase engineering or architectural services. *Gov't Code 791.011(h)*  

*EMERGENCY DAMAGE OR DESTRUCTION*  
If school equipment, a school facility, or a part 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 determines that the delay posed by the methods provided for in Education Code 44.031 would prevent or substantially impair the conduct of classes or other essential school activities, then contracts for the replacement or repair of the equipment, school facility, or the part of the school facility may be made by methods other than those required by Education Code 44.031. *Education Code 44.031(h)*  

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

*AUTOMATED INFORMATION SYSTEM*  
A College District may 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 College District that purchases an item using a method listed above satisfies any state law requiring the College District to seek competitive bids for the purchase of the item. *Gov't Code 2157.006*
SOLE SOURCE

Compliance with Education Code 44.031 is not required for purchases that are 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 shall 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)_

**IMPERMISSIBLE PRACTICES**

A Trustee, employee, or agent shall not, with criminal negligence, make or authorize separate, sequential, or component purchases to avoid the purchasing requirements set out in Education Code 44.031. An officer or employee shall not knowingly violate 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 made in one purchase. “Sequential purchases” means purchases, over a period, of items that in normal purchasing practices would be made in one purchase.

Violation of this provision is a Class B misdemeanor and an offense involving moral turpitude, conviction of which shall result in removal from office or dismissal from employment. A Trustee who is convicted of a violation of this provision is considered to have committed official misconduct and for four years after the date of final conviction, the removed person is ineligible to be appointed or elected to public office in Texas, is ineligible to be employed by or act as an agent for the state or a political subdivision, and is ineligible to receive any compensation through a contract with the state or a political subdivision. [See BBC]

_Education Code 44.032_

**INSURANCE**

A contract for the purchase of insurance is a contract for the purchase of personal property and shall be made in accordance with Education Code 44.031 or 44.033. _Education Code 44.031, 44.033; Atty. Gen. Op. DM-347 (1995)_
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)*

If the College District receives two or more bids from responsible bidders that are identical, in nature and amount, as the lowest and best bids, it shall select only one bidder from the identical bids.

If only one of the bidders submitting identical bids is a resident of the College District, that bidder shall be selected. If two or more such bidders are residents of the College District, one shall be selected by the casting of lots. In all other cases, one of the identical bids shall be selected by the casting of lots.

The Board shall prescribe the manner of casting lots and shall be present when the lots are cast. All qualified bidders or their representatives may be present at the casting of lots.

*Local Gov’t Code 271.901*

A college district 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 College District 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)*

The Board shall not award a contract for general construction, improvements, services, or public works projects or for purchase of supplies, materials, or equipment to a 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 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. *Gov’t Code 2252.001, 2252.002*

This requirement shall not apply to a contract involving federal funds. The College District shall rely on information published by the comptroller in evaluating the bids of a nonresident bidder. *Gov’t Code 2252.003, 2252.004*

**INTERLOCAL AGREEMENTS**

To increase efficiency and effectiveness, the College District may contract or agree with other local governments and with state agencies, including the comptroller, to perform some of its purchasing functions. *Gov’t Code 791.001, 791.011, 791.025*

An interlocal contract must be authorized by the Board and the governing body of each contracting party; 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. The contract may be renewed annually. *Gov’t Code 791.011(d)–(f)*

The College District 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. Such an agreement may not, however, apply to services provided by firefighters, police officers, or emergency medical personnel.

A college district that purchases goods and services by agreement with another local government or with the state or state agency satisfies the requirement to seek competitive bids for the purchase of goods and services. *Gov’t Code 791.025(b),(c); Atty. Gen. Op. JC-37(1999)*

**STATE PURCHASING PROGRAM**

Purchasing services performed for the College District by the comptroller shall include:

1. The extension of state contract prices to the College District when the comptroller considers it feasible.
2. Solicitation of bids on items desired by the College District if the solicitation is considered feasible by the comptroller and is desired by the College District.

3. Provision of information and technical assistance to the College District about the purchasing program.

The comptroller may charge the College District its actual costs in providing purchasing services.

*Local Gov’t Code 271.082*

**COLLEGE DISTRICT REQUIREMENTS**

The College District may participate in the purchasing program, including participation in purchases that use the reverse auction procedure, by filing with the BPC a resolution adopted by the Board requesting that the College District be allowed to participate on a voluntary basis, to the extent the BPC deems feasible, and stating that the Board shall:

1. Designate an official to act for the College District in all matters relating to the program, including the purchase of items from the vendor under any contract.
2. Direct the decisions of its representative.
3. Be responsible for:
   a. Submitting requisitions to the commission under contract(s) and for payment directly to the vendor; and
   b. Electronically sending purchase orders directly to vendors, or complying with procedures governing a reverse auction purchase, and electronically sending the BPC reports on actual purchases.
4. Be responsible for the vendor’s compliance with all conditions of delivery and quality of the purchased item.

A purchase made through participation in this program meets any state requirement to seek competitive bids for the purchase of the item.

*Local Gov’t Code 271.083*

**ELECTRONIC MARKETPLACE**

If the College District has the ability to electronically send purchase orders and information, it may participate in the Department of Information Resources’ electronic procurement system, as described in Government Code Chapter 2177.

**MULTIPLE AWARD CONTRACT SCHEDULE**

The BPC shall develop a schedule of multiple award contracts that have been previously awarded using a competitive process by the federal government or any other governmental entity in any state.
The College District 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 2157.

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

*Gov’t Code 2155, Subchapter I*

**COOPERATIVE PURCHASING PROGRAM**

The College District may participate in a cooperative purchasing program with another local government or a local cooperative organization. If the College District does so, it may sign an agreement with another participating local government or a local cooperative stating that the College District will:

1. Designate a person to act on behalf of the College District in all matters relating to the program.

2. Make payments to another participating local government or local cooperative organization or directly under a contract, as provided in the agreement.

3. Be responsible for the vendor’s compliance.

If the College District participates in a cooperative purchasing program, it satisfies any law requiring it to seek competitive bids.


**CONTRACT-RELATED FEE REPORT**

A College District that enters into a purchasing contract valued at $25,000 or more under Education Code 44.031(a)(5) (interlocal contract), under Subchapter F, Chapter 271, Local Government Code (cooperative purchasing program), or under any other cooperative purchasing program authorized for school 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. The written report must appear as an agenda item. The Commissioner of Education may audit the written report.

*Education Code 44.0331*

**STATE COUNCIL ON COMPETITIVE GOVERNMENT**

As approved by the State Council on Competitive Government, the College District may voluntarily participate in a contract awarded by the council or a state agency under Government Code 2162. A
Purchasing and Acquisition

Commitment of Current Revenue

A contract for the acquisition, including lease, of real or personal property is a commitment of the College District's current revenue only, provided the contract contains either or both of the following provisions:

1. Retains to the Board the continuing right to terminate the contract at the expiration of each budget period during the term of the contract.

2. Is conditioned on a best efforts attempt by the Board to obtain and appropriate funds for payment of the contract.

Local Gov't Code 271.903

Energy or Water Conservation Measures

The College District may contract for energy or water conservation measures. Such a contract shall be let according to the procedures established for professional services by Government Code 2254.004. Education Code 51.927 [See policy CH for legal requirements pertaining to such contracts]

Recycled Products

The 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 shall regularly review and revise its purchasing 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.

The College District may seek an exemption from compliance if it has a population of less than 5,000 within its geographic boundaries and demonstrates to the Water Commission that compliance would work a hardship on the College District.

Health and Safety Code 361.426

Agricultural Products

If the cost and quality are equal, the College District shall give preference in purchasing to agricultural products, including textiles and other similar products, that are produced, processed, or grown in Texas. “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 Texas agricultural products are not equal in cost and quality to other agricultural products, the College District shall give preference in purchasing to agricultural products produced, processed, or grown in the United States, if the cost and quality of the U.S. and foreign products are equal.

The College District may not adopt product purchasing specifications that unnecessarily exclude agricultural products produced, processed, or grown in Texas.

VEGETATION FOR LANDSCAPING

If cost is equal and the quality is not inferior, the College District shall give preference to Texas vegetation when it purchases vegetation for landscaping purposes.

_Education Code 44.042_

DAIRY PRODUCTS

The Board shall 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. However, imported milk powder may be purchased if domestic milk powder is not readily available in the normal course of business. _Health & Safety Code 435.021_

IMPORTED BEEF

The College District shall not purchase beef or a product consisting substantially of beef that has been imported from outside the United States. _Agriculture Code 150.012_

CRIMINAL HISTORY

Before entering into a contract with the College District, a person or business must give notice to the College District if the person or an owner or operator of the business has been convicted of a felony. The College District may terminate a contract with a person or business if the College District determines that the person or business failed to give such notice or misrepresented the conduct resulting in the conviction. The College District must compensate the person for services performed before the contract terminated. _Education Code 44.034_

RIGHT TO WORK

While engaged in procuring goods and services or awarding a contract, the 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_
The Texas Ethics Commission has adopted a conflict of interest questionnaire that requires disclosure of a vendor’s business relationships with a College District.

A vendor to a College District shall file any required conflict of interest questionnaire if the person has a business relationship with the College District and:

1. Has an employment or other business relationship with an officer of the College District, or a family member of the officer, described by Local Government Code 176.003(a)(2)(A); or

2. Has given an officer of the College District, or a family member of the officer, one or more gifts with the aggregate value specified by Local Government Code 176.003(a)(2)(B), excluding any gift described by Local Government Code 176.003(a-1).

The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after:

1. The date that the vendor begins contract discussions or negotiations to enter into a contract with the College District; or

2. The date that the vendor submits to the College District an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the College District; or

3. The date the vendor 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 vendor has given one or more gifts.

Local Gov’t Code 176.006

“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)*

<table>
<thead>
<tr>
<th>ELECTRONIC FILING</th>
<th>The required questionnaire, including signature requirements, may be filed electronically in a form approved by the Commission. <em>Local Gov’t Code 176.008</em></th>
</tr>
</thead>
<tbody>
<tr>
<td>LIST OF LOCAL GOVERNMENT OFFICERS</td>
<td>The records administrator for each College District 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. <em>Local Gov’t Code 176.007</em> [See BBFA]</td>
</tr>
<tr>
<td>INTERNET POSTING</td>
<td>A College District shall provide access on the College District’s Internet Web site to the required conflict of interest questionnaires filed with the records administrator. <em>Local Gov’t Code 176.009</em></td>
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CASH PURCHASES WITH AVAILABLE FUNDS

The requirements of the Public Property Finance Act (Local Government Code 271.001 and following) do not apply to cash purchases of real property made with moneys from available funds. *Bandera ISD v. Hamilton*, 2 S.W.3d 367 (Tex. App.—San Antonio 1999)

DEFINITIONS

For purposes of this policy, “contract” means an agreement entered under the authority of the Public Property Finance Act, but does not mean a contract solely for the construction of improvements to real property. “Improvements” 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. “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(2)(10)(11)*

PROPOSED CONTRACT

The Board may execute, perform, and make payments under a contract 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, it shall publish notice of that intent not less than 60 days before the date set to approve execution of the contract. Publication shall be in a newspaper of 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. *Local Gov’t Code 271.004(a)*

PETITION AND REFERENDUM

Within 60 days of the date of publication of notice of intent, a written petition signed by at least five percent of the registered voters of the College District may be filed with the Board, requesting the Board to order a referendum on the question of whether the contract should be approved. If a petition is filed, 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, except that it is not required to be held on a uniform election date. *Local Gov’t Code 271.004(b), (c)*

SUBMISSION TO ATTORNEY GENERAL

A lease-purchase contract entered into for the use, purchase, or other acquisition of real property or an improvement to real property and the records relating to its execution shall be submitted to the attorney general for examination as to their validity. If the at-
torney 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**

A contract under this provision 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 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 College District’s obligation may be evidenced by one or more promissory notes. *Local Gov’t Code 271.004 (d)–(f)*

**EMINENT DOMAIN**

The College District may, by the exercise of the right of eminent domain, acquire title to real property for the purpose of securing sites on which to construct school buildings or for any other purpose necessary for the College District. *Education Code 11.155*
A Board shall establish a goal to reduce the College District's annual electric consumption by five percent each year for six years, beginning September 1, 2007. *Health and Safety Code 388.005*

The Board may enter into an energy savings performance contract for energy or water conservation measures to reduce energy or water consumption or operating costs of school facilities.

An energy savings performance contract 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 weatherstripping, multi-glazed 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.

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.

An energy savings performance contract for energy or water conservation measures shall contain provisions requiring the provider of the energy or water conservation measures to guarantee the amount of the savings to be realized by a College District under the contract. If the term of an energy savings performance contract exceeds one year, a College District’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 College District, divided by the number of years in the contract term.

**CONTRACT TERM**
The Board may enter into a contract for a period of more than one year for energy or water conservation measures with an entity if the Board finds that the amount the College District 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. If the term of a contract for energy or water conservation measures exceeds one year, the Board’s contractual obligation in any 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 but not limited to 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.

**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.

An energy savings performance contract for energy or water conservation measures shall contain provisions requiring the provider of the energy or water conservation measures to guarantee the amount of the savings to be realized by a college district under the contract. If the term of an energy savings performance contract exceeds one year, a college district’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 College District, divided by the number of years in the contract term beginning after the final date of installation. The College Board shall consider all
costs of the energy or water conservation measures, including costs of design, engineering, installation, maintenance, repairs, and debt service.

**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 published in the manner provided for under Government Code 2156.002. The Texas Higher Education Coordinating Board, in consultation with the State Energy Conservation Office, with regard to energy conservation measures, shall establish guidelines and an approval process for contracts awarded under this section. 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 contract 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 State Energy Conservation Office. Sections 1001.053 and 1001.047, Occupations Code apply to work performed under the contract. *Education Code 51.927*

**ENERGY USAGE REPORT**

The College District shall record in an electronic repository the College District'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 College District shall report the recorded information on a publicly accessible Internet Web site with an interface designed for ease of navigation if available, or at another publicly accessible location. *Gov't Code 2264.001*

**LIGHT BULBS**

A College District shall purchase for use in each type of light fixture in an educational or housing facility, as defined in Education Code 53.02, 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*
In cooperation with the comptroller or the Texas Commission on Environmental Quality (TCEQ), the College District shall establish a program for the separation and collection of all recyclable materials generated by the College District’s operations, including at a minimum, aluminum, steel containers, aseptic packaging, poly-coated paperboard cartons, high-grade office paper, and corrugated cardboard. “Recyclable materials” includes materials in the College District’s possession that have been abandoned or disposed of by the College District’s officers or employees or by any other person.

The College District shall also:

1. 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.

2. 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.

3. Establish educational and incentive programs to encourage maximum employee participation.

The College District may seek an exemption from compliance if it has a population of less than 5,000 within its geographic boundaries and demonstrates to the TCEQ that compliance would work a hardship on the College District.

Health and Safety Code 361.425

When the College District sells property, the College District shall provide to the buyer a copy of any certificate of mold remediation that has been issued for the property. Occupations Code 1958.154(b)
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 unstamped 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.


No officer or employee of the College District may knowingly use or authorize the use of an internal mail system for the distribution of political advertising unless the political advertising is delivered by the United States Postal Service. *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 Web site.

*Election Code 251.001(16) 1 TAC 20.1(13)(A)*

“Political advertising” does not include a communication made by e-mail. *1 TAC 20.1(13)(B)*
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 the College District or any of its officers or employees, pursuant to law 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 College District officers or employees.
2. Notes, journals, diaries, and similar documents created by a College District officer or employee for his or her own personal convenience.
3. Blank forms, stocks of publications, and library and museum materials acquired solely for the purposes of reference or display.
4. Copies of documents in any media furnished to the public under the Open Records Act or other state law.

Loc. Gov’t. Code 201.003(8)

In implementing the Local Government Records Act, the Board shall:

1. Establish, promote, and support an active and continuing program for the efficient and economical management of all College District 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 College District records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the College District and designed to furnish the information necessary to protect the College District’s legal and financial rights, the state, and persons affected by the College District’s activities.
4. Facilitate the identification and preservation of College District records that are of permanent value.
5. Facilitate the identification and protection of essential College District records.
6. Cooperate with the State Library and Archives Commission in its conduct of statewide records management surveys.

*Loc. Gov’t. Code 203.021*

In implementing the Local Government Records Act, College District personnel who are custodians of records shall:

1. Cooperate with the records management officer in carrying out the policies and procedures established by the College District for the efficient and economical management of records and in carrying out the requirements of the Act.

2. Adequately document the transaction of College District business and the services, programs, and duties for which the custodians and their staff are responsible.

3. Maintain the records in the custodians’ care and carry out the preservation, microfilming, destruction, or other disposition in accordance with the policies and procedures of the College District’s records management program.

*Loc. Gov’t. Code 203.022*

In implementing the Local Government Records Act, the records management officer shall:

1. Assist in establishing and developing policies and procedures for the College District’s records management program.

2. Administer the records management program and provide assistance to the custodians in order to reduce costs and improve record-keeping efficiency.

3. In cooperation with the custodians of records, prepare and file records control schedules, amended schedules, and lists of obsolete records, as required by the Local Government Records Act.

4. In cooperation with the custodians of records, prepare or direct the preparation of requests for authorization to destroy records, when such requests are required under the Local Government Records Act.

5. In cooperation with the custodians of records, identify and take adequate steps to preserve College District records of permanent value.

6. In cooperation with the custodians of records, identify and take adequate steps to protect essential College District records.
7. In cooperation with the custodians of records, ensure that the maintenance, preservation, microfilming, destruction, or other disposition of records is carried out in accordance with the College District’s records management program and legal requirements.

8. Disseminate to the Board and custodians of records information concerning state laws, administrative rules, and government policies relating to the College District’s records.

9. In cooperation with the custodians of records, establish procedures to ensure that the handling of records 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.

*Loc. Gov’t. Code 203.023*

**RETENTION SCHEDULES**

In developing the College District’s records retention schedule, the records management officer shall ensure it is consistent with the applicable minimum retention schedules adopted by the State Library and Archives Commission, i.e., Local Schedule GR—Records Common to all Governments, Local Schedule EL—Records of Elections and Voter Registration, Local Schedule TX—Records of Property Taxation, and Local Schedule JC—Records for Public Junior Colleges. *13 TAC 7.125*

**DESTRUCTION OF RECORDS**

A College District record may be intentionally destroyed under any of the following conditions:

1. The record is listed on a records control schedule filed with the State Library and Archives Commission and either its retention period has expired or it has been microfilmed or electronically stored in accordance with legal standards.

2. The record appears on a list of obsolete records approved by the State Library and Archives Commission.

3. A destruction request is filed with and approved by the State Library and Archives Commission for a record not listed on an approved control schedule.

4. The district court issues an expunction order for the destruction or obliteration of the records, pursuant to state law.

5. The records are defined as exempt from scheduling or filing requirements or listed as exempt in a records retention schedule issued by the State Library and Archives Commission.

*Local Gov’t Code 202.001*
EXCEPTIONS

A College District record the subject matter of which is known by the custodian to be the subject of litigation shall not be destroyed until the litigation is settled. A College District record that is subject to a request under Chapter 552, Government Code, shall not be destroyed until the request is resolved. Local Gov't Code 202.002

PRESERVATION OF RECORDS

The Board 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

The Board shall preserve the certified agenda or tape 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 certified agenda or tape recording shall be preserved while the action is pending. Gov't Code 551.104(a)

MICROFILMING

College District records may be maintained on microfilm in addition to or instead of paper or other media, subject to the requirements of Chapter 204 of the Local Government Code and rules adopted by the State Library and Archives Commission. Loc. Gov't Code 204.002

ELECTRONIC STORAGE

College District records may be stored electronically in addition to or instead of source documents in paper or other media, subject to the requirements of Chapter 205 of the Local Government Code and rules adopted by the State Library and Archives Commission. Loc. Gov't. Code 205.002

FEDERAL INVESTIGATIONS AND BANKRUPTCY

Anyone who 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 bankruptcy case, 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 District shall be covered by the Texas Employees Uniform Group Insurance Program.

The College District shall provide a health care insurance program in compliance with the employees’ retirement system policies and regulations and federal law.


The College District shall, at the time of employment, notify each of the College District’s employees eligible to participate in the group benefits program of the employee’s eligibility to participate. *Insurance Code 1551.107(b)*

**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 who is employed to perform services outside of this state is not eligible to participate in the group programs provided under the Texas Employees Uniform Group Insurance Benefits Act unless the College District elects, in accordance with procedures adopted by the trustee of the Employee Retirement System of Texas, to permit such employees to participate in those programs.

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 the College District on August 31, 1999, remains eligible to participate in the group programs, in the same manner as other employees of the College District, even if the person’s employment by the College District is not continuous. *Insurance Code 1551.110*

**CURRENT AND FORMER TRUSTEES**

Except as provided by Insurance Code 1551.351, an individual participating in the group benefits program on August 31, 2003, as a current or former Trustee of the College District 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 Trustee may not receive a state contribution for premiums, but the Board may elect to pay from local funds part or all of the contributions the state would pay for similar coverage of other participants in the program. The Trustee’s contribution for coverage under a group health coverage plan may not be greater than the contribution for continuation coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. No. 99-272). *Insurance Code 1551.109*
<table>
<thead>
<tr>
<th>CONTINUATION COVERAGE</th>
<th>DURING MILITARY LEAVE</th>
</tr>
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<tbody>
<tr>
<td>An employee who is absent from a position of employment by reason of service in the uniformed services may elect to continue coverage under a health plan. The maximum period of coverage of such a person and the person's dependents shall be the lesser of:</td>
<td></td>
</tr>
<tr>
<td>1. The 24-month period beginning on the date on which the person's absence begins; or</td>
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<tr>
<td>2. The day after the date on which the person fails to apply for or return to a position of employment. [See DEC]</td>
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38 U.S.C. 4317(a)(1)

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<thead>
<tr>
<th>DURING FMLA LEAVE</th>
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<tbody>
<tr>
<td>During any period of family and medical leave, the College District shall allow the employee to maintain coverage under any group health plan for the duration of the 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 the leave. 29 U.S.C. 2614(c); 29 CFR 825.209, 825.210, 825.213 [See also DEC]</td>
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<tr>
<th>UPON TERMINATION OR OTHER QUALIFYING EVENT (COBRA)</th>
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<tr>
<td>Under any group health insurance plan established after July 1, 1986, the College District shall offer continuation coverage to the following qualified beneficiaries for the stated period of time:</td>
</tr>
<tr>
<td>1. To the employee for 18 months after a termination (other than for gross misconduct) or reduction in hours. An employee providing notice of being disabled under Title II or XVI of the Social Security Act before the end of the initial 18 months of coverage shall be offered up to 29 months of continuation coverage.</td>
</tr>
<tr>
<td>2. To dependents of the covered employee for 36 months after the employee becomes eligible for medicare benefits.</td>
</tr>
<tr>
<td>3. To dependents of the covered employee for 36 months after the employee’s death or the divorce or legal separation of the employee from a spouse.</td>
</tr>
<tr>
<td>4. To a dependent child for 36 months after the child ceases to be a dependent under the terms of the plan.</td>
</tr>
</tbody>
</table>

42 U.S.C. 300bb-1, 300bb-2, 300bb-3

<table>
<thead>
<tr>
<th>PREMIUM</th>
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<tr>
<td>The College District may require premium payments not to exceed 102 percent of the usual cost of the plan for the period of continuation coverage. Individuals entitled to 29 months of continuation coverage may be required to pay premiums not to exceed 150 percent of the usual cost for any month after the 18th month. The qualified beneficiary may choose to pay the premiums in monthly installments. In no event may payment be required before the day</td>
</tr>
</tbody>
</table>
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(3)

NOTICE

The College District shall notify its group health plan administrator within 30 days of an employee’s death, termination or reduction of hours, or becoming eligible for Medicare payments.

The qualified beneficiary is responsible for notifying the plan administrator of a divorce or legal separation from a spouse or a dependent child’s ceasing to be a dependent. A qualified beneficiary who is determined to have been disabled at the time of termination is responsible for notifying the plan administrator of that determination within 60 days of the determination and within 30 days after a subsequent determination that he or she is no longer disabled.

42 U.S.C. 300bb-6

TERMINATION OF COVERAGE

Coverage of qualified beneficiaries shall end on the earliest of the following dates:

1. The required period of coverage expires.
2. The College District ceases to provide any group health plan to any employee.
3. Coverage ceases for failure to pay the premium.
4. The qualified beneficiary becomes covered under any other group plan.
5. The qualified beneficiary becomes eligible for Medicare benefits.

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

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

FEDERAL LAW

A group health plan may not impose a preexisting condition exclusion unless:

1. The exclusion relates to a condition (whether physical or mental), regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the six-month period ending on the enrollment date;
2. The exclusion extends for a period of not more than 12 months (or 18 months in the case of a late enrollee) after the enrollment date; and

3. The period of any such preexisting condition exclusion is reduced by the aggregate of the periods of creditable coverage (if any) applicable to the participant or beneficiary as of the enrollment date.

42 U.S.C. 300gg(a); 45 CFR 146.111(a)

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.

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 plan consists of group health insurance coverage, the plan is deemed to have satisfied the certification requirements if any issuer offering the coverage provides for certification.

42 U.S.C. 300gg(e); 45 CFR 146.115

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 CFR Part 164. 42 U.S.C. 1320d et seq.

“COVERED ENTITY” DEFINED

The College District is a “covered entity” under the Privacy Rule to the extent it is:

1. A health plan;
2. A health care clearinghouse; or
3. A health care provider who transmits any health information in electronic form in connection with a transaction covered by the Privacy Rule.

45 CFR 160.103

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

2. Medical treatment records, as 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 CFR 160.102, 164.501 [See FJ(LEGAL) at ‘EDUCATION RECORDS’ DEFINED]

Before a group health plan may disclose protected health information to the College District that is a plan sponsor, the group health plan must ensure that the plan documents restrict uses and disclosures of such information by the College District consistent with the requirements of the Privacy Rule.

The group health plan may disclose the following information to the College District that is a plan sponsor without amending the plan documents:

1. Summary health information, consistent with the requirements of the Privacy Rule; and
2. Enrollment and disenrollment information relating to an individual participating in the plan.

45 CFR 164.504(f)

The term “plan sponsor” includes employers who establish or maintain employee benefit plans, alone or jointly with one or more employers. 29 U.S.C. 1002(16)(B)

The College District that is a sponsor of a self-funded group health plan is a covered entity under the Privacy Rule. 45 CFR 160.103
The College District shall extend workers’ compensation benefits to its employees by choosing one of the following options:

1. Becoming a self-insurer.
2. Providing insurance under workers’ compensation insurance contracts or policies.
3. Entering into interlocal agreements with other political subdivisions providing for self-insurance.

_Labor Code 504.011_

_for the purposes of this policy, “employee” means every person in the service of the College District who has been employed as provided by law or for whom the College District provides optional coverage. No person paid on a basis other than by the hour, day, week, month, or year shall be considered an “employee.” __Labor Code 504.001, 504.014__

The College District shall notify the Texas Department of Insurance (TDI) of the method by which College District employees shall receive benefits, the approximate number of employees covered, and the estimated amount of payroll.

Notice of the provision for workers’ compensation benefits and the effective date of the coverage shall be given to the College District’s employees.

_Labor Code 504.018_

The College District shall provide to the College District’s insurance carrier a report on each:

1. Death;
2. On-the-job injury that results in an employee’s absence from work for more than one day; and
3. Occupational disease of which the College District has received notice of injury or has knowledge. “Knowledge” means receipt of written or verbal information regarding diagnosis or diagnosis through examination or testing by a doctor employed by the College District.

The report shall contain the information and be in the form, format, and manner prescribed by the TDI, and shall be filed no later than the eighth day after the employee’s absence from work for more than one day or upon first knowledge of absence for more than one day. The College District shall maintain a record of the date the report of injury is filed with the insurance carrier.
A copy of the report of injury, including a summary of the employee's rights and responsibilities under the Texas Labor Code, shall be sent to the injured employee at the time the report is filed with the insurance carrier. The summary shall be written in plain language in English and Spanish, or in English and any other language common to the employee, and shall contain the words prescribed by the TDI.

The College District shall, on the written request of the employee, a doctor, the insurance carrier, or the TDI, notify the employee, the employee's treating doctor if known to the College District, 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 College District. If those opportunities or that program exists, the College District shall identify the College District'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.

A supplemental report shall be filed with the College District's insurance 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 all post-injury earnings as defined in 28 TAC 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 College District’s duty to file supplemental reports continues until the employee reaches “maximum medical improvement” or is no longer employed by the College District and the College District has made the required report.

For injuries that require the filing of a FIRST REPORT OF INJURY, the College District shall file the supplemental report with the College District's insurance carrier and provide a copy to the employee within three days after:

1. The employee begins losing 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 of disability as a result of the injury.

The College District shall maintain a record of the date the supplemental report is filed with the carrier and provided to the employee.

*Labor Code 409.005; 28 TAC 120.2, 120.3*
**INJURY AND OCCUPATIONAL DISEASE REPORT**

The College District’s report of injury filed in accordance with Texas Labor Code 409.005 (FIRST REPORT OF INJURY, above) shall satisfy the College District’s requirement to file an injury and occupational disease report under Texas Labor Code 411.032, unless the commission requests that the employer file a report with the commission for a specific injury. _28 TAC 160.3_

**WAGE REPORTS**

The College District is required to timely file a complete wage statement on a form prescribed by the TDI.

The wage statement shall be filed with the carrier, the claimant, and any claimant representative. The wage statement should be filed and received within 30 days of the earliest of:

1. The date the College District 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 any claimant representative within seven days of a change in any wage information provided on the previous wage statement. A wage statement shall also be filed with TDI within seven days of receiving a request from TDI.

_28 TAC 120.4(a)_

**OMBUDSMAN PROGRAM**

The College District shall notify its employees, in the manner prescribed by the TDI, of the ombudsman program to assist injured workers and persons claiming death benefits in obtaining benefits under the Texas Workers’ Compensation Act. _Labor Code 404.151, .153_

**REPORTS OF SAFETY VIOLATIONS**

The College District shall notify its employees, in the manner prescribed by the TDI, of the 24-hour-a-day toll-free telephone system for reporting violations of an occupational health or safety law. The College District shall not suspend, terminate, or otherwise discriminate against an employee for making a good faith report of a violation of an occupational health or safety law. _Labor Code 411.081, 411.082_

**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 wages.
earnings (PIE). If the employee’s PIE equals or exceeds the employee’s AWW, the employee has no lost wages.

“Post-injury earnings” include, among several other components:

1. The value of any full days of accrued sick or annual leave that the employee voluntarily elects to use after the date of injury; and
2. The value of any partial days of accrued or 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 Board may provide that while an employee is receiving workers’ compensation benefits, the employee may elect to receive previously accrued sick leave benefits in an amount equal to the difference in the workers’ compensation benefits and the weekly compensation the employee was receiving before the injury that resulted in the claim, with a proportionate deduction in the employee’s sick leave balance. Labor Code 504.052


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 above provision is liable for reasonable damages incurred by the employee as a result of the violation, and an employee discharged in violation of the above provision is entitled to reinstatement in the former position of employment. The burden of proof in a proceeding alleging violation of the above provision is on the employee. Labor Code 451.002
LEAVES OF ABSENCE

The College District shall not terminate an employee who is on an unpaid leave of absence and receiving workers’ compensation benefits, except when the termination is for a legitimate reason independent from the employee’s workers’ compensation claim. *Att'y Gen. Op. JM-227 (1984)*

A College District 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) [See DEC at ABSENCE CONTROL]
**An architect registered in accordance with Occupations Code Title 6, Chapter 1051, shall prepare the architectural plans and specifications for a new building constructed and owned by the College District that will be used for education when construction costs exceed $100,000.**

The College District may comply with this requirement by choosing a registered architect or a registered professional engineer as the prime design professional for a building construction, alteration, or addition project.

*Occupations Code 1051.303*

**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 CFR 35.151; 34 CFR 104.23**

**All plans and specifications for construction or for the substantial renovation, modification, or alteration of a building or facility that has an estimated construction cost of $50,000 or more shall be submitted to the Department of Licensing and Regulation for review and approval. A college district as 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, modification, or alteration of the building or facility to begin before the date the plans and specifications are submitted to the department by the architect, interior designer, landscape architect, or engineer.**

A college district as owner of each building or facility that has an estimated construction, renovation, modification, or alteration cost of at least $50,000 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, modification, or alteration of the building or facility is completed. The inspection must be performed by the department, an entity with whom the commission contracts, or a person who holds a certificate of registration to perform inspections. *Gov’t Code 496.101-.102, .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 the fixture meets the**
specific energy conservation and light pollution standards in Health and Safety Code Chapter 425.

EXCEPTIONS

The standards for state-funded outdoor lighting fixtures do not apply when:

1. Preempted by federal law, rule, or regulation;
2. Emergency personnel temporarily require additional illumination for emergency procedures;
3. The lighting fixture is used temporarily for nighttime work;
4. Special events or circumstances* require additional illumination;
5. The fixture is used solely to enhance the aesthetic beauty of an object; or
6. A compelling safety interest cannot be addressed by another method.

*Note: 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
An architect registered in accordance with Occupations Code Title 6, Chapter 1051, shall prepare architectural plans and specifications for any alteration or addition to an existing building owned by the College District that is, or will be, used for education when construction costs of alteration or addition exceed $50,000 and the alteration or addition requires the removal, relocation, or addition of any walls or partitions or the alteration or addition of an exit.

The College District may comply with this requirement by choosing a registered architect or a registered professional engineer as the prime design professional for a building construction, alteration, or addition project.

*Occupations Code 1051.303*

No qualified individual with a disability shall, because the College District’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 the College District or be subject to discrimination. 42 U.S.C. 12132; 28 CFR 35.149; 29 U.S.C. 794; 34 CFR 104.21

Such programs or activities shall be operated in a manner which ensures that, when viewed in their entirety, they are readily accessible to handicapped persons. The College District is not, however, required to make each existing facility or every part of a facility accessible to and usable by handicapped persons.

Compliance with these requirements may be achieved by:

1. Redesigning equipment.
2. Reassigning classes or other services to accessible buildings.
3. Assigning aides to qualified handicapped persons.
4. Home visits.
5. Delivery of health, welfare, or other social services at alternate accessible sites.
6. Alteration of existing facilities.
7. Constructing new facilities in conformance with 34 CFR 104.23.
8. Any other methods that would result in making programs and activities accessible to handicapped persons.

Structural changes in existing facilities need not be made when other methods will achieve compliance with Title II of the Americans with Disabilities Act and its implementing regulation. In
choosing among available alternatives for meeting these requirements, the Board shall give priority to methods that offer services, programs, and activities to qualified individuals with disabilities in the most integrated setting appropriate.

28 CFR 35.150; 34 CFR 104.22

REVIEW OF PLANS

All plans and specifications for construction or for the substantial renovation, modification, or alteration of a building or facility that has an estimated construction cost of $50,000 or more shall be submitted to the Department of Licensing and Regulation for review and approval. The College District as 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, modification, or alteration of the building or facility to begin before the date the plans and specifications are submitted to the department by the architect, interior designer, landscape architect, or engineer.

The College District as owner of each building or facility that has an estimated construction, renovation, modification, or alteration cost of at least $50,000 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, modification, or alteration of the building or facility is completed. The inspection must be performed by the department, an entity with whom the commission contracts, or a person who holds a certificate of registration to perform inspections.

Gov't Code 496.101-.102,.105

NOTICE

The College District shall adopt and implement procedures to ensure that interested persons, including those with impaired vision or hearing, can obtain information as to the existence and location of services, activities, and facilities that are accessible to and usable by handicapped persons. 34 CFR 104.22(f)
Education Code Chapter 44, Subchapter B, applies to Junior College Districts. *Education Code 44.0311*

### BOARD AUTHORITY

The Board may adopt rules and procedures for the acquisition of goods and services. *Education Code 44.031(d)*

### DELEGATION OF AUTHORITY

The Board may delegate its authority regarding an action authorized or required to be taken by the College District by Education Code Chapter 44, Subchapter B to a designated person, representative, or committee.

The Board may not delegate the authority to act regarding an action authorized or required to be taken by the Board by Education Code Chapter 44, Subchapter B.

In procuring construction services, the College District shall provide notice of the delegation and the limits of the delegation in the request for bids, proposals, or qualifications or in an addendum to the request. If the College District fails to provide that notice, a ranking, selection, or evaluation of bids, proposals, or qualifications for construction services other than by the Board in an open public meeting is advisory only. *Education Code 44.0312*

### INJUNCTION

A court may enjoin performance of a contract made in violation of Education Code Chapter 44, Subchapter B. A county attorney, district attorney, criminal district attorney, 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 subsection is entitled to reasonable attorney’s fees as approved by the court. *Education Code 44.032(f)*

### IMPERMISSIBLE PRACTICES

A Trustee, employee, or agent of the College District who knowingly or with criminal negligence violates the purchasing laws is subject to criminal penalties. *Education Code 44.032* [See CF]

### CONTRACTS VALUED AT OR ABOVE $25,000

All College District contracts valued at $25,000 or more in the aggregate for each 12-month period, shall be made by the method, that provides the best value for the College District: [See also CF]

1. Competitive bidding. [See CMA]
2. Competitive sealed proposals. [See CMB]
3. An interlocal contract.
4. A design/build contract. [See CMC]
5. A contract to construct, rehabilitate, alter, or repair facilities that involves using a construction manager. [See CMD, CME]
6. A job order contract for the minor construction, repair, rehabilitation, or alteration of a facility. [See CMF]

7. The reverse auction procedure as defined by Government Code 2155.062(d). [See CF]

_Education Code 44.031(a)_

**SELECTING A CONTRACTING METHOD**

When the College District is considering awarding a construction contract using a method specified by Education Code 44.031(a), the Board shall, before advertising, determine which purchasing method provides the best value for the College District. _Education Code 44.035(a)_

**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 College 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 College 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)_

**CONTRACT SELECTION CRITERIA**

The College District shall base its selection among offerors on criteria authorized in Education Code 44.031(b). [See CF] The College District shall publish in the request for bids, proposals, or qualifications the criteria that will be used to evaluate the offerors and the relative weights given to the criteria. _Education Code 44.035(b)_

**MAKING EVALUATIONS PUBLIC**

The College District 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. _Education Code 44.035(c)_

**ATTORNEY FEES**

A governmental contract for general construction, an improvement, a service, or a public works project may not provide for the award of attorney’s fees to the College District 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_

**PROFESSIONAL SERVICES**

The purchasing requirements of Education Code 44.031 do not apply to a contract for professional services rendered, including the services of an architect, attorney, or fiscal agents. The College District may 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)*

Competitive bids shall not be solicited for professional services of any licensed or registered certified public accountant, architect, landscape architect, land surveyor, physician, optometrist, professional engineer, state-certified or state-licensed real estate appraiser, or registered nurse. Contracts for these professional services shall be made on the basis of demonstrated competence and qualifications to perform the services and for a fair and reasonable price. *Gov’t Code 2254.002, 2254.003(a)* [See PROCURING ARCHITECTURAL, ENGINEERING, AND LAND-SURVEYING SERVICES, below]

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

**EMERGENCY DAMAGE OR DESTRUCTION**

If school equipment, a school facility, or a part 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 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)*

**CRIMINAL HISTORY**

Before entering into a contract with the College District, a person or business must give notice to the College District if the person or an owner or operator of the business has been convicted of a felony. The College District may terminate a contract with a person or business if the College District determines that the person or business failed to give such notice or misrepresented the conduct resulting in the conviction. The College District must compensate the person for services performed before the contract terminated. *Education Code 44.034*

**RIGHT TO WORK**

While engaged in awarding a contract or overseeing procurement or construction for a public work or public improvement, the 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*

REGISTERED ARCHITECT

An architect registered in accordance with Occupations Code, Title 6, Chapter 1051, shall prepare architectural plans and specifications for:

1. A new building constructed and owned by the College District that will be used for education, assembly, or office occupancy when the total projected construction costs at the commencement of construction exceed $100,000.

2. Any alteration or addition to an existing building owned by the College District that is, or will be, used for education, assembly, or office occupancy when the total projected construction costs of alteration or addition at the commencement of construction exceed $50,000 and the alteration or addition requires the removal, relocation, or addition of any walls or partitions or the alteration or addition of an exit.

The College District may comply with this requirement by choosing a registered architect or a registered professional engineer as the prime design professional for a building construction, alteration, or addition project.

*Occupations Code 1051.703; 22 TAC 1.212*

REGISTERED ENGINEER

Electrical or mechanical engineering plans, specifications, and estimates for a College District construction project whose contemplated cost at completion is more than $8,000 and that involves public health, welfare, or safety must be prepared by a registered professional engineer, and the engineering construction executed under the supervision of such an engineer. *Occupations Code 1001.053; Atty. Gen. Op. C-791 (1966)*

The College District is not required to secure the services of a registered professional engineer to prepare plans for or supervise a construction project that does not involve electrical or mechanical engineering and for which the contemplated cost does not exceed $20,000. *Occupations Code 1001.053*

PROCURING ARCHITECTURAL, ENGINEERING, AND LAND-SURVEYING SERVICES

In procuring architectural, engineering, or land-surveying services, the College District shall [see PROFESSIONAL SERVICES above]:

1. First select the most highly qualified provider on the basis of demonstrated competence and qualifications; and

2. Then attempt to negotiate a contract with that provider 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 College District 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 College District shall continue this process until a contract is entered into.

Gov’t Code 2254.004

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 CFR 35.151; 34 CFR 104.23

PAYMENT AND PERFORMANCE BONDS

When the Board makes a public work contract for constructing, altering, or repairing a public building or carrying out or completing any public work, it shall require the contractor, before beginning the work, to execute payment and/or performance bonds as specified below. The bonds shall be executed by a corporate surety in accordance with Insurance Code 7.19-1. The bond shall be payable to the Board and in a form approved by the Board. Gov’t Code 2253.021(a)(d)(e)

For a contract in excess of $100,000, a performance bond shall be executed in the amount of the contract conditioned on the faithful performance of the work according to the plans, specifications, and contract documents. The bond is solely for the protection of the College District. Gov’t Code 2253.021(b)

For a contract in excess of $25,000, a payment bond shall be executed in the amount of the contract 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. Gov’t Code 2253.021(c)

FAILURE TO OBTAIN PAYMENT BOND

If the Board fails to obtain a payment bond covering a contract in excess of $25,000 from the prime contractor, it is subject to the same liability as a surety would be, 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 Subchapter J, Chapter 53, Property Code. Gov’t Code 2253.027
A payment or performance bond is not required for, and may not provide coverage for, the portion of a design-build contract that includes design services only. *Education Code 44.036(j)* [See CMC for more information on design/build contracts, including bond amounts]

The Board 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:

1. A performance bond for the benefit of the College District, as described above; and

2. A payment bond, as described above. If the payment bond is not furnished, the College District is subject to the same liability that a surety would have if the surety had issued the payment bond and the College District had required the bond to be provided.

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

The requirement that the College District secure a performance or payment bond from an insurance company, above, does not apply when a surety company is complying with an obligation under a bond that had been issued for the benefit of the College District. *Gov't Code 2253.022*

The Board shall not award a contract for general construction, improvements, services, or public works projects or for purchase of supplies, materials, or equipment to a 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 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. *Gov't Code 2252.001, 2252.002*

This requirement shall not apply to a contract involving federal funds. The College District shall rely on information published by the comptroller in evaluating the bids of a nonresident bidder. *Gov't Code 2252.003, 2252.004*

A worker, laborer, or mechanic employed on a public work, exclusive of maintenance work, by or on behalf of the College District shall be paid not less than the general prevailing rate of per diem
wages. The general prevailing rate of per diem wages is the rate of per diem wages for work of a similar character in the locality in which the work is performed, and also includes the 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 public work with the College District. *Gov't Code 2258.001, 2258.021*

The Board shall determine, as a sum certain, the general prevailing rate of per diem wages in the College District for each craft or type of worker needed to execute the contract and also for legal holiday and overtime work. To ascertain the general prevailing rate of per diem wages, the Board shall either conduct a survey of the wages received by classes of workers, laborers, and mechanics employed on projects of a character similar to the contract work in the College District or adopt the prevailing wage rate as determined by the U.S. Department of Labor. The Board shall specify the prevailing rate of per diem wages in the call for bids and in the contract itself. The Board’s determination of the general prevailing rates of per diem wages shall be final. *Gov’t Code 2258.001, 2258.022*

**ENFORCEMENT**

The Board, and an agent or officer of the Board, shall receive complaints regarding violations of the prevailing wage requirements of Chapter 2258, and withhold money from the contractor as required by statute. Upon receipt of a complaint, the Board shall determine, before the 31st day after the date the information is received, whether good cause exists to believe that a contractor or subcontractor has failed to pay the prevailing wage and shall provide written notice of its determination to the contractor or subcontractor and any affected laborer, worker, or mechanic of its initial determination. *Gov’t Code 2258.051, 2258.052*

**RETAINAGE AND REIMBURSEMENT**

The Board shall retain any amounts due under the contract pending a final determination of the violation. Upon a final determination that violations have occurred, the Board shall use those retained amounts to pay the laborer, worker, or mechanic the difference between the amount the worker received in wages and the amount the worker would have received at the prevailing rate of per diem wages provided in the arbitrator’s award. The Board may adopt rules, orders, or ordinances relating to the manner in which the reimbursement is made. *Gov’t Code 2258.052(d), 2258.056*

**PENALTY FOR NONCOMPLIANCE**

The contractor to whom the contract is awarded or any subcontractors of the contractor shall pay not less than the specified rates to all laborers, workers, and mechanics employed in the execution of the contract. A contractor or subcontractor who fails to pay the specified rates as required shall pay to the College District $60 for
each worker, laborer, or mechanic employed for each calendar day or part of a calendar day the worker is paid less than the wage rates specified in the contract. The Board must specify this penalty in the contract. If the College District does not determine the prevailing wage rates and specify them in the contract, the contractor or subcontractor may not be fined. The Board shall use any penalty money collected to offset the costs incurred in administering Government Code Chapter 2258. Gov’t Code 2258.023

REQUIRED WORKERS’ COMPENSATION COVERAGE

When the College District enters into a building or construction contract on a project, it shall fulfill the following requirements regarding required workers’ compensation coverages. A project includes the provision of all services related to a building or construction contract for the College District. The College District shall:

1. Include in the bid specifications all the duties and responsibilities of contractors pertaining to required workers’ compensation coverages. [See CM(EXHIBIT)]

2. As part of the contract, using the language required by 28 TAC 110.110(c)(7), require the contractor to perform the duties and responsibilities pertaining to required workers’ compensation coverages. [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. This provision includes 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 do 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**

This coverage requirement does not apply to sole proprietors or partners of a covered business entity or corporate officers, if the sole proprietor, partner, or officer is explicitly excluded from the coverage of their business entity 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 facility constructed with student fees may be used only for College District purposes, as determined by the Board. Student fees may not be used for construction, repair, or rehabilitation of a community center or College District auxiliary enterprise unless it serves as a student center or dormitory. Education Code 130.124; Atty. Gen. Op. JM-139 (1984)
If the 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; and
4. MAKING EVALUATIONS PUBLIC after the contract is awarded.

**Note:** Terms in all capital letters, above, point to margin notes in the referenced policy.

The College District may award job order contracts for the minor construction, repair, rehabilitation, or alteration of a facility if the work is of a recurring nature, but the delivery times are indefinite and indefinite quantities and orders are awarded substantially on the basis of predescribed and prepriced tasks.

**ESTABLISHING UNIT PRICES**

The College District 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 bid or propose one or more coefficients or multipliers to be applied to the price book or work items as the price proposal.

**TERM OF CONTRACT**

The base term of a job order contract is for the period, and with any renewal option, that the College District sets forth in the request for proposals. If the College District fails to advertise that term, the base term may not exceed two years and is not renewable without further advertisement and solicitation of proposals.

**ARCHITECT / ENGINEER**

If job order contracts or orders issued under the contract require engineering or architectural services that are subject to Occupations Code Title 6, Chapters 1001 or 1051, the College District shall select or designate an architect or engineer to prepare the construction documents for the facility. If the architect or engineer is not a full-time employee of the College District, the College District shall select the architect or engineer on the basis of demonstrated competence and qualifications as provided by Government Code Section 2254.004.
The College District shall advertise for [see CM], receive, and publicly open sealed proposals for job order contracts. The College District may require offerors to submit additional information besides rates, including experience, past performance, and proposed personnel and methodology.

**AWARDING CONTRACTS**

The College District may award job order contracts to one or more job order contractors in connection with each solicitation of bids or proposals.

An order for a job or project under the job order contract must be signed by the College District’s representative and the contractor. The order may be a fixed-price, lump-sum contract based substantially on contractual unit pricing applied to estimated quantities or may be a unit price order based on the quantities and line items delivered.

**BONDS**

The contractor shall provide payment and performance bonds, if required by law, based on the amount or estimated amount of any order. [See CM for more information on payment and performance bonds]

*Education Code 44.041*
The College District 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 the size and complexity, the nature and scope of the college’s 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 CFR 314.3(a); 15 USC 6801(b)

OBJECTIVES

The objectives are to:

1. Insure 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 CFR 314.3(b)

ELEMENTS

To develop, implement, and maintain the information security program, the College District 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 College’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 College 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 College’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 College’s operations or business arrangements, or any other circumstances that the College knows or has reason to know may have a material impact on the information security program.

DEFINITIONS

“Customer Information” means any record containing nonpublic personal information, as defined below, whether in paper, electronic, or other form, that is handled or maintained by or on behalf of the College or its affiliates.

16 CFR 314.2(b)

“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 CFR 313.3(n)

“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 the College District.

16 CFR 314.2(d)

The College District’s information security program must also be consistent with the standards in Texas Administrative Code, Title I, chapter 202, subchapter C. 1 TAC 202.70(2)
| COORDINATION WITH OTHER INSTITUTIONS OF HIGHER EDUCATION | An institution of higher education shall coordinate its use of information technologies with other such institutions to more effectively provide education, research, and community service. *Government Code 2054.121* |
| ELECTRONIC TRANSACTIONS AND DIGITAL SIGNATURES | The Guidelines for the Management of Electronic Transactions and Signed Records (available on the Department of Information Resources Web site) 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 203.41* |
| An institution of higher education that accepts digital signatures shall comply with Texas Administrative Code, Title I, chapter 203, subchapter C. *1 TAC 203.43–.46* |
| INTERAGENCY CONTRACTS FOR INFORMATION RESOURCES TECHNOLOGIES | An institution of higher education that proposes to receive information resources technologies under a contract from another state agency or institution of higher education shall comply with Texas Administrative Code, Title I, chapter 204, subchapter C. *1 TAC 204.30–.32* |
| WEB SITE STANDARDS | An institution of higher education that has a Web site shall comply with Texas Administrative Code, Title I, chapter 206, subchapter C. *1 TAC 206.70–.75* |
| COMMUNICATION WIRING STANDARDS | When wiring or re-wiring institution of higher education-owned or leased space, an institution of higher education shall comply with Texas Administrative Code, Title I, chapter 208, subchapter C. *1 TAC 208.20* |
| ACCESS BY INDIVIDUALS WITH DISABILITIES EMPLOYEES | Each College District shall, in developing, procuring, maintaining, or using electronic and information resources, ensure that College District employees with disabilities have access to and the use of those resources comparable to the access and use available to employees without disabilities, unless compliance with this section imposes a significant difficulty or expense on the agency under Government Code 2054.460. Subject to Government Code 2054.460, the College District shall take reasonable steps to ensure that a disabled employee has reasonable access to perform the employee’s duties. |
| This section does not require a College District to install specific accessibility-related software or attach an assistive technology device at a workstation of a College District employee. |
| PUBLIC | Each College District shall provide members of the public with disabilities who are seeking information or other services from the
agency access to and the use of electronic and information resources comparable to the access and use provided to members of the public without disabilities, unless compliance with this section imposes a significant difficulty or expense on the College District under Government Code 2054.460.

This section does not require a College District to:

1. Make a product owned by the College District available for access and use by individuals with disabilities at a location other than the location where the electronic and information resources are provided to the public; or

2. Purchase a product for access and use by individuals with disabilities at a location other than the location where the electronic and information resources are provided to the public.

If compliance with a provision of this section imposes a significant difficulty or expense on a College District, the College District is not required to comply with that provision, but the College District may provide individuals with disabilities an alternate method of access.

The College District may use alternate methods to provide timely access by individuals with disabilities to College District electronic and information resources, including access to product documentation. Alternate methods include voice, fax, teletypewriter, Internet posting, captioning, text-to-speech synthesis, and audio description.

In determining whether compliance imposes a significant difficulty or expense on the College District, the College District shall consider all College District resources available to the program or program component for which the product is being developed, procured, maintained, or used.

The College President shall make the final decision on whether this section applies. The decision may not be appealed.

Gov’t Code 2054.456, .457, .460

The College President, or the designated representative of the College President, shall serve as the College District’s information resources manager. Gov’t Code 2054.071
A College District shall not fail or refuse to hire or discharge any individual, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment on the basis of any of the following protected characteristics:

1. Race, color, or national origin;
2. Sex;
3. Religion;
4. Age (applies to individuals who are 40 years of age or older);
5. Disability.


A College District may take employment actions based on religion, sex, national origin, or age in those certain instances where religion, sex, national origin, or age is a bona fide occupational qualification. 42 U.S.C. 2000e-2(e); 29 U.S.C. 623(f)

A College District shall not print or publish any notice or advertisement relating to College District employment that indicates any preference, limitation, specification, or discrimination based on race, color, religion, sex, or national origin, unless the characteristic is a bona fide occupational qualification. 42 U.S.C. 2000e-3(b)

A College District has an affirmative duty to maintain a working environment free of harassment on the basis of sex, race, color, religion, and national origin. 42 U.S.C. 2000e et seq.; 29 CFR 1606.8(a), 1604.11

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 CFR 100.7(e) (Title VI); 34 CFR 110.34 (Age Act); 42 U.S.C. 12203 (ADA); Jackson v. Birmingham Bd. of Educ., 544 U.S. 167 (2005) (Title IX)

A College District shall post in conspicuous places upon its premises a notice setting forth the information the Equal Employment Opportunity Commission deems appropriate to effectuate the pur-
SECTION 504 NOTICE

A College District 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.

The notice shall state:

1. That the College District does not discriminate in employment in its programs and activities; and

2. The identity of the College District’s 504 coordinator.

Methods of notification may include:

1. Posting of notices;

2. Publication in newspapers and magazines;

3. Placing notices in College District publications; and

4. Distributing memoranda or other written communications.

If the College District publishes or uses recruitment materials containing general information that it makes available to applicants or employees, it shall include in those materials a statement of its nondiscrimination policy.

34 CFR 104.8

AGE DISCRIMINATION

A College District may take an employment action on the basis of age pursuant to a bona fide seniority system or a bona fide employee benefit plan. However, a bona fide employee benefit plan shall not excuse the failure to hire any individual and no such benefit plan shall require or permit the involuntary retirement of any individual because of age. 29 U.S.C. 623(f)

SEX DISCRIMINATION

The prohibition against discrimination on the basis of sex includes discrimination on the basis of pregnancy, childbirth, or related medical conditions. A College District shall treat women affected by pregnancy, childbirth, or related medical conditions the same for all employment-related purposes, including receipt of benefits under fringe benefit programs. 42 U.S.C. 2000e(k)

PREGNANCY

EQUAL PAY

A College District may not pay an employee at a rate less than the rate the employer pays employees of the opposite sex for equal work on jobs the performance of which require equal skill, effort, or responsibility and which are performed under similar working conditions. This rule does not apply if the payment is pursuant to a seniority system, a merit system, a system that 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 CFR 106.54

Religious Discrimination

The prohibition against discrimination on the basis of religion includes all aspects of religious observances and practice, as well as religious belief, unless a College District demonstrates that it is unable to reasonably accommodate an employee’s or prospective employee’s religious observance or practice without undue hardship to the College District’s business. “Undue hardship” means more than a de minimus (minimal) cost. 42 U.S.C. 2000e(j); 29 CFR 1605.2

The College District may not substantially burden an employee’s free exercise of religion, unless the burden is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that interest. Civ. Prac. & Rem. Code 110.003.

Disability Discrimination

A College District shall make reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability, unless the College District can demonstrate that the accommodation would impose an undue hardship on the operation of the College District. 42 U.S.C. 12112(a),(b); 29 CFR 1630.9; Labor Code 21.051 [See DBB regarding medical examinations and inquiries under the Americans with Disabilities Act]

The College District shall not 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 CFR 1630.8

DEFINITIONS

“Disability” means, a physical or mental impairment that substantially limits one or more of an individual’s major life activities, a record of having such an impairment, or being regarded as having such an impairment. “Major life activities” are such functions as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. 42 U.S.C. 12102(2); 29 CFR 1630.2(g)–(l); 28 CFR 35.104; 34 CFR 104.3(j); Labor Code 21.002(6)

“Qualified individual with a disability” means an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that the individual holds or desires. Consideration shall be given to the College District’s judgment as to what functions of a job are essential. A written job description prepared before advertising or interviewing applicants for the job is evidence of the job’s essential functions. 42 U.S.C. 12111(8); 29 CFR 1630.2(m),(n); 34 CFR 104.3(l) Labor Code 21.105
| **USE OF ILLEGAL DRUGS** | The term “qualified individual with a disability” does not include any employee or applicant who is currently engaging in the illegal use of drugs, when the College District acts on the basis of such use. |
| **DRUG TESTING** | A College District is not prohibited from conducting drug testing of employees and applicants for the illegal use of drugs or making employment decisions based on the results of such tests.  
42 U.S.C. 12114(c), (d) [See DHB] |
| **ALCOHOL USE** | The term “qualified individual with a disability” does not include an individual who is an alcoholic and whose current use of alcohol prevents the employee from performing the duties of his or her job or whose employment, by reason of such current alcohol abuse, would constitute a direct threat to property or the safety of others.  
42 U.S.C. 12114(a); 29 CFR 1630.3(a); 28 CFR 35.104; 29 U.S.C. 705(20)(C) |
| **REASONABLE ACCOMMODATION** | “Reasonable accommodation” includes:  
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 modifications 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 CFR 1630.2(o) |
| **UNDUE HARDSHIP** | “Undue hardship” means an action requiring significant difficulty or expense, when considered in light of the nature and cost of the accommodation needed, overall financial resources of the affected facility and the College District, and other factors set out in law.  
42 U.S.C. 12111(10); 29 CFR 1630.2(p) |
| **DIRECT THREAT TO HEALTH OR SAFETY** | As a qualification standard, the College District may require 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.  
42 U.S.C. 12111(3); 29 CFR 1630.2(q),(r) |
| **COMMUNICABLE DISEASES** | A College District may refuse to assign or continue to assign an individual to a job involving food handling if the individual has an infectious or communicable disease that is transmitted to others through handling of food.  
42 U.S.C. 12113(d); 29 U.S.C. 705(20)(D); 29 CFR 1630.16(e); Labor Code 21.002(6)(B) |
The College District shall not deny initial employment, reemployment, retention in employment, promotion, or any benefit of employment on the basis of membership in a uniformed service, performance in a uniformed service, application for uniformed service, or obligation to a uniformed service. The College District shall not take adverse employment action or discriminate against any person who takes action to enforce protections afforded by the Uniformed Services Employment and Re-employment Rights Act of 1994 (USERRA). 38 U.S.C. 4311 [See DEC]

A College District that receives federal financial assistance and 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 Section 504 of the Rehabilitation Act. 34 CFR 104.7(b)

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 Americans with Disabilities Act. 28 CFR 35.107, 35.140

A College District that receives federal financial assistance shall adopt and publish grievance procedures providing for prompt and equitable resolution of employee complaints alleging any action prohibited by Title IX. 34 CFR 106.8(b); North Haven Board of Education v. Bell, 456 U.S. 512 (1982) [See DGBA]

A College District shall designate at least one employee to coordinate its efforts to comply with Title IX, Section 504, the Age Act, and the ADA. The College District shall notify all employees of the name, office address, and telephone number of the employee(s) so designated. 34 CFR 104.7(a); 28 CFR 35.107, 35.140; 34 CFR 106.8(b)
**Access to Employee Records**

With regard to public access to information in personnel records, custodians of such records shall adhere to the requirements of the Public Information Law. *Gov’t Code 552* [See GAA]

Information in a personnel file is excepted from the requirements of the Public Information Law if the disclosure would constitute a clearly unwarranted invasion of personal privacy.

An employee of a college district shall choose whether to allow public access to information in the College District’s custody that relates to the employee’s home address, home telephone number, or Social Security number, or that reveals whether the person has family members.

*Gov’t Code 552.024, 552.102(a)*

**Employee Right of Access**

All information in the personnel file of a college district employee shall be made available to that employee or the employee’s designated representative as public information is made available under the Public Information Law.

An employee or an employee’s authorized representative has a special right of access, beyond the right of the general public, to information held by the College District that relates to the employee and that is protected from public disclosure by laws intended to protect the employee’s privacy interests. The College District may not deny to the employee or his or her representative access to information relating to the employee on the grounds that the information is considered confidential by privacy principles under the Public Information Law. The College District may assert as grounds for denial of access other provisions of the Public Information Law or other law that are not intended to protect the employee’s privacy interests. *Gov’t Code 552.023*

If the College District determines that information in the employee’s records is exempt from disclosure under an exception of Government Code Chapter 552, Subchapter C, other than an exception intended to protect the privacy interest of the requestor or the person whom the requestor is authorized to represent, it shall submit a written request for a decision to the attorney general before disclosing the information. If a decision is not requested, the College District shall release the information to the requestor not later than the 10th business day after the request for information is received. *Gov’t Code 552.023, 552.102(a), 552.307*

**Confidentiality Guidelines**

The College District shall develop and implement guidelines regarding confidentiality of AIDS- and HIV-related medical information for College District employees. The policies shall be consistent with guidelines published by the Texas Department of State Health Services.
Health Services and with state and federal law and regulations. [See DBB] *Health and Safety Code 85.115*
“Public servant” for purposes of the following Penal Code provisions, includes a person elected, selected, appointed, employed, or otherwise designated as an officer, employee, or agent of the government, even if the person has not yet qualified for office or assumed his or her duties. Penal Code 1.07(a)(41)(A), (E) [See also BBFA and DH]

**Bribery**

1. A public servant shall not intentionally or knowingly offer, confer, agree to confer on another, solicit, accept, or agree to accept a benefit:
   
a. As consideration for the public servant's decision, opinion, recommendation, vote, or other exercise of discretion as a public servant.
   
b. As consideration for a violation of a duty imposed on the public servant by law.
   
c. That is a political contribution as defined by Title 15 of the Election Code or an expenditure made and reported as a lobbying expense 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.
   
   “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), 36.02

**Illegal Gifts**

2. A public servant who exercises discretion in connection with contracts, purchases, payments, claims, or other pecuniary transactions shall not solicit, accept, or agree to accept any benefit from a person the public servant knows is interested in or likely to become interested in any such transactions of a College District. Penal Code 36.08(d)

A public servant who receives an unsolicited benefit that the public servant is prohibited from accepting under this section 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**

“Illegal Gifts to Public Servants” does not apply to:
EMPLOYMENT REQUIREMENTS AND RESTRICTIONS

CONFLICT OF INTEREST

DATE ISSUED: 1/23/2008
UPDATE 23
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a. 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 he or she gives legitimate consideration in a capacity other than as a public servant;

b. 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;

c. A benefit to a public servant required to file a statement under Chapter 572, Government Code, or a report under Title 15, Election Code, that is derived from a function in honor or appreciation of the recipient if:

(1) The benefit and the source of any benefit in excess of $50 is reported in the statement; and

(2) 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;

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

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

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

g. 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 36.10

HONORARIA AND EXPENSES

3. A public servant commits a Class A misdemeanor 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. However, a public servant is not prohibited from accepting 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.  
*Penal Code 36.07*

4. A public servant shall not, with intent to obtain a benefit or with intent to harm or defraud another, intentionally or knowingly violate a law relating to the public servant’s office or employment, or misuse College District property, services, personnel, or any other thing of value, that has come into his or her custody or possession by virtue of his or her office or employment.  *Penal Code 39.02(a)*

“Law relating to the public servant’s office or employment” 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:

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

b. A contract of employment or oath of office of a public servant;

c. 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

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

*Penal Code 39.01(2)*

A College District may extend the requirements of Local Government Code 176.003 and 176.004  [see BBFA] to any employee of the College District who has the authority to approve contracts on behalf of the College District, including a person designated as the representative of the College District for purposes of Local Government Code Chapter 271. The College District shall identify each employee made subject to Sections 176.003 and 176.004 and shall provide a list of the identified employees on request to any person. The College District may reprimand, suspend, or terminate the employment of an employee who knowingly fails to comply with such requirements.

An employee commits a Class C misdemeanor if the employee knowingly violates the requirements. It is an exception to the application of the above penalty, however, that the employee filed the
disclosure statement not later than the seventh business day after the person received notice from the College District of the violation.

Local Gov’t Code 176.005

“Contract” means a written agreement for the sale or purchase of real property, goods, or services. Local Gov’t Code 176.001(1-d)

No person shall hold or exercise at the same time more than one civil office of emolument, except for offices listed in the constitutional provision, unless otherwise specifically provided. Tex. Const., Art. XVI, Sec. 40(a); State v. Pirtle, 887 S.W.2d 921 (Tex. Ct. Crim. App. 1994); Atty. Gen. Op. DM-212 (1993).

Individuals who receive all or part of their compensation either directly or indirectly from funds of the state of Texas and who are not state officers shall not be barred from serving as members of the governing bodies of College Districts (other than those in which they are employed), school districts, cities, towns, or other local governmental districts. Such individuals may not receive a salary for serving as members of such governing bodies, except that a faculty member or retired faculty member of a public institution of higher education may receive compensation for serving as a member of a governing body of a water district. Tex. Const. Art. XVI, Sec. 40(b); Atty. Gen. Op. JM-118 (1983), JM-203 (1984)

An employee who conceives, creates, discovers, invents, or develops intellectual property may own or be awarded any amount of equity interest or participation in, or, if approved by the Board, serve as a member of the board of directors or other governing board or as an officer or an employee of, a business entity that has an agreement with the state or a political subdivision of the state relating to the research, development, licensing, or exploitation of that intellectual property without creating a conflict of interest.

Such an employee shall report to the appropriate person or persons at the College District the name of the business entity in which the person has an interest or for which the person serves as a director, officer, or employee. The Board shall include in the appropriate annual report required by Education Code 51.005 the information provided to it under this requirement during the preceding fiscal year.

Education Code 51.912
In this policy, the term “appoint” includes appointing, confirming the
appointment of, and voting to appoint or confirm the appointment
of, a person.

Except as provided by this policy, a public official may not appoint a
person to a position that is to be directly or indirectly compensated
from public funds or fees of office if:

1. The person is related to the public official by consanguinity
   (blood) within the third degree or by affinity (marriage) within
   the second degree [see below]; or

2. The public official holds the appointment or confirmation au-
   thority as a member of a local board and the person is related
to another member of the board by blood or marriage within a
prohibited degree.


The nepotism law governs the hiring of an individual, whether the
employee is hired as an individual or an independent contractor.

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 person if the official knows the person is ineligible.  Gov’t
Code 573.083

Two persons are related to each other by consanguinity (blood) if
one is a descendant of the other or if they share a common ances-
tor. An adopted child is considered to be a child of the adoptive
parents for this purpose.  Gov’t Code 573.022

An individual’s relatives within the third degree by consanguinity
are the individual’s:

1. Parent or child (first degree);

2. Brother, sister, grandparent, or grandchild (second degree); and

3. Great-grandparent, great-grandchild, aunt or uncle (who is a
   sibling of a parent of the person), nephew or niece (who is a
   child of a brother or sister of the person) (third degree).

Gov’t Code 573.023

[See DBE(EXHIBIT)]

There is no distinction under the nepotism statute between half-
blood and full-blood relations. Thus, half-blood relationships fall
within the same degree as those of the full blood. *Atty. Gen. Op. LO-90-30 (1990)*

### AFFINITY

Two persons are related to each other by affinity (marriage) if they are married to each other or if the spouse of one of the persons is related by consanguinity to the other person.

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 the 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 husband and wife are related to each other in the first degree by affinity. For other relationships, the degree of affinity is the same as the degree of the underlying relationship by consanguinity. For example, if two persons are related to each other in the second degree by consanguinity, the spouse of one of the persons is related to the other person in the second degree by affinity.

A person’s relatives within the second degree by affinity are:

1. Anyone related by consanguinity to the person’s spouse within the first or second degree; or
2. The spouse of anyone related to the person by consanguinity within the first or second degree.

*Gov't Code 573.025*

### EFFECT OF TRUSTEE RESIGNATION

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 Trustee’s resignation is filled by a successor, the Trustee continues to serve and have the duties and powers of office, and a relative within a prohibited degree of relationship is barred from employment. *Tex. Const., Art. XVI, Sec. 17; Atty. Gen. Op. JM-636 (1987)*

### EXCEPTIONS CONTINUOUS EMPLOYMENT (‘GRANDFATHER CLAUSE’)

The nepotism prohibitions do not apply to the appointment of a person to a position if the person is employed in the position immediately before the election or appointment of the public official to whom the person is related in a prohibited degree and that prior employment is continuous for at least:

1. Thirty days, if the public official is appointed; or
2. Six months, if the public official is elected.

*Gov't Code 573.062(a)*
ABSTENTION

If an employee continues in a position under this exception, the public official to whom the employee is related in a prohibited degree may not participate in any deliberation or voting on the appointment, reappointment, employment, reemployment, change in status, compensation, or dismissal of the employee, if the action applies only to the employee and is not taken regarding a bona fide class or category of employees. [Gov’t Code 573.062(b) [See DBE (EXHIBIT)]

A “change in status” includes a reassignment within an organization, whether or not a change in salary level accompanies the reassignment. [Att’y Gen. Op. JC-0193 (2000)]

For an action to be “taken with respect to a bona fide category of employees,” the officeholder’s action must be based on objective criteria, which do not allow for the preference or discretion of the officeholder. [Att’y Gen. Op. DM-46 (1991)]

TRADING

A public official may not appoint a person to a position in which the person’s services are under the public official’s direction or control and that is to be compensated directly or indirectly from public funds or fees of office if:

1. The person is related to another public official within the prohibited degree; and
2. The appointment would be carried out in whole or in partial consideration for the other public official’s appointing a person who is related to the first public official within a prohibited degree.

[Gov’t Code 573.044]

FEDERAL FUNDS

The rules against nepotism apply to employees paid with public funds, regardless of the source of those funds. Thus, the rules apply in the case of a teacher paid with funds from a federal grant. [Att’y Gen. L.A. No. 80 (1974)]

PENALTIES

An individual who violates the nepotism prohibitions shall be removed from his or her position. [Tex. Gov’t Code 573.081, 573.082]

An individual who violates Government Code 573.041 (Prohibition on Public Officials), 573.062(b) (see CONTINUOUS EMPLOYMENT and ABSTENTION, above) or 573.083 (see COMPENSATION OF PROHIBITED EMPLOYEE) commits an offense involving official misconduct. [Gov’t Code 573.084]
The College District may not employ or contract with an individual who was a member of the Board of the College District before the first anniversary of the date the individual ceased to be a member of the Board. *Education Code 130.089*

The College District shall ensure that an employee properly completes section 1—“Employee Information and Verification”—on Form I-9 at the time of hire.

A College District must verify employment eligibility, pursuant to the Immigration Reform and Control Act, and complete Form I-9 by the following dates:

1. Within three business days of initial hiring. If the College District hires an individual for employment for a duration of less than three business days, the College District must verify employment at the time of hire.

   A College District shall not be deemed to have hired an individual if the individual is continuing in his or her employment and has a reasonable expectation of employment at all times.

   When the College District rehires an individual, the College District may, in lieu of completing a new I-9, inspect a previously completed I-9 executed within three years of the date of rehire, to determine whether the individual is still eligible to work.

2. For an individual whose employment authorization expires, not later than the date of expiration.

   *8 CFR 274a.2(b)(1)(ii), (iii), (vii), (viii)*

The College District shall furnish to the Directory of New Hires (Texas Attorney General’s Office) a report that contains the name, address, and Social Security number of each newly hired employee. The report shall also contain the College District’s name, address, and employer identification number.

The College District may also provide, at its option, the employee’s date of hire, date of birth, expected salary or wages, and the College District’s payroll address for mailing of notice to withhold child support.

The College District shall report new hire information on a Form W-4 or an equivalent form, by first class mail, telephone, electronically, magnetic media, or as determined by the College District and in a format acceptable to the attorney general.

**NEW HIRE REPORTING**

New hire reports are due:
1. Not later than 20 calendar days after the date the College District hires the employee; or

2. In the case of a College District transmitting reports magnetically or electronically, by two monthly transmissions (if necessary) not less than 12 days nor more than 16 days apart.

New hire reports shall be considered timely if postmarked by the due date or, if filed electronically, if received by the agency by the due date.

**PENALTIES**

An employer who knowingly violates the procedure for reporting employee information may be liable for a civil penalty. The amount of the civil penalty may not exceed:

1. $25 for each occurrence in which an employer fails to report an employee; or

2. $500 for each occurrence in which an employer fails to report an employee is the result of a conspiracy between the employer and an employee to not supply a required report or to submit a false or incomplete report.

The attorney general may sue to collect the civil penalty. A penalty collected under this section shall be deposited in a special fund in the state treasury.

*42 U.S.C. 653a (b)–(d); Family Code 234.101–234.105; 1 TAC 55.303*

**SOCIAL SECURITY NUMBERS**

It shall be unlawful for a College District to deny to any individual any right, benefit, or privilege provided by law because of the individual’s refusal to disclose his or her Social Security number.

**EXCEPTIONS**

The above provision does not apply 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. Any disclosure to a College District 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 the 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.


ACCESS TO POLICE RECORDS OF CERTAIN APPLICANTS

The College District may obtain criminal history record information pertaining to an applicant for employment for a security-sensitive position. The College District may deny employment to an applicant for a security-sensitive position who fails to provide a complete set of fingerprints upon request.

Security-sensitive positions shall be restricted to those in which employees handle currency, have access to a computer terminal, have access to a master key, or work in an area of the College District that has been designated as a security-sensitive area. A security-sensitive position shall be so identified in the job description and advertisement for the position.

Education Code 51.215

RETIREES

The College District may employ a person who has retired under the Teacher Retirement System (Subtitle C, Title 8, Government Code) or the optional retirement program (Chapter 830, Government Code) if:

1. The Board determines that the employment is in the best interest of the College District; and

2. The person has been retired for at least 30 days before the effective date of the employment, except that a person retired under the optional retirement program may be rehired after retirement without a break in service.

The Board may pay a person employed an amount considered by the Board to be appropriate, notwithstanding any other provision of law.

Education Code 51.964

CONSUMER CREDIT REPORTS

“Adverse action” includes a denial of employment or any other decision for employment purposes that adversely affects any current or prospective employee.

DEFINITIONS
“Consumer report” includes any information from a consumer reporting agency that is used or expected to be used as a factor in establishing the person’s eligibility for employment.

“Employment purposes” when used in connection with a consumer report means a report used for the purpose of evaluating a person for employment, promotion, reassignment, or retention as an employee.

15 U.S.C. 1681a

A college district may not procure a consumer report for employment purposes unless:

1. The College District has provided the applicant or employee a written disclosure that a consumer report may be obtained for employment purposes; and

2. The applicant or employee has authorized in writing the procurement of the report.

Before taking any adverse action based on the report, the College District shall provide the applicant or employee a copy of the report and a written description of the person’s rights under the Fair Credit Reporting Act, as prescribed by the Federal Trade Commission.

15 U.S.C. 1681b(b)(2)

A college district must properly dispose of a consumer report by taking reasonable measures to protect against unauthorized access to or use of the information.

“Dispose” includes discarding or abandoning the consumer report, or selling, donating, or transferring any medium, including computer equipment, upon which the consumer report is stored.

Examples of reasonable measures include:

1. Burning, pulverizing, or shredding papers containing a consumer report so the information cannot practicably be read or reconstructed;

2. Destroying or erasing electronic media containing a consumer report so that the information cannot practicably be read or reconstructed; or

3. After due diligence, entering into and monitoring compliance with a contract with another party engaged in the business of record destruction to dispose of the consumer report.
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. Sinderman*, 408 U.S. 593 (1972); *Board of Regents of State Colleges v. Roth*, 408 U.S. 564 (1972)

The Board may enter into an employment contract with an administrator that is to be paid in whole or in part from appropriated funds only if, before the date the contract is executed, the Board determines that the contract is in the best interest of the College District.

A contract entered into by the Board 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 College District’s general policy on the award of tenure.

The College District may not pay a salary to a person who is reassigned from an administrative position to a faculty or other position at the College District that exceeds the salary of other persons with similar qualifications performing similar duties.

*Education Code 51.948*

“Administrator” means a person who has significant administrative duties relating to the operation of the College District, including the operation of a department, college, program, or other subdivision of the institution. *Education Code 51.948(g)(1)*

Except as provided below, the College District that determines it is in its best interest to reappoint a faculty member for the next academic year shall offer the faculty member a written contract for that academic year not later than 30 days before the first day of the academic year.

For the purposes of Education Code 51.943, the College District is not required to provide an annual contract to tenure or tenure-track faculty, but must provide tenure and tenure-track faculty with any written notification required in the College District’s tenure policy of a change in a term of employment according to the policies of the College, but no later than the 30th day prior to the change.
If the College District is unable to comply, the College District shall:

1. Provide the faculty member with written notification that the College District is unable to comply;

2. Include in the written notification reasons for its inability to comply; and

3. Specify in the written notification a time by which it will offer a written contract to the faculty member for the applicable academic year.

If the College District does not offer the faculty member a written contract before the 61st day after the first day of the academic year and the College District retains the faculty member for that academic year without a written contract, the College District must retain the faculty member for that academic year under terms and conditions, including terms governing the faculty member’s compensation, that are at least as favorable to the faculty member’s employment for the preceding academic year, unless the College District and the faculty member subsequently enter into a different written contract.

Education Code 51.943 does not prohibit the College District from entering into a contract with a faculty member for a period longer than an academic year.

Nothing in Education Code 51.943 shall be deemed to provide a faculty member who does not hold tenure additional rights, privileges, or remedies or to provide an expectation of continued employment beyond the period of a faculty member’s current contract.

“Contract” means an agreement between the College District or its authorized agent and a faculty member that establishes the terms of the faculty member’s employment, including the faculty member’s responsibilities and salary, for an academic year.

“Faculty member” means a person who is employed full time by the College District as a member of the faculty whose primary duties include teaching or research. The term does not include:

1. A person employed in the classified personnel system of the College District or a person employed in a similar type of position if the College District does not have a classified personnel system; or

2. A person who holds faculty rank but who spends a majority of the person’s time for the College District engaged in managerial or supervisory activities, including a chancellor, vice-
chancellor, president, vice-president, provost, associate or assistant provost, dean, or associate or assistant dean.

*Education Code 51.943*
The employment-at-will doctrine is the law of Texas, under which an employer has no duty to an employee regarding continuation of employment. *Jones v. Legal Copy, Inc.*, 846 S.W.2d (Tex. App.—Houston [1st Dist.] 1993)

The employment-at-will doctrine places no duties on an employer regarding an employee’s continued employment and thus bars contract and tort claims based on the decision to discharge an employee. *Sabine Pilot Serv., Inc. v. Hauck*, 687 S.W.2d 733 (Tex. 1985)

In Texas, at-will employment is presumed unless shown otherwise. *Gonzales v. Galveston Ind. Sch. Dist.*, 865 F. Supp. 1241 (S.D. Tex. 1994)

Employment for an indefinite term may be terminated at will and without cause, except as otherwise provided by law. *Garcia v. Reeves County, Texas*, 32 F.3d 200 (5th Cir. 1994); *Irby v. Sullivan*, 737 F.2d 1418 (5th Cir. 1984); *Winters v. Houston Chronicle Pub. Co.*, 795 S.W.2d 723 (Tex. 1990)

**EXCEPTION**

An at-will employee cannot be discharged if the sole reason for the discharge was that the employee refused to perform an illegal act. *Sabine Pilot Serv., Inc. v. Hauck*, 687 S.W.2d 733 (Tex. 1985) [See DG, DGA, DGB for other exceptions]

**DISMISSAL PROCEDURE**

An at-will employment relationship, standing alone without benefit of recognized exception, triggers no due process requirement or right. *Mott v. Montgomery County, Tex.*, 882 S.W.2d 635, 638 (Tex. App.—Beaumont, 1994)

Termination of employment is a condition of work that is a proper subject for the grievance process. *Fibreboard Paper Products Corp. v. National Labor Relations Board*, 379 U.S. 203, 208 (1964); *Sayre v. Mullins*, 681 S.W.2d 25 (Tex. 1984) [See DGBA]
The Board shall issue regulations concerning the authorized and unauthorized absence from duty of faculty members, including teaching assistants and research assistants.

The Board shall file a copy of these regulations concerning employee absences with the Texas Higher Education Coordinating Board. The Board shall file any amendment to its regulations with the Coordinating Board not later than 30 days after the effective date of the amendment.

*Education Code 51.108*

**PREGNANCY**

Disabilities caused or contributed to by pregnancy, childbirth, or related medical conditions, for all job-related purposes, shall be treated the same as disabilities caused or contributed to by other medical conditions, under any health or disability insurance or sick leave plan available in connection with employment. *29 CFR 1604.10(b)*

**FEDERAL LEAVE FOR MILITARY SERVICE**

Any person who is absent from a position of employment by reason of voluntary or involuntary service in the uniformed services (the Armed Forces, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of the Public Health Services, and any other category of persons designated by the President in time of war or emergency) shall be entitled to certain reemployment rights and benefits under the Uniformed Services Employment and Re-employment Rights Act of 1994 (USERRA) if:

1. The person (or an appropriate officer of the uniformed service in which such service is performed) has given advance written or verbal notice of such service to the College District (unless notice is precluded by military necessity or is otherwise unreasonable or impossible);

2. The cumulative length of the absence and of all previous absences from a position of employment with the College District does not exceed five years; and

3. The person reports to or submits an application for reemployment to the College District and complies with the appropriate procedural requirements that apply under the circumstances.

A person who is reemployed under this act is entitled to the seniority and other rights and benefits determined by seniority that the person had on the date of the commencement of service in the uniformed services plus the additional seniority and rights and benefits.
that such person would have attained if the person had remained continuously employed.

The College District is not required to reemploy a person if:

1. The College District’s circumstances have so changed as to make reemployment impossible or unreasonable;

2. The reemployment of such person would impose an undue hardship on the College District; or

3. The employment from which the person leaves to serve in the uniformed services is for a brief, nonrecurrent period and there is no reasonable expectation that such employment will continue indefinitely or for a significant period.

38 U.S.C. 4301, et. seq.

STATE LEAVE FOR MEMBER OF MILITARY OR RESCUE TEAM

SHORT TERM

All employees of the College District who are members of the state military forces or of the reserve components of the United States Armed Forces or a member of state or federally authorized Urban Search and Rescue Teams shall be granted a paid leave of absence from their duties without loss of time, efficiency rating, vacation time, personal time, sick leave, or salary on all days during which they are engaged in authorized training or duty ordered or authorized by proper authority, not to exceed 15 workdays in a federal fiscal year. Gov’t Code 431.005(a), (b)

CALLED TO DUTY

A member of the state military forces who is ordered to active state duty by the governor or other proper authority under state law is entitled to the same benefits and protections provided to persons performing service in the uniformed services under 38 U.S.C. 4301–4313 and 4316–4319 and to persons in the military service of the United States under 50 App. U.S.C. 501–536, 560, and 580–594, as those laws existed on April 1, 2003. Gov’t Code 431.017

Such employees who are ordered to duty by proper authority shall be restored, when relieved from duty, to the position held by them when ordered to duty. Gov’t Code 431.005(c)

LONG TERM

Any employee, other than a temporary employee, who leaves a position with the College District to enter active military service is entitled to be reemployed by the College District in the same position held at the time of the induction, enlistment, or order or to a position of similar seniority, status, and pay. To be entitled to reemployment, the employee must be discharged, separated, or released from active military service under honorable conditions not later than the fifth anniversary after the date of induction, enlistment, or call to active military service and must be physically and
mentally qualified to perform the duties of the position. *Gov't Code 613.001*(3), 613.002

An employee who cannot perform the duties of the position because of a disability sustained during military service is entitled to reemployment in the College District in a position that the employee can perform and that has like seniority, status, and pay as the former position or the nearest possible seniority, status, and pay. *Gov't Code 613.003*

To be reemployed, a veteran must apply for reemployment not later than the 90th day after the date the veteran is discharged or released from active military service. Application must be made in writing to the College President and have attached to it evidence of the veteran’s discharge, separation, or release from military service under honorable conditions. *Gov't Code 613.004*

A person reemployed after active military service shall not be discharged without cause before the first anniversary of the date of the reemployment. *Gov't Code 613.005*

“Military service” means service as a member of the Armed Forces of the United States, a reserve component of the Armed Forces of the United States, the Texas National Guard, or the Texas State Guard. *Gov't Code 613.001*(2)

The College District shall reasonably accommodate an employee’s request to be absent from duty in order to participate in religious observances and practices, so long as it does not cause undue hardship on the conduct of College District business. Such absence shall be without pay unless applicable paid local leave is available. 42 U.S.C. 2000e(j), 2000e-2(a); *Ansonia Bd. of Educ. v. Philbrook*, 479 U.S. 60 (1986); *Pinsker v. Joint Dist. No. 28J of Adams and Arapahoe Counties*, 735 F.2d 388 (10th Cir. 1984)

The College District may not discriminate against or penalize in any way a faculty member who is absent from work for the observance of a religious holy day and gives proper notice of that absence if the customary and generally applicable educational practices of the College District permit general personal absence by faculty members. If personal absence is customarily penalized, the penalty for absence due to observance of a religious holy day under this section shall be forfeiture of one day’s pay equivalent for each day of absence.

“Proper notice” means that the faculty member shall provide a listing of religious holy days to be observed during the semester to the chairman of the department and shall provide notice of such days in advance to all students whose class would be cancelled due to
the faculty member’s absence. This notice shall be in writing and shall be personally delivered to the chairman of the department, receipt therefor being acknowledged and dated by the chairman, or shall be sent by certified mail return receipt requested, addressed to the chairman.

A “religious holy day” shall be defined as a holy day observed by a religion whose places of worship are exempt from property taxation under Section 11.20, Tax Code.

*Education Code 51.925*

**COMPLIANCE WITH A SUBPOENA**

The College District may not discharge, discipline, or penalize in any manner an employee because the employee complies with a valid subpoena to appear in a civil, criminal, legislative, or administrative proceeding. *Labor Code 52.051(a)*

**FEDERAL FAMILY AND MEDICAL LEAVE ACT (FMLA)**

An employee of a college district having 50 or more employees within 75 miles of the worksite who has been employed by the College District for at least 12 months and for 1,250 hours during the previous 12-month period shall be entitled to a total of 12 work-weeks of leave, without loss of any employment benefit accrued prior to the beginning of the leave, during any 12-month period for one or more of the following reasons:

1. Because of the birth or adoption, including placement for foster care, of the employee’s child and in order to care for the child, provided the leave is taken within 12 months of the birth, adoption, or placement of the child. By agreement between the employee and the College District, this leave may be taken intermittently or on a reduced leave schedule.

2. To care for the employee’s spouse, child, or parent if the spouse, child, or parent has a serious health condition.

3. Because of the employee’s serious health condition that makes the employee unable to perform functions of his or her position.

*29 U.S.C. 2611(2), 2612(a)*

**METHODS FOR DETERMINING ENTITLEMENT PERIOD**

The College District is permitted to choose any one of the following methods for determining the 12-month period for which the 12-week leave entitlement occurs:

1. The calendar year;

2. Any fixed 12-month “leave year,” such as a fiscal year, a year required by state law, or a year starting on an employee’s “anniversary” date;
3. The 12-month period measured forward from the date any employee’s FML begins; or

4. A “rolling” 12-month period measured backward from the date an employee uses any FML (except that such measure may not extend back before August 5, 1993).

29 CFR 825.200(b)(1)–(4)

NOTICE TO EMPLOYEES

The College District shall post and keep posted in conspicuous places on each campus where notices to employees are usually posted, a notice approved by the Secretary of Labor that sets out excerpts from or summaries of the Family and Medical Leave Act and information pertaining to the filing of a charge. 29 U.S.C. 2619

If the College District’s workforce is comprised of a significant portion of workers who are not literate in English, the College District shall be responsible for providing the information required by the notice in a language in which the employees are literate. 29 CFR 825.300(c)

SERIOUS HEALTH CONDITION

A “serious health condition” that entitles an employee to FMLA leave means an illness, injury, impairment, or physical or mental condition that involves:

1. Inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity (inability to work, attend school, or perform other regular daily activities due to the serious health condition, treatment therefor or recovery therefrom) or any subsequent treatment in connection with such inpatient care; or

2. Continuing treatment by a health care provider for a period of incapacity (as described above) for:
   a. More than three consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition.
   b. Pregnancy or prenatal care.
   c. Treatment for such incapacity due to a chronic serious health condition (one that requires periodic visits for treatment by a health care provider, continues over an extended period of time, and may cause episodic rather than a continuing period of incapacity).
   d. A condition for which treatment may not be effective and for which the employee or family member is under the continuing supervision of a health care provider (i.e.,
Alzheimer’s, a severe stroke, or the terminal stages of a disease).

e. The purpose of receiving multiple treatments by a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer, severe arthritis, or kidney disease.

29 CFR 825.114(a)

For FMLA leave purposes, a “health care provider” is defined as any of the following:

1. A doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the state in which the doctor practices.

2. Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice in the state (meaning that the provider must be authorized to diagnose and treat physical or mental health conditions without supervision by a doctor or other health care provider) and performing within the scope of their practice as defined by state law.

3. Nurse practitioners, nurse-midwives, and clinical social workers who are authorized to practice under state law and who are performing within the scope of their practice as defined under state law.

4. Christian Science Practitioners who are listed with the First Church of Christ, Scientist in Boston, Massachusetts.

5. Any health care provider from whom an employer or the employer’s group health plan’s benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits.

6. A health care provider listed above who practices in a country other than the United States, who is authorized to practice in accordance with the law of that country, and who is performing within the scope of his or her practice as defined under such law.

29 CFR 825.118
During any period that an eligible employee takes FMLA leave, the College District shall maintain coverage under any “group health plan” for the duration of the leave at the level and under the conditions coverage would have been provided if the employee had continued in active duty with the College District. 29 U.S.C. 2614(c)(1)

The College District may recover its share of health care premiums paid during a period of FMLA leave if an employee fails to return to work after his or her FMLA leave entitlement has been exhausted or expires, unless one of the following conditions exists:

1. The continuation, recurrence, or onset of a serious health condition that entitles the employee to leave under FMLA; or

2. Other circumstances beyond the employee’s control.

When an employee fails to return to work, except for the reasons stated above, health premiums paid by the College District during a period of FMLA leave are a debt owed the College District by the nonreturning employee, and may be recovered by the College District through deduction of any sums due the employee or through legal action.

29 U.S.C. 2614(c)(2); 29 CFR 825.213(a), (f)

The FMLA prohibits interference with an employee’s rights under the law, and with legal proceedings or inquiries relating to employee’s rights. An employer is prohibited from interfering with, restraining, or denying the exercise of (or attempts to exercise) any rights provided by the FMLA. An employer is prohibited from discriminating against employees or prospective employees who have used FMLA. 29 CFR 825.220

An eligible employee may take leave intermittently or on a reduced leave schedule when medically necessary to care for a spouse, parent, or child or to receive planned medical treatment for himself or herself. 29 U.S.C. 2612(b)

Intermittent leave is FMLA leave taken in separate blocks of time due to a single qualifying reason. A reduced leave schedule reduces the usual number of working days per workweek or hours per workday. The College District may limit leave increments to the shortest period of time that its payroll system uses to account for absences or use of leave, provided it is one hour or less. An employee may not be required to take more FMLA leave than necessary to address the circumstance that precipitated the need for the leave. 29 CFR 825.203(a), (d)
A husband and wife who are eligible for FMLA leave and are both employed in the College District may be limited to a combined total of 12 weeks of leave during any 12-month period if the leave is taken:

1. For the birth of a son or daughter or to care for the child after birth.
2. For the placement of a son or daughter for adoption or foster care, or to care for the child after placement.
3. To care for a parent with a serious health condition.

When the husband and wife both use a portion of the total 12-week entitlement for one of the purposes noted above, each spouse shall be entitled to the difference between the amount he or she has taken individually and 12 weeks of FMLA leave for a purpose other than those listed above.

29 U.S.C. 2612(f); 29 CFR 825.202

An employee shall provide at least 30 days’ notice before FMLA leave is to begin if the need for leave is foreseeable based on the expected birth, placement for adoption or foster care, or planned medical treatment for a serious health condition of the employee or of a family member. If 30 days’ notice is not practicable, such as because of not knowing approximately when leave will be required to begin, a change in circumstances, or a medical emergency, notice must be given as soon as practicable.

“As soon as practicable” means as soon as possible and practical taking into account all of the facts and circumstances in the individual case. Ordinarily, it would mean at least verbal notification to the employer within one or two business days of when the need for leave becomes known to the employee.

29 CFR 825.302

When the need for leave, or its approximate timing, is not foreseeable, an employee shall provide notice to the College District as soon as practicable under the facts and circumstances of the particular case. Ordinarily, notice shall be provided within no more than one or two working days of learning of the need for leave. Notice should be provided either in person or by telephone, telegraph, “fax” machine, or other electronic means. 29 CFR 825.303

Employees are not required to expressly invoke the FMLA’s protection when notifying the College District of their need for FMLA leave. Manuel v. Westlake Polymers Corp. 66 F.3d 758 (5th Cir. 1995)
MEDICAL CERTIFICATION

The College District may require a certification issued by the health care provider of the spouse, child, parent, or employee that the employee is needed to care for the spouse, child, or parent or, in case of leave for the employee’s condition, that the employee is unable to perform the functions of his or her position. The certification shall include the date on which the serious health condition began, the probable duration of the condition, and the appropriate medical facts within the provider’s knowledge regarding the condition. The employee shall in a timely manner provide a copy of the certification to the College District. 29 U.S.C. 2613.

RECERTIFICATION

For pregnancy, chronic, or permanent/long-term conditions under the continuing supervision of a health care provider, the College District may request recertification no more often than every 30 days, unless more frequent recertification is warranted because:

1. The employee requests an extension of leave.
2. Circumstances described by the original certification have changed significantly (i.e., the duration or nature of the illness or complications).
3. The College District receives information that casts doubt upon the continuing validity of the certification.

The employee must provide the requested recertification to the College District within the time frame requested by the College District (which must allow at least 15 days to submit a recertification), unless it is not practicable under the particular circumstances to do so despite the employee’s diligent, good-faith efforts.

Any recertification requested by the College District shall be at the employee’s expense, unless the College District provides otherwise. No second or third opinion on recertification may be required.

29 U.S.C. 2613(e); 29 CFR 825.308

CONCURRENT USE OF PAID LEAVE AND FMLA LEAVE

The College District may designate any paid leave to which the employee is entitled as substituting for all or some portion of the employee’s FMLA leave entitlement. Once the College District has acquired knowledge that the leave is being taken for an FMLA-required reason, the College District must promptly (within two business days absent extenuating circumstances) notify the employee that the paid leave is designated and will be counted as FMLA leave. 29 U.S.C. 2612(d)(2); 29 CFR 825.208(b)(1)

WORKERS’ COMPENSATION RECIPIENTS

The provision for substituting an employee’s paid leave for FMLA leave does not apply to a workers’ compensation absence. However, the College District may not deny use of accrued paid leave

**RETURN TO WORK**

The College District may uniformly require, as a prerequisite for reinstating employees whose FMLA leave was due to their own serious health condition, medical certification of their ability to resume work. 29 U.S.C. 2614(a)(4)

**RETURN TO POSITION**

An employee who takes FMLA leave under these provisions is entitled to be restored to the position held when the leave commenced or to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment. The determination of how an employee is restored to an equivalent position is based on the College District’s established policies and practices that clearly explain the employee’s restoration rights on return from leave. 29 U.S.C. 2614(a)(1)

**DENIAL OF RESTORATION**

The College District may deny restoration to “key employees,” as described below, and may delay restoration to any employee who fails to provide a fitness-for-duty certificate to return to work, if such is required by the College District.

A “key employee” is a salaried FMLA-eligible employee who is among the highest paid ten percent of all College District employees within 75 miles of the employee’s worksite. Key employees may be denied restoration to their original or equivalent positions under the following conditions:

1. At the time FMLA leave is requested (or FMLA leave begins, if earlier), the employee has received written notice that he or she is a “key employee,” and has been informed of the potential consequences with respect to reinstatement and maintenance of health benefits if the College District determines that substantial and grievous economic injury will result to College District operations if the employee is reinstated from FMLA leave.

2. The Board determines that denial of restoration is necessary to prevent substantial and grievous economic injury to the College District.

3. On making the determination that injury would occur, the College District notifies the employee in writing, either in person or by certified mail, of its intent to deny restoration to employment on completion of FMLA leave. The notice must explain the basis for the Board’s finding of injury and must provide the employee a reasonable time in which to return to work, taking into account the circumstances, such as the
length of leave and the urgency of the need for the employee to return.

4. If the employee does not return to work in response to the College District’s notice, he or she continues to be entitled to maintenance of health benefits at the College District’s expense. The employee’s FMLA rights continue unless and until the employee gives notice he or she no longer wishes to return to duty or the College District actually denies restoration at the end of the leave period.

5. An employee who has received notice as set out at item 3 above is still entitled to request reinstatement at the end of the leave period. The College District must then determine whether it will suffer substantial and grievous economic injury from reinstatement based on the facts at that time. If such a determination is made, the College District shall notify the employee in writing (in person or by certified mail) of denial of restoration.

29 U.S.C. 2614(b); 29 CFR 825.216, 825.217, 825.219, 825.312(c)

DEVELOPMENT LEAVES OF ABSENCE

For the purposes of this policy on development leaves, “faculty member” shall mean a person who is employed by the College District on a full-time basis as a member of the faculty or staff and whose duties include teaching, research, administration, including professional librarians, or the performance of professional services. However, the term does not include a person employed in a position that is in the institution’s classified personnel system or a person employed in a similar type of position if the institution does not have a classified personnel system. Education Code 51.101

GRANTING LEAVES OF ABSENCE

On the application of a faculty member, the Board may grant a faculty development leave of absence for study, research, writing, field observations, or other suitable purpose, if:

1. The faculty member is eligible by reason of service.

2. The purpose for which a faculty development leave is sought is one for which a faculty development leave may be granted.

3. Granting the leave will not place on faculty development leave a greater number of faculty members than that authorized.

The Board by regulation shall establish a procedure whereby the applications for faculty development leaves of absence are received by a committee elected by the general faculty for evaluation. The faculty committee shall then make recommendations to
the chief executive officer, who shall then make recommendations to the Board as to which applications should be granted.

*Education Code 51.103*

**SERVICE REQUIRED**

A faculty member shall be eligible to be considered for a faculty development leave when he or she has served as a member of the faculty in the College District for at least two consecutive academic years. This service may be as an instructor or as an assistant, associate, or full professor, or an equivalent rank, and must be full-time academic duty but need not include teaching. *Education Code 51.104*

**DURATION AND COMPENSATION**

A faculty development leave may be granted either for one academic year at one-half of the faculty member’s regular salary or for one-half academic year at full regular salary. Payment of salary to the faculty member on a development leave may be made from the funds appropriated by the legislature specifically for that purpose, or from such other funds as might be available to the institution. A faculty member on a development leave may accept a grant for study, research, or travel from any institution of higher education or from a charitable, religious, or educational corporation or foundation, or from any federal, state, or local governmental agency. A faculty member on development leave may not accept employment from any other person, corporation, or government, unless the Board determines that the employment would be in the public interest and expressly approves the employment. *Education Code 51.105*

**ADDITIONAL EMPLOYMENT**

No more than six percent of the faculty members of the College District may be on faculty development leave at any one time. *Education Code 51.106*

A faculty member on a development leave shall continue to be a member of the Teacher Retirement System of Texas or of the College District’s Optional Retirement Program, or of both, just as any other faculty member on full-time duty. *Education Code 51.107(a)*

A faculty member on a development leave shall have deducted from his or her salary amounts as required by law or the College District and amounts as authorized by the faculty member. *Education Code 51.107(b) [See CDDA]*

A member of the faculty on a development leave shall be considered to be a faculty member for purposes of participating in the programs and of receiving the benefits made available by or through the College District or the state to faculty members. *Education Code 51.107(c)*
A contract entered into by the Board may not allow for development leave that is inconsistent with Education Code 51.105.

The College District must require an administrator who receives development leave to:

1. Return to work at the College District for an amount of time equal to the amount of time the administrator received for development leave; or

2. Repay the College District for all the costs of the development leave, including the amount of the administrator’s salary, if any, paid during the leave.

Notwithstanding Education Code 51.948(b)(3), the Board may grant development leave at the faculty member’s full, regular salary for one year to a faculty member who has held an administrative position at the College District for more than four years.

“Administrator” means a person who has significant administrative duties relating to the operation of the College District, including the operation of a department, college, program, or other subdivision of the College District.

Education Code 51.948

Uniform enforcement of a reasonable absence-control rule is not retaliatory discharge. For example, a college district that terminates an employee for violating a reasonable absence-control provision cannot be liable for retaliatory discharge as long as the rule is uniformly enforced. Continental Coffee Products Co. v. Cazarez, 937 S.W.2d 444 (Tex. 1996) (workers’ compensation discrimination case); Texas Division-Tranter, Inc. v. Carrozza, 876 S.W.2d 312 (Tex. 1994) (workers’ compensation discrimination case); Swearingen v. Owens-Corning Fiberglas Corp., 968 F.2d 559 (5th Cir. 1992) (workers’ compensation discrimination case); Howell v. Standard Motor Prods., Inc., 2001 WL 912387 (N.D. Tex. 2001) (Family and Medical Leave Act case); Specialty Retailers v. DeMoranville, 933 S.W.2d 490 (Tex. 1996) (age discrimination case); Gonzalez v. El Paso Natural Gas Co., 40 F.E.P. Cases (BNA) 353 (Tex. App.—El Paso 1986, no pet.) (sex discrimination case)

[Some employees may have protected status even after the expiration of all other leave. See CKE and DAA]
EMPLOYEE RIGHTS AND PRIVILEGES

EMPLOYEE FREE SPEECH

College District employees do not shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.

However, neither an employee nor anyone else has an absolute constitutional right to use all parts of a school building or its immediate environs for unlimited expressive purposes. When a public employee makes statements pursuant to his or her official duties, the employee is not speaking as a citizen for First Amendment purposes, and the Constitution does not insulate the communications from employer discipline.


WHISTLEBLOWER PROTECTION

The Board or its agents shall not suspend or terminate the employment of, or take other adverse personnel action against, an employee who in good faith reports a violation of law by the College District or another public employee to an appropriate law enforcement authority.

A “report” is made to an “appropriate law enforcement authority” if the authority is a part of a state or local governmental entity or the federal government that the employee in good faith believes is authorized to:

1. Regulate under or enforce the law alleged to be violated in the report; or
2. Investigate or prosecute a violation of criminal law.

*Gov’t Code 554.002*

A supervisor who suspends or terminates the employment of or takes an adverse personnel action against an employee for reporting a violation of law shall be subject to civil penalties. *Gov’t Code 554.008*

DEFINITIONS

“Employee” means an employee or appointed officer who is paid to perform services for the College District. It does not include independent contractors. *Gov’t Code 554.001(4)*

“Law” means a state or federal statute, an ordinance of a local governmental entity, or a rule adopted under a statute or ordinance. *Gov’t Code 554.001(1)*

A “good faith” belief that a violation of the law occurred means that:

1. The employee believed that the conduct reported was a violation of law; and
2. The employee’s belief was reasonable in light of the employee’s training and experience.
**Wichita County v. Hart, 917 S.W.2d 779 (Tex. 1996)**

A “good faith” belief that a law enforcement authority is an appropriate one means:

1. The employee believed the governmental entity was authorized to:
   
   a. Regulate under or enforce the law alleged to be violated in the report, or
   
   b. Investigate or prosecute a violation of criminal law; and

2. The employee’s belief was reasonable in light of the employee’s training and experience.


An employee who alleges a violation of whistleblower protection may sue the College District for injunctive relief, actual damages, court costs, and attorneys fees, as well as other relief specified in Government Code 554.003. *Gov’t Code 554.003*

Before suing, an employee must initiate action under the College District’s grievance policy or other applicable policies concerning suspension or termination of employment or adverse personnel action.

The employee must invoke the College District’s grievance procedure not later than the ninetieth day after the date on which the alleged suspension, termination, or other adverse employment action occurred or was discovered by the employee through reasonable diligence.

**LEGAL ACTION**

If the Board does not render a final decision before the sixty-first day after grievance procedures are initiated, the employee may elect to:

1. Exhaust the College District’s grievance procedures, in which case the employee must sue not later than the thirtieth day after the date those procedures are exhausted to obtain relief under Government Code Chapter 554; or

2. Terminate College District grievance procedures and sue within time lines established by Government Code 554.005 and 554.006.

*Gov’t Code 554.004, 554.006*

**NOTICE OF RIGHTS**

The Board shall inform its employees of their rights under this provision by posting a sign in a prominent location in the workplace.
The design and content of the sign shall be as prescribed by the attorney general.  *Gov’t Code 554.009*

**PROHIBITIONS**

A College District employee may not:

1. Use official authority or influence or permit the use of a program administered by the state to interfere with or affect the result of an election or nomination of a candidate, or to achieve any other political purpose; or

2. Coerce, attempt to coerce, command, restrict, attempt to restrict, or prevent the payment, loan, or contribution of anything of value to a person or political organization for a political purpose.

*Gov’t Code 556.004*

**NOTICE BY ELECTRONIC MEDIA**

If a state law requires the College District to provide written notification to its officers or employees of any requirement, right, duty, or responsibility provided by state law, the College District may provide the notification by use of electronic media.

The College District may adopt rules and guidelines to ensure that notification provided by electronic media is effective and that any required notification is provided to officers and employees who do not have access to electronic media.

*Education Code 51.965*

**PROTECTION OF NURSES**

The College District may not suspend, terminate, or otherwise discipline or discriminate against a nurse who refuses to engage in an act or omission relating to patient care that:

1. Would constitute grounds for reporting the nurse to the Board of Nurse Examiners under Occupations Code Chapter 301, Subchapter I;

2. Constitutes a minor incident, as defined at Occupations Code Section 301.419; or

3. Would violate Occupations Code Chapter 301 or a rule of the Board of Nurse Examiners, if the nurse notifies the College District at the time of the refusal that this is the reason for refusing to engage in the act or omission.

*Occupations Code 301.352(a)*
A College District shall take no action abridging the freedom of speech or the right of the people to petition the Board for redress of grievances. _U.S. Const. Amend. I, XIV_

The Board may confine its meetings to specified subject matter and may hold nonpublic sessions to transact business. But when the Board sits in public meetings to conduct public business and hear the views of citizens, it may not discriminate between speakers on the basis of the content of their speech or the message it conveys. _Rosenberger v. Rector & Visitors of Univ. of Virginia_, 515 U.S. 819, 828 (1995); _City of Madison v. Wis. Emp. Rel. Comm’n_, 429 U.S. 167, 174 (1976); _Pickering v. Bd. of Educ._, 391 U.S. 563, 568 (1968) [See DG]

Employees 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_

There is no requirement that the Board 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 Cnty (College) District_, 678 S.W.2d 94 (Tex. App.—El Paso 1984, writ ref’d n.r.e.)

The College District that receives federal financial assistance, directly or indirectly, and 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 Section 504 of the Rehabilitation Act of 1973. _34 CFR 104.7(b), 104.11_

The 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 CFR 35.107, 35.140_

The College District that receives federal financial assistance, directly or indirectly, shall adopt and publish grievance procedures providing for prompt and equitable resolution of employee complaints alleging any action prohibited by Title IX of the Education Amendments of 1972. _34 CFR 106.8(b); North Haven Board of Education v. Bell_, 456 U.S. 512 (1982)
The prohibition against collective bargaining and strikes [see DGA] does not impair the right of employees to present grievances concerning their wages, hours of employment, or conditions of work, either individually or through a representative that does not claim the right to strike.  *Gov’t Code 617.005*

The term “conditions of work” should be construed broadly to include any area of wages, hours, or conditions of employment, and any other matter that is appropriate for communications from employees to employer concerning an aspect of their relationship.  *Att’y Gen. Op. JM-177 (1984); Corpus Christi Fed. of Teachers v. Corpus Christi Indep. Sch. Dist.*. 572 S.W.2d 663 (Tex. 1978)

The statute protects grievances presented individually or individual grievances presented collectively.  *Lubbock Prof’l Firefighters v. City of Lubbock*, 742 S.W.2d 413 (Tex. App.—Amarillo 1987, writ ref’d n.r.e.)

The College District cannot deny an employee’s representative, including an attorney, the right to represent the employee at any stage of the grievance procedure, so long as the employee designates the representative and the representative does not claim the right to strike.  *Lubbock Prof’l Firefighters v. City of Lubbock*, 742 S.W.2d 413 (Tex. App.—Amarillo 1987, writ ref’d n.r.e.); *Sayre v. Mullins*, 681 S.W.2d 25 (Tex. 1984)

The College District should meet with employees or their designated representatives at reasonable times and places to hear grievances concerning wages, hours of work, and conditions of work.  The right to present grievances is satisfied if employees have access to those in a position of authority to air their grievances.  However, that authority is under no legal compulsion to take action to rectify the matter.  *Att’y Gen. Op. H-422 (1974); Corpus Christi Indep. Sch. Dist v. Padilla*, 709 S.W.2d 700 (Tex. App.—Corpus Christi, 1986, no writ)

The Board is not required to conduct an open meeting to hear a complaint or charge against an employee.  However, the Board may not conduct a closed meeting if the employee who is the subject of the hearing requests a public hearing.  *Gov’t Code 551.074* [See BDA]

The Board may conduct a closed meeting on an employee complaint to the extent required or provided by law.  [See BDA]

Before bringing suit, an employee who seeks relief under Government Code Chapter 554 (whistleblowers) must initiate action under the College District’s grievance or appeal procedures relating to
suspension or termination of employment or adverse personnel action.  *Gov't Code 554.005*  [See DG]
Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;

2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting the individual; or

3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.


The College District shall exercise reasonable care to prevent and correct promptly any sexually harassing behavior and develop preventive or corrective measures to address sexually harassing behavior.

A supervisor with immediate (or successively higher) authority over an employee shall not create an actionable hostile environment for that employee nor take a tangible employment action (hiring, firing, failing to promote, reassignment with significantly different responsibilities, or a decision causing a significant change in benefits) based on an employee's sex.


Sexual harassment of students includes such activities as engaging in sexually oriented conversations for purposes of personal sexual gratification, telephoning students at home or elsewhere to solicit inappropriate social relationships, physical contact that would reasonably be construed as sexual in nature, and enticing or threatening students to engage in sexual behavior in exchange for grades or other school-related benefit. 20 U.S.C. 1681(a); Franklin v. Gwinnett County Public Schools, 503 U.S. 60 (1992)

A College District official who has authority to take corrective action on the College District's behalf and who has actual notice of teacher-student sexual harassment or abuse shall take corrective measures to address the harassment or abuse. Gebser v. Lago Vista ISD, 524 U.S. 274 (1998)
Citizens, including College District employees, have a right to be free from unreasonable searches and seizures. \textit{U.S. Const. Amendment IV}; \textit{Tex. Const. Art. I, Sec. 9}

The College District may search an employee or an employee's property if:

1. There are reasonable grounds to believe that the search will turn up evidence that the employee is guilty of work-related misconduct; and


In addition, the College District may search an employee's workplace for noninvestigatory, work-related purposes, or if there are reasonable grounds to believe that the search will turn up evidence that the employee is guilty of work-related misconduct. \textit{O'Connor v. Ortega}, 480 U.S. 709, (1987)


The College District may conduct drug tests, without a warrant and without individualized suspicion, when the test serves special governmental needs that outweigh the individual's privacy expectation. \textit{Skinner v. Railway Labor Executives Ass'n}, 489 U.S. 602, (1989); \textit{National Treasury Employees Union v. Von Raab}, 489 U.S. 656, (1989)

Random alcohol and drug testing of employees in "safety-sensitive" positions may be permissible when the intrusiveness of the search is minimal and the Board is able to demonstrate that the drug-testing program furthers its interest in ensuring the physical safety of students. "Safety-sensitive" positions include those that involve the handling of potentially dangerous equipment or hazardous substances in an environment including a large number of children. \textit{Aubrey v. School Board of Lafayette Parish}, 148 F.3d 559 (5th Cir. 1998)

\textbf{Note:} The following testing requirements apply to every employee of the College District who operates a commercial motor vehicle and is subject to commercial driver's license requirements in accordance with federal regulations.
TESTING OF DRIVERS

The College District shall conduct testing, in accordance with federal regulations, of commercial motor vehicle operators for use of alcohol or a controlled substance that violates law or federal regulation. 49 U.S.C. 31.306; 49 CFR Part 382

COMMERCIAL MOTOR VEHICLE

A commercial motor vehicle is defined as a motor vehicle used to transport passengers or property that:

1. Has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or

2. Has a gross vehicle weight rating of 26,001 or more pounds; or

3. Is designed to transport 16 or more passengers, including the driver; or

4. Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR part 172, subpart F).

49 CFR 382.107

TESTING PROCEDURES

The College District shall ensure that all alcohol or controlled substances testing conducted under 49 CFR Part 382 complies with the procedures set forth in 49 CFR Part 40. 49 CFR 382.105

TESTS REQUIRED

Required testing includes preemployment, postaccident, random, reasonable suspicion, return-to-duty, and follow-up testing. No driver shall refuse to submit to a postaccident alcohol or controlled substances test, a random alcohol or controlled substances test, a reasonable suspicion alcohol or controlled substances test, or a return-to-duty or follow-up alcohol or controlled substances test. The College District shall not permit a driver who refuses to submit to such tests to perform or continue to perform safety-sensitive functions. 49 CFR 382.211, 382.309

EDUCATIONAL MATERIALS

The College District shall provide educational materials that explain the federal requirements and the College District’s policies and procedures with respect to meeting these requirements and shall ensure that a copy of these materials is distributed to each driver before the start of alcohol and controlled substances testing under this policy and to each driver subsequently hired or transferred into a position that requires driving a commercial motor vehicle. Written notice to representatives of employee organizations of the availability of this information shall also be provided. The materials shall
include detailed discussion of at least the items listed at 49 CFR 382.601. 

**REPORTS**

A college district required by federal safety regulations to conduct alcohol and drug testing of an employee who holds a commercial driver’s license shall report the following information to the Department of Public Safety:

1. A valid positive result on an alcohol or drug test and whether the specimen producing the result was a dilute specimen.

   “Valid positive result” means an alcohol concentration of 0.04 or greater on an alcohol confirmation test, or a result at or above the cutoff concentration levels listed in 49 CFR 40.87 on a confirmation drug test.

   “Dilute specimen” means a specimen with creatinine and specific gravity values that are lower than expected for human urine.

2. A refusal to provide a specimen for an alcohol or drug test.

3. An adulterated specimen, or substituted specimen, as defined at 49 CFR 40.3, on an alcohol or drug test.

For purposes of this requirement, the term “employee” includes applicants for employment subject to preemployment testing.

*Trans. Code 644.251–.252; 29 CFR 40.3*
The Board shall establish a program or a short course in order to assist faculty members whose primary language is not English to become proficient in the use of English and to ensure that courses offered for credit at the College 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 and may provide individual assistance during course instruction to a non-English-speaking student in the native language of the student.

The cost of an English proficiency course shall be paid by the faculty member lacking proficiency in English. A faculty member shall 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*
Any employee may be dismissed for good cause before the completion of the term fixed in his or her contract.

Before any employee is dismissed, the employee 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.

If, upon written notification, the employee desires to be heard and to contest the proposed action of the Board, he or she shall give the Board written notice. The hearing shall be set on a date that affords the employee 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 employee may employ counsel. The employee 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 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)

A faculty member has a right to present a grievance, in person, to a member of the College District's administration designated by the Board on an issue related to the nonrenewal or termination of the faculty member's employment at the College District.

A college district may not by contract, policy, or procedure, restrict a faculty member's right to present a grievance under Education Code 51.960. A college district may adopt a method for presenting, reviewing, and acting on a grievance filed under Education Code 51.960.

“Faculty member” means a person employed full time by a college district as a member of the College District's faculty, including professional librarians, whose duties include teaching, research, administration, or the performance of professional services. The term does not include a person who holds faculty rank but who spends the majority of the person's time for the College District engaged in managerial or supervisory activities, including a chancellor, vice
chancellor, president, vice president, provost, associate or assistant provost, dean, or associate or assistant dean.

*Education Code 51.960*

**SUSPENSION**

The employee may be suspended with pay pending the outcome of the dismissal hearing. *Moore v. Knowles, 482 F.2d 1069 (5th Cir. 1973)*
To ensure the quality of student learning, the College District should not allow students to carry more courses in any term (that is, regular or shortened semester), that would allow them to earn more than one semester credit hour per week over the course of the term. The College District should have a formal written policy for addressing any exceptions to this paragraph. 19 TAC 4.6 (b),(c)

The College District shall comply with the uniform final dates, counted from the first class day of an academic semester or term, for adding or dropping a course, established by the Coordinating Board.

A student may not enroll in a course after a uniform final date for adding a course. A student is not entitled to a refund of any tuition or fees for a course that the student drops after a uniform final date for dropping a course.

*Education Code 130.009; 19 TAC 9.31*

A college district may not permit a student to drop more than six courses, including any course a transfer student has dropped at another institution of higher education. A student may only drop a course if it fits within the following circumstances:

1. The student was able to drop the course without receiving a grade or incurring an academic penalty;
2. The student's transcript indicates or will indicate that the student was enrolled in the course; and
3. The student is not dropping the course in order to withdraw from the institution.

The Board may adopt a policy under which the maximum number of courses a student is permitted to drop under circumstances described above is less than six courses.

*Education Code 51.907(b)-(d), 19 TAC 4.3(11)*

An institution of higher education may not permit an undergraduate student a total of more than six dropped courses, including a course a transfer student has dropped at another institution of higher education, unless:

1. The Board has adopted a policy under which the maximum number of courses a student is permitted to drop is less than six; or
2. The student shows good cause for dropping more than that number, including but not limited to a showing of:
a. A severe illness or other debilitating condition that affects the student's ability to satisfactorily complete a course;

b. The student's responsibility for the care of a sick, injured, or needy person if the provision of care affects the student's ability to satisfactorily complete a course;

c. The death of a person who is either considered to be a member of the student's family or is otherwise considered to have a sufficiently close relationship to the student, as defined below, that the person's death is considered to be a showing of good cause;

d. The active duty service as a member of the Texas National Guard or the Armed Forces of the United States of either the student; or a person who is considered to be a member of the student's family as described by the Higher Education Coordinating Board's Rules;

e. The change of the student's work schedule that is beyond the control of the student, and that affects the student's ability to satisfactorily complete the course; or

f. Other good cause as determined by the institution of higher education.

*Education Code 51.907(e); 19 TAC 4.10(a)*

**DEFINITIONS FOR GOOD CAUSE EXEMPTION**

For purposes of this provision, a “member of the student's family” is defined to be the student's father, mother, brother, sister, grandmother, grandfather, aunt, uncle, nephew, niece, first cousin, step-parent, or step-sibling.

A “person who is otherwise considered to have a sufficiently close relationship to the student” is defined to include any other relative within the third degree of consanguinity, plus close friends, including but not limited to roommates, housemates, classmates, or other persons identified by the student for approval by the institution, on a case-by-case basis.

*19 TAC 4.10(b)*

**POLICY FOR DETERMINING GOOD CAUSE REQUIRED**

Each college district shall adopt a policy and procedure for determining a showing of good cause as described above and provide a copy of the policy to the Higher Education Coordinating Board.

Each college district shall publish the policy adopted in its catalogue and other print and Internet-based publications as appropriate for timely notification of students.

*19 TAC 4.10(c)-(d)*
In determining the number of courses dropped by a student for purposes of this provision, a course, such as a laboratory or discussion course, in which a student is enrolled concurrently with a lecture course is not considered to be a course separate from the lecture course if:

1. Concurrent enrollment in both courses is required; and

2. In dropping the lecture course, the student would be required to drop the laboratory, discussion, or other course in which the student is concurrently enrolled.

*Education Code 51.907(f)*
Employees of the College District shall comply with the provisions of the United States Copyright Law. Subject to certain specific exceptions, some of which are stated below, the owner of a copyright has the exclusive rights:

1. To reproduce the copyrighted work in copies or phonorecords;
2. To prepare derivative works based upon the copyrighted work;
3. To distribute copies or phonorecords of the copyrighted work to the public by sale or other transfer of ownership, or by rental, lease, or lending;
4. In the case of literary, musical, dramatic, and choreographic works, pantomimes, and motion pictures and other audiovisual works, to perform the copyrighted work publicly;
5. In the case of literary, musical, dramatic, and choreographic works, pantomimes, and pictorial, graphic, or sculptural works, including the individual images of a motion picture or other audiovisual work, to display the copyrighted work publicly; and
6. In the case of sound recordings, to perform the copyrighted work publicly by means of a digital audio transmission.

An exception to the exclusive rights enjoyed by copyright owners is the doctrine of fair use. The fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified by 17 U.S.C. 106, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright. The following factors shall be considered in determining fair use:

1. The purpose and character of the use, including whether the use is of a commercial nature or for nonprofit educational purposes.
2. The nature of the copyrighted work.
3. The amount and importance of the portion used in relation to the copyrighted work as a whole.
4. The effect of the use upon the potential market for or value of the copyrighted work.

17 U.S.C. 107
Additional exceptions related to performances and displays include performance or display of a work by instructors or pupils in the course of face-to-face teaching activities of a nonprofit educational institution, in a classroom or similar place devoted to instruction, unless, in the case of a motion picture or other audiovisual work, the performance, or the display of individual images, is given by means of a copy that was not lawfully made under this title, and that the person responsible for the performance knew or had reason to believe was not lawfully made. 17 U.S.C. 110(1)

Except with respect to a work produced or marketed primarily for performance or display as part of mediated instructional activities transmitted via digital networks, or a performance or display that is given by means of a copy or phonorecord that is not lawfully made and acquired under this title, and the transmitting government body or accredited nonprofit educational institution knew or had reason to believe was not lawfully made and acquired, the performance of a nondramatic literary or musical work or reasonable and limited portions of any other work, or display of a work in an amount comparable to that which is typically displayed in the course of a live classroom session, by or in the course of a transmission, is not a copyright infringement if:

1. The performance or display is made by, at the direction of, or under the actual supervision of an instructor as an integral part of a class session offered as a regular part of the systematic mediated instructional activities of a governmental body or an accredited nonprofit educational institution;

2. The performance or display is directly related and of material assistance to the teaching content of the transmission;

3. The transmission is made solely for, and, to the extent technologically feasible, the reception of such transmission is limited to students officially enrolled in the course for which the transmission is made or officers or employees of governmental bodies as a part of their official duties or employment; and

4. The transmitting body or institution:
   a. institutes policies regarding copyright, provides informational materials to faculty, students, and relevant staff members that accurately describe, and promote compliance with, the laws of the United States relating to copyright, and provides notice to students that materials used in connection with the course may be subject to copyright protection; and
   b. in the case of digital transmissions:
(1) applies technological measures that reasonably prevent retention of the work in accessible form by recipients of the transmission from the transmitting body or institution for longer than the class session; and unauthorized further dissemination of the work in accessible form by such recipients to others; and

(2) does not engage in conduct that could reasonably be expected to interfere with technological measures used by copyright owners to prevent such retention or unauthorized further dissemination.

17 U.S.C. 110(2)

“Mediated instructional activities” with respect to the performance or display of a work by digital transmission under 17 U.S.C. section 110 refers to activities that use such work as an integral part of the class experience, controlled by or under the actual supervision of the instructor and analogous to the type of performance or display that would take place in a live classroom setting. The term does not refer to activities that use, in one or more class sessions of a single course, such works as textbooks, course packs, or other material in any media, copies or phonorecords of which are typically purchased or acquired by the students in higher education for their independent use and retention or are typically purchased or acquired for elementary and secondary students for their possession and independent use.

17 U.S.C. 110

GUIDELINES

Employees who wish to use copyrighted print material and sheet music shall follow the guidelines set forth in the “Agreement on Guidelines for Classroom Copying in Not-for-Profit Educational Institutions” and “Guidelines for Educational Uses of Music.” Those guidelines establish a minimum guaranteed fair use, not a maximum. Any use that falls within those guidelines is a fair use; any use that exceeds these guidelines shall be judged by the four factors stated above and may be subject to challenge. Any determination regarding whether a use that exceeds the guidelines is a fair use shall rest with an appropriate court of law.

PROHIBITIONS

Notwithstanding the fair use guidelines, the following shall be prohibited:

1. Copying of print materials and sheet music to create or replace or substitute for anthologies, compilations, or collective works. This prohibition against replacement or substitution applies whether copies of various works or excerpts are accumulated, or reproduced and used separately.
2. Copying of or from works intended to be “consumable” in the course of study or teaching. These works include workbooks, exercises, standardized tests, test booklets, answer sheets, and like consumable material.

Copying shall not substitute for the purchase of books, publishers’ reprints, or periodicals; be directed by higher authority; or be repeated with respect to the same item by the same teacher from term to term.

No charge shall be made to the student beyond the actual cost of the photocopying.

Additional prohibitions regarding the use of music are:

1. Copying for the purpose of performance, except as permitted under the “Guidelines for Educational Use of Music.”

2. Copying for the purpose of substituting for the purchase of music, except as permitted under the “Guidelines for Educational Use of Music.”

3. Copying without inclusion of the copyright notice that appears on the printed copy.

REFERENCE

“Agreement on Guidelines for Classroom Copying in Not-for-Profit Educational Institutions” and “Guidelines for Educational Use of Music” are contained in the historical note following 17 U.S.C. 107.

BROADCAST PROGRAMS

Broadcast programs, including commercial and public television and radio, shall not be videotaped or tape recorded for reuse without permission, except within the following guidelines:

1. A broadcast program may be recorded off-air simultaneously with broadcast transmission (including simultaneous cable retransmission) and retained by the College District for a period not to exceed the first 45 consecutive calendar days after date of recording. At the end of that retention period, off-air recordings shall be erased or destroyed.

2. Off-air recordings may be used once by individual teachers in the course of relevant teaching activities and repeated once only when instructional reinforcement is necessary during the first ten consecutive school days within the 45-calendar-day retention period. “School days” are actual days of instruction, excluding examination periods.

3. Off-air recordings shall be made at the request of and used by individual teachers and shall not be regularly recorded in anticipation of requests. No broadcast program shall be recorded off-air more than once at the request of the same
teacher, regardless of the number of times the program is broadcast.

4. A limited number of copies may be reproduced from each off-air recording to meet the legitimate needs of teachers under these guidelines. Each such additional copy shall be subject to all provisions governing the original recording. All copies of off-air recordings shall include the copyright notice on the broadcast program as recorded.

5. After the first ten consecutive school days, off-air recordings may be used up to the end of the 45-calendar-day retention period only to determine whether or not to include the broadcast program in the teaching curriculum and shall not be used in the College District for student exhibition or any other nonevaluative purpose without authorization.

6. Off-air recordings need not be used in their entirety, but the recorded programs shall not be altered from their original content. Off-air recordings shall not be physically or electronically combined or merged to constitute teaching anthologies or compilations.

17 U.S.C. 107 historical note

To the extent that the College District is a “service provider” (regarding online services) under 17 U.S.C. 512(k) and meets other conditions in 17 U.S.C. 512, the College District shall not be liable for monetary relief or certain injunctive or other equitable relief, except as allowed under 17 U.S.C. 512(j), for copyright infringement in certain online services (transitory communications, system caching, storage of information on systems or networks at the instruction of users, and information location tools) provided by the College District. 17 U.S.C. 512

The limitations on liability established by 17 U.S.C. 512 shall apply to a service provider only if the service provider:

1. Has adopted and reasonably implemented, and informs subscribers and account holders of the service provider’s system or network of, a policy that provides for the termination in appropriate circumstances of subscribers and account holders of the service provider’s system or network who are repeat infringers; and

2. Accommodates and does not interfere with standard technical measures. The term “standard technical measures” means technical measures that are used by copyright owners to identify or protect copyrighted works and:
a. Have been developed pursuant to a broad consensus of copyright owners and service providers in an open, fair, voluntary, multi-industry standards process;

b. Are available to any person on reasonable and nondiscriminatory terms; and

c. Do not impose substantial costs on service providers or substantial burdens on their systems or networks.

17 U.S.C. 512(i)

Generally, a service provider shall not be liable for monetary relief, or for injunctive or other equitable relief, for infringement of copyright by reason of the storage at the direction of a user of material that resided on a system or network controlled or operated by or for the service provider, if the service provider:

1. Does not have actual knowledge that the material or activity using the material on the system or network is infringing; in the absence of such actual knowledge, is not aware of facts or circumstances from which infringing activity is apparent; or upon obtaining such knowledge or awareness, acts expeditiously to remove, or disable access to, the material;

2. Does not receive a financial benefit directly attributable to the infringing activity, in a case in which the service provider has the right and ability to control such activity;

3. Upon notification of claimed infringement as described in 17 U.S.C. 512(c)(3), responds expeditiously to remove, or disable access to, the material that is claimed to be infringing or to be the subject of infringing activity; and

4. Has designated an agent to receive notifications of claimed infringement described in 17 U.S.C. 512(c)(3), by making available through its service, including on its Web site in a location accessible to the public, and by providing to the Copyright Office, certain contact information.

17 U.S.C. 512(c)(1), (2); 37 CFR 201.38

When a public or other nonprofit institution of higher education is a service provider, and when a faculty member is performing a teaching or research function, for the purposes of 17 USC 512(a) and 512(b) such faculty member shall be considered to be a person other than the institution, and for the purposes of 17 U.S.C. 512(c) and 512(d) such faculty member’s knowledge or awareness of his or her infringing activities shall not be attributed to the institution if:
1. Such faculty member’s infringing activities do not involve the provision of online access to instructional materials that are or were required or recommended, within the preceding three-year period, for a course taught at the institution by such faculty member;

2. The institution has not, within the preceding three-year period, received more than two notifications described in 17 U.S.C. 512(c)(3) of claimed infringement by such faculty member, and such notifications of claimed infringement were not actionable under 17 U.S.C. 512(f); and

3. The institution provides to all users of its system or network informational materials that accurately describe, and promote compliance with, the laws of the United States relating to copyright.

17 U.S.C. 512(e)

OTHER ONLINE SERVICES

Generally, liability of a service provider for copyright infringement may also be limited upon certain conditions for transitory communications, system caching, and information location tools services. 17 U.S.C. 512(a), (b), (d)

DISABLING OR REMOVING ACCESS

Generally, a service provider shall not be liable to any person for any claim based on the service provider’s good faith disabling of access to, or removal of, material or activity claimed to be infringing or based on facts or circumstances from which infringing activity is apparent, regardless of whether the material or activity is ultimately determined to be infringing. 17 U.S.C. 512(g)
“Core curriculum” means the curriculum in liberal arts, humanities, and sciences and political, social, and cultural history that all undergraduate students of an institution of higher education are required to complete before receiving an academic undergraduate degree. *Education Code 61.821(1)*

The Coordinating Board, with the assistance of advisory committees composed of representatives of institutions of higher education, shall develop a recommended core curriculum of at least 42 semester credit hours, including a statement of the content, component areas, and objectives of the core curriculum. At least a majority of the members of any advisory committee shall be faculty members of an institution of higher education. An institution shall consult with the faculty of the institution before nominating or recommending a person to the Coordinating Board as the institution’s representative on an advisory committee. *Education Code 61.822(a)*

Each institution of higher education shall adopt a core curriculum of no less than 42 semester credit hours, including specific courses comprising the curriculum. The core curriculum shall be consistent with the common course numbering system approved by the Coordinating Board and with the statements, recommendations, and rules issued by the Coordinating Board. An institution may have a core curriculum of other than 42 semester credit hours only if approved by the Coordinating Board. *Education Code 61.822(b)*

Each college’s core curriculum must be designed to satisfy the exemplary educational objectives specified for the component areas of the “Core Curriculum: Assumptions and Defining Characteristics” adopted by the Coordinating Board; all lower-division courses included in the core curriculum must be consistent with the “Texas Common Course Numbering System”; and must be consistent with the framework identified in Charts I and II below. Chart I specifies the minimum number of semester credit hours required in each of five major component areas that a core curriculum must include (with sub-areas noted in parentheses). Chart II specifies options available to colleges for the remaining 6–12 semester credit hours. *19 TAC 4.28(b)*

An institution may include within its core curriculum a course or courses that combine exemplary educational objectives from two or more component areas of the exemplary educational objectives defined in this section. *19 TAC 4.28(g)*
CHART I

Colleges must select 36 semester credit hours of the core curriculum according to the parameters described below:

<table>
<thead>
<tr>
<th>Component Area</th>
<th>Required Semester Credit Hours</th>
</tr>
</thead>
<tbody>
<tr>
<td>Communication (English rhetoric/composition)</td>
<td>6</td>
</tr>
<tr>
<td>Mathematics (logic, college-level algebra equivalent, or above)</td>
<td>3</td>
</tr>
<tr>
<td>Natural Sciences</td>
<td>6</td>
</tr>
<tr>
<td>Humanities &amp; Visual and Performing Arts, which must include:</td>
<td>6</td>
</tr>
<tr>
<td>Visual/Performing Arts</td>
<td>(3)</td>
</tr>
<tr>
<td>Other (literature, philosophy, modern or classical language/literature and cultural studies*)</td>
<td>(3)</td>
</tr>
<tr>
<td>Social and Behavioral Sciences, which must include:</td>
<td>15</td>
</tr>
<tr>
<td>U.S. History (legislatively mandated)</td>
<td>(6)</td>
</tr>
<tr>
<td>Political Science (legislatively mandated)</td>
<td>(6)</td>
</tr>
<tr>
<td>Social/Behavioral Science</td>
<td>(3)</td>
</tr>
<tr>
<td>Total Minimum Requirements</td>
<td>36</td>
</tr>
</tbody>
</table>

* Humanities application of language skills includes a study of literature in the original language, and/or the cultural studies related to a modern or classical language.
CHART II

To complete the required 42-semester-credit-hour core curriculum, colleges shall select an additional 6 semester credit hours from one or more of the following:

<table>
<thead>
<tr>
<th>Component Area</th>
<th>Possible Additional Semester Credit Hours (6 Total)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Communication (composition, speech, modern language/communication skills*)</td>
<td>Up to 6</td>
</tr>
<tr>
<td>Mathematics (finite math, statistics, calculus, or above)</td>
<td>Up to 3</td>
</tr>
<tr>
<td>Natural Sciences</td>
<td>Up to 3</td>
</tr>
<tr>
<td>Humanities (literature, philosophy, modern or classical language/literature and cultural studies**) &amp; Visual and Performing Arts</td>
<td>Up to 3</td>
</tr>
<tr>
<td>Social and Behavioral Sciences</td>
<td>Up to 3</td>
</tr>
<tr>
<td>Institutionally Designated Option (may include additional semester credit hours in the categories listed above, computer literacy, health/wellness, kinesiology, capstone or interdisciplinary courses, etc.)</td>
<td>Up to 6</td>
</tr>
</tbody>
</table>

Total Additional Hours 6

* Communication application of a modern language means the basic proficiency skills acquired during introductory courses and including a working competency in grammar, writing, speaking, and listening/comprehension in a foreign language.

** Humanities application of language skills includes a study of literature in the original language, and/or the cultural studies related to a modern or classical language.

19 TAC 4.28(a), (b)

CONCURRENT ENROLLMENT

A student concurrently enrolled at more than one institution of higher education shall follow the core curriculum requirements in effect for the institution at which the student is classified as a degree-seeking student. 19 TAC 4.28(d) [See EFB(LEGAL)]

SUBSTITUTIONS AND WAIVERS

No institution or institutional representative may approve course substitutions or waivers of the institution’s core curriculum requirements for any currently enrolled student. 19 TAC 4.28(j).
transfer students, see EGA(LEGAL). For learning disabled students, see EFCA(LEGAL).

**TRANSCRIPTS**

Each institution must note core courses on the transcript of students as recommended by the Texas Association of Registrars and Admissions Officers. *19 TAC 4.28(h)*

**CORE CURRICULA LARGER THAN 42 SEMESTER CREDIT HOURS**

The College may adopt a core curriculum in excess of 42 semester credit hours, but no more than 48 semester credit hours, if the courses in excess of 42 semester credit hours are selected from the first five component areas of Chart II of *19 TAC 4.28(b)*, relating to the Core Curriculum excluding additional credit in the Institution-ally Designated Option, and are approved by the Board.

No college may adopt a core curriculum of more than 42 semester credit hours without approval by the Coordinating Board if the courses in excess of 42 semester credit hours are selected from component areas other than the first five component areas of Chart II of *19 TAC 4.28(b)*. The Coordinating Board may approve a core curriculum under this section if:

1. It has been previously approved by the Board;
2. The College has provided to the Coordinating Board a narrative justification of the need and appropriateness of a larger core curriculum that is consistent with its role and mission; and
3. No proposed upper-division core course is substantially comparable in content or depth of study to a lower-division course listed in the “Texas Common Course Numbering System.”

*19 TAC 4.29*

**EVALUATION OF CORE CURRICULA**

Each college shall review and evaluate the college’s core curriculum every five years and report the results of that evaluation to the Coordinating Board. The evaluation should include:

1. The extent to which the core curriculum is consistent with the elements of the core curriculum recommended by the Coordinating Board;
2. The extent to which the core curriculum is consistent with the Texas Common Course Numbering System;
3. The extent to which the core curriculum is consistent with the elements of the core curriculum component areas, intellectual competencies, and perspectives as expressed in Core Curriculum: Assumptions and Defining Characteristics adopted by the Coordinating Board; and
4. The extent to which the College’s educational goals and the exemplary educational objectives of the core curriculum recommended by the Coordinating Board are being achieved.

Each college’s evaluation report must contain the following:

1. A table that compares the College’s core curriculum with the core component areas and exemplary educational objectives of the core curriculum recommended by the Coordinating Board;

2. A brief description of the purpose and substance of the College’s core curriculum;

3. A description of the processes and procedures used to evaluate the College’s core curriculum; and

4. A description of the ways in which the evaluation results are being or will be utilized to improve the core curriculum at the College.

*Education Code 61.824; 19 TAC 4.30*

The Coordinating Board, with the assistance of advisory committees composed of representatives of institutions of higher education, shall develop field of study curricula. Each advisory committee shall be equitably composed of representatives of institutions of higher education. Each university system or institution of higher education which offers a degree program for which a field of study curriculum is proposed shall be offered participation on the advisory committee for that particular field of study. At least a majority of the members of any advisory committee named under this section shall be faculty members of an institution of higher education. An institution shall consult with the faculty of the institution before nominating or recommending a person to the Coordinating Board as the institution’s representative on an advisory committee. *Education Code 61.823*

“Field of study curriculum” means a set of courses that will satisfy the lower division requirements for a bachelor’s degree in a specific academic area at a general academic teaching institution. *Education Code 61.821(2)*

Each college must review and evaluate its procedures for complying with field of study curricula at intervals specified by the Coordinating Board and shall report the results of that review to the Coordinating Board. These reports shall be submitted following the same timetable as the regular reports of core curriculum evaluations. *19 TAC 4.32(f)*
The College shall provide a course of instruction in government or political science that includes consideration of the Constitution of the United States and the constitutions of the states, with special emphasis on that of Texas. This course shall have a credit value of not less than six semester hours or its equivalent. The College shall not grant a degree or an academic certificate to any person unless the person has credit for such a course. The College may determine that a student has satisfied this requirement in whole or in part on the basis of credit granted to the student by the College for a substantially equivalent course completed at another accredited college or university or on the basis of the student’s successful completion of an advanced standing examination administered on the conditions and under the circumstances common for the College’s advanced standing examinations. The College may grant as much as three semester hours of credit or its equivalent toward satisfaction of this requirement for substantially equivalent work completed by the student in the program of an approved senior R.O.T.C. unit. *Education Code 51.301*

The College shall not grant a degree or an academic certificate to any student unless the student has credit for six semester hours or its equivalent in American History. A student shall be entitled to submit as much as three semester hours of credit or its equivalent in Texas History in partial satisfaction of this requirement. The College may determine that a student has satisfied this requirement in whole or part on the basis of credit granted to the student by the College for a substantially equivalent course completed at another accredited college or university, or on the basis of the student’s successful completion of an advanced standing examination administered on the conditions and under the circumstances common for the College’s advanced standing examinations. The College may grant as much as three semester hours of credit or its equivalent toward satisfaction of this requirement for work completed by a student in the program of an approved senior R.O.T.C. unit. *Education Code 51.302*

The curricula of a 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)*
The governing board of a public junior college district located in one or more counties with a substantial and growing Mexican-American population shall evaluate the demand for and feasibility of establishing a Mexican-American studies program or other coursework in Mexican-American studies at one or more junior colleges in the College District. With approval of the Texas Higher Education Coordinating Board, the governing board may establish a Mexican-American studies program or other coursework in Mexican-American studies at any of those colleges if the governing board determines that such a program or coursework is desirable and feasible. *Education Code 130.0102*
The College District shall assess 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. The College District may not use the assessment or the results of the assessment as a condition of admission to the institution. *Education Code 51.3062(b); 19 TAC 4.55*

Under exceptional circumstances, the College District 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)*

The Coordinating Board shall designate one or more instruments for use by institutions of higher education in assessing students under this section. *Education Code 51.3062(c); 19 TAC 4.56*

The Coordinating Board shall prescribe standards for the assessment instrument or instruments that reflect that student readiness to perform freshman-level academic coursework. An institution of higher education may adopt more stringent assessment standards with respect to student readiness. *Education Code 51.3062(f); 19 TAC 4.57(b), (c)*

The College District 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); 19 TAC 4.58(a)(1)*

If a student fails to meet the assessment standards described above, the College District 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 College District may refer a student to developmental coursework as considered necessary by the College District to address a student’s deficiencies in the student's readiness to perform freshman-level academic coursework, except that the College District may not require enrollment in developmental coursework with respect to a student previously determined by any institution of higher education to have met college-readiness standards.

Each plan for academic success shall:

1. Be designed on an individual basis to provide the best opportunity for each student to succeed in performing freshman-level academic coursework.
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 TAC 4.59.

*Education Code 51.3062(h), (i); 19 TAC 4.58(b)*

**DETERMINATION OF READINESS**

The College District shall determine when a student is ready to perform freshman-level academic coursework. The College District must make its determination on an individual basis according to the needs of the student.

As indicators of readiness, the College District shall consider, as appropriate:

1. Performance in developmental education.
2. Performance in appropriate nondevelopmental coursework.
3. Performance on an assessment instrument described in 19 TAC 4.56 or performance on an assessment selected by the College District.
4. Performance on an assessment retake for those students who perform at or below the scores established by the Coordinating Board in 19 TAC 4.59(b).
5. Other indicators of readiness, as determined by the College District.

A student may retake an assessment instrument, subject to availability, at any time to determine readiness to perform freshman-level academic coursework.

*Education Code 51.3062(j), (k); 19 TAC 4.59*

**REPORTING**

At the end of each semester, the College District 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, Texas Success Initiative 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*
A student who has achieved a score set by the Coordinating Board on the Scholastic Assessment Test (SAT) or the American College Test (ACT) is exempt from the requirements of this section. An exemption under this subsection is effective for the five-year period following the date a student takes the test and achieves the standard set by the Coordinating Board.

A student who has achieved scores set by the Coordinating Board on the questions developed for end-of-course assessment instruments under Education Code 39.0233(a) is exempt from the requirements of this section. The exemption is effective for the three-year period following the date a student takes the last assessment instrument for purposes of this section and achieves the standard set by the Coordinating Board. This provision does not apply during any period for which the Coordinating Board designates the questions developed for end-of-course assessment instruments under Education Code 39.0233(a) as the primary assessment instrument under Education Code 51.3062, except that the three-year period described by this provision remains in effect for students who qualify for an exemption under this subsection before that period.

Education Code 51.3062 does not apply to:

1. A student who has graduated with an associate or baccalaureate degree from an institution of higher education;

2. A student who transfers to an institution of higher education 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;

3. A student who is enrolled in a certificate program of one year or less at a public junior college, a public technical institute, or a public state college;

4. A student who is serving on active duty as a member of:
   a. The armed forces of the United States; or
   b. The Texas National Guard;

5. A student who is currently serving as and, for at least the three-year period preceding enrollment, has served as a member of a reserve component of the armed forces of the United States; or

6. A student who on or after August 1, 1990, was honorably discharged, retired, or released from:
a. Active duty as a member of the armed forces of the United States or the Texas National Guard; or

b. Service as a member of a reserve component of the armed forces of the United States.

The College District may exempt a non-degree-seeking or non-certificate-seeking student from the requirements of this section.

*Education Code 51.3062(p), (q), (r), (s); 19 TAC 4.54*
### NO RELIGIOUS CEREMONIES

The District is committed to the constitutional principle of the separation of church and state. The District will neither advance nor inhibit religion. *U.S. Constitution, Amend. I; Lemon v. Kurtzman, 403 U.S. 602 (1971)*

### RELIGIOUS MEETINGS

Religious groups shall be permitted to use school facilities under the same rules and regulations applicable to other registered student groups. The college shall not appoint a faculty sponsor for these groups. *Widmar v. Vincent, 454 U.S. 263 (1981)*
RECRUITMENT AND RETENTION STRATEGY
The College District shall implement the uniform strategy to identify, attract, retain, and enroll students who reflect the population of the state developed by the Coordinating Board. *Education Code 61.086*

COMMON ADMISSION APPLICATION FORM
Beginning with applicants for admission for the 2007-08 academic year, the College District shall accept an application for admission as an entering freshman or undergraduate transfer student that uses the appropriate form adopted under *Education Code 51.762.*

RIGHT TO AN ACADEMIC FRESH START
Unless otherwise prohibited by law, a resident of this state is entitled to apply for admission to and enroll as an undergraduate student in any public institution of higher education under *Education Code 51.931.*

If an applicant elects to seek admission under this provision, the College District, in considering the applicant for admission, shall not consider academic course credits or grades earned by the applicant ten or more years prior to the starting date of the semester in which the applicant seeks to enroll. An applicant who makes the election to apply under this provision and is admitted as a student may not receive any course credit for courses undertaken ten or more years prior to enrollment.

Nothing in this provision prohibits a public institution of higher education from applying standard admissions criteria generally applicable to persons seeking admission to the institution.

*Education Code 51.931*

STUDENTS WITH NONTRADITIONAL SECONDARY EDUCATION
“Nontraditional secondary education” means a course of study at the secondary school level in a nonaccredited private school setting, including a homeschool.

The College District must treat an applicant for admission to the institution as an undergraduate student who presents evidence that the person has successfully completed a nontraditional secondary education according to the same general standards as other applicants for undergraduate admission who have graduated from a public high school.

The College District may not require an applicant for admission to the institution as an undergraduate student who presents evidence that the person has successfully completed a nontraditional secondary education to:

1. Obtain or submit evidence that the person has obtained a general education development certificate, certificate of high
IMMUNIZATIONS

The College District may require persons applying for admission to be immunized against diphtheria, rubeola, rubella, mumps, tetanus, and poliomyelitis.

The Texas Board of Health immunization requirements apply to all students enrolled in health-related courses that will involve direct patient contact in medical or dental care facilities, and to veterinary medical students whose course work involves direct contact with animals or animal remains regardless of the:

1. Number of courses taken.
2. Number of hours taken.
3. Classification of the student.

The College District shall comply with any modifications or deletions in this requirement that may be made by the Texas Board of Health.

[See FDAB]

NOTICE

The College District, in conjunction with the Texas Department of State Health Services, should provide individual notice to each student applying for admission regarding:

1. The consequences of not being current on immunization for certain diseases;
2. The age groups most vulnerable to these vaccine-preventable diseases; and
3. Local providers of immunization services.

Education Code 51.933; 25 TAC 97.63

ADDITIONAL REQUIREMENTS

If there is an outbreak of vaccine-preventable diseases in or near a community, the local health authority may require or recommend additional doses or boosters to provide further protection for students attending institutions of higher education. 25 TAC 97.72

FOREIGN STUDENTS

A College District that seeks to enroll a nonimmigrant, alien student holding an F visa (academic institutions), J visa (exchange student program), or M visa (nonacademic institutions), including a “border
commuter’ student holding an F-3 or M-3 visa (Canadian and Mexican nationals), must apply to the United States Attorney General for approval.

The College District must also apply for a password to submit electronic data regarding nonimmigrant students through the Student and Exchange Visitor Information System (SEVIS). The College District shall provide the information set forth at 8 U.S.C. 1372(c) and 8 CFR 214.3(g), regarding each student with an F, J, or M visa. Within 21 days of a change in any of the information, the College District must update SEVIS with the current information.

8 U.S.C. 1372; 8 CFR 214.3(a)(1)(i), (g), (h)

Within 30 days after the deadline for registering for classes for an academic term, the College District shall report to the Immigration and Naturalization Service any failure to enroll a student holding an F, J, or M visa. 8 U.S.C. 1372(a)(4); 8 CFR 214.3(g)(2)

A College District may not refuse to report information concerning a student holding an F, J, or M visa on the basis of the Family Educational Rights and Privacy Act (FERPA) and any regulation implementing FERPA. The College District is authorized and required to report information that would ordinarily be protected by FERPA only to the extent required by 8 U.S.C. 1372, 8 CFR 214.3, or any corresponding regulation. 8 U.S.C. 1372(c)(2); 8 CFR 214.1(h)

This section applies only to a student who withdraws from the College District to perform active military service as a member of the United States Armed Forces or the Texas National Guard, except that this section does not apply to a student who withdraws from the College District solely to perform one or more training exercises as a member of the Texas National Guard.

For any academic term that begins after the date a student described above is released from active military service but not later than the first anniversary of that date, the College District from which the student withdrew shall readmit the student, without requiring reapplication or charging a fee for readmission, if the student is otherwise eligible to register for classes at the College District. On readmission of the student under this subsection, the College District shall:

1. Provide to the student any financial assistance previously provided by the College District to the student before the student’s withdrawal if the student meets current eligibility requirements for the assistance, other than any requirement directly affected by the student’s services, such as continuous enrollment or another similar timing requirement; and
2. Allow the student the same academic status that the student had before the student’s withdrawal, including any course credit awarded to the student by the College District.

The College District may adopt rules requiring reasonable proof from a student of the fact and duration of the student’s active military service.

*Education Code 51.9242*
The College District may not collect from students attending the institution any tuition, except as permitted by law. No student may be refused admission to or discharged from any institution for the nonpayment of any tuition, except as permitted by law. Education Code 54.003

The College District shall comply with Education Code Section 130.003, State Appropriation for Public Junior Colleges, in regard to the collection of fees and tuition. Education Code 130.003

On or before the dates for reporting official enrollments each semester to the Coordinating Board, the College District shall collect in full from each student that is to be counted for formula funding purposes the amounts set as tuition by the respective governing boards. Valid contracts with the U.S. Government for instruction of eligible military personnel, approved financial assistance, and valid contracts with private business and public service organizations or institutions such as hospitals, may be considered as collected tuition and fees; the amount of collected tuition and fees may be adjusted pursuant to terms of the contract once actual collections are made. 19 TAC 21.4(a)(1), (3)

For billing and catalogue purposes, the Board shall accumulate all the tuition that it charges under Education Code Chapter 54, into one tuition charge. Education Code 54.015

The College District shall report to the Coordinating Board the types and amounts of tuition and fees charged to students by semester during the previous academic year. In reporting the types and amounts of tuition and fees charged to students, the College District shall classify the tuition and fees according to the definitions of those terms provided in 19 TAC 13.142. 19 TAC 13.143

The Board may exempt from payment of tuition all students who are residents of the College District and who are enrolled for 12 or more semester credit hours, provided that this action will allow the College District to participate in and benefit from funds available as provided by Sections 1–7, Title I, 64 Stat. 1100, as amended, 20 U.S.C. Secs. 236–241–1. Education Code 130.085(a)

Students attending the College District may be exempt from the payment of tuition as allowed by law. Education Code chapter 54, subsection D; Education Code 130.008

The definitions found in 19 TAC, Chapter 13, subchapter H are to be applied to all tuition and fee exemption and waiver programs provided under Education Code, Chapter 54. 19 TAC 21.7
sider the fact that the person is eligible for an exemption under Education Code 54.203. Education Code 54.203(j)

TUITION RATES

Tuition for resident students shall be determined by the Board, but may not be less than $8 per semester credit hour and may not total less than $25 for a semester. Tuition for a nonresident student shall be determined by the Board, but may not be less than $200 for each semester. Education Code 54.051(n)


The Board of the College District may set and collect 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 subsection must satisfy the requirements of Education Code 54.051(n). The Board may set a different tuition rate for each program, course, or course level offered by the College District, including a program, course, or course level to which a provision of Education Code 54.051 applies, as the Board considers appropriate to reflect course costs or to promote efficiency or another rational purpose. Education Code 130.084(b)

NONRESIDENT TUITION

"Nonresident tuition" means the amount of tuition paid by a person who is not a resident of this state and who is not entitled or permitted to pay resident tuition under this subchapter. Education Code 54.0501(4); 19 TAC 21.728(16)

The Board shall establish the rate of tuition and fees charged to a student who resides outside the College District by considering factors such as:

1. The sufficiency of the rate to promote taxpayer equity by encouraging areas benefiting from the educational services of the College District to participate in financing the education of students from that area;

2. The extent to which the rate will ensure that the cost to the College District of providing educational services to a student who resides outside the College District is not financed disproportionately by the taxpayers residing within the College District; and

3. The rate that would generate tuition and fees equal to the total amount of tuition and fees charged to a similarly situated student who resides in the College District plus an amount per credit hour determined by dividing the total amount of ad valorem taxes imposed by the College District in the tax year preceding the year in which the academic year begins by the total number of credit hours for which the students who were...
residents of the College District enrolled in the College District in the preceding academic year.

*Education Code 130.0032*

The Board may allow a person who resides outside of the College District and who owns property subject to ad valorem taxation by the College District, or a dependent of the person, to pay tuition at the rate applicable to a student who resides in the College District.

The Board may allow a person who resides outside the College District and in the taxing district of a contiguous Public Junior College District to pay tuition and fees at the rate applicable to a student who resides in the College District.

The Board may allow a person who resides outside the College District to pay tuition and fees at a rate less than the rate applicable to other persons residing outside the College District, but not less than the rate applicable to a student who resides in the College District, if the person:

1. Resides within the service area of the College District;
2. Does not reside in an independent school district that meets the criteria of the Coordinating Board for the establishment of a junior college district under Section 130.013; and
3. Demonstrates financial need in accordance with rules adopted by the Texas Higher Education Coordinating Board.

*Education Code 130.0032*

Students enrolled in a course under an agreement described by Education Code 130.0081(a), are entitled to pay tuition and fees at the rate applicable to a student who resides in the College District. *Education Code 130.0081(b)* [See AC(LEGAL)]

FOREIGN STUDENTS

Unless the student establishes residency or is entitled or permitted to pay resident tuition as provided by Education Code Chapter 54, Subchapter B, tuition for a student who is a citizen of any country other than the United States of America is the same as tuition required of other nonresident students. *Education Code 54.051(m)*

RESIDENTS OF MEXICO

The foreign student tuition fee does not apply to a foreign student who is a resident of Mexico, who demonstrates financial need according to standards set by the Coordinating Board, and who registers for lower division courses at a community or junior college having a partnership agreement pursuant to Education Code Chapter 51, Subchapter N, with an upper-level university. Both the college and the university must be located in the county immediately adjacent to Mexico. A qualifying student shall pay tuition...
equal to that charged Texas residents under Education Code 54.051 and 54.0512. *Education Code 54.060*

**ARMED FORCES**

A person who is an officer, enlisted person, selectee, or draftee of the Army, Army Reserve, Army National Guard, Air National Guard, Air Force, Air Force Reserve, Navy, Navy Reserve, Marine Corps, Marine Corps Reserve, Coast Guard, or Coast Guard Reserve of the United States, or a Commissioned Officer of the Public Health Service who is assigned to duty in Texas, and the spouse and children of such an officer, enlisted person, selectee, or draftee, are entitled to register in a state institution of higher education by paying the tuition fee and other fees or charges required of Texas residents, without regard to the length of time the officer, enlisted person, selectee, or draftee has been assigned to duty or resided in the state. However, out-of-state Army National Guard or Air National Guard members attending training with Texas Army or Air National Guard units under National Guard Bureau regulations may not be exempted from nonresident tuition by virtue of that training status nor may out-of-state Army, Air Force, Navy, Marine Corps, or Coast Guard Reserves training with units in Texas under similar regulations be exempted from nonresident tuition by virtue of that training status. It is the intent of the legislature that only those members of the Army or Air National Guard or other reserve forces mentioned above be exempted from the nonresident tuition fee and other fees and charges only when they become members of Texas units of the military organizations mentioned above.

The spouse or child of a member of the Armed Forces of the United States or a Commissioned Officer of the Public Health Service who has been assigned to duty elsewhere immediately following assignment to duty in Texas are entitled to pay the tuition fees and other fees or charges provided for Texas residents as long as the spouse or child resides continuously in Texas.

A spouse or dependent child of a member of the Armed Forces of the United States who is not assigned to duty in Texas but who has previously resided in Texas for a six-month period, is entitled to pay the tuition fees and other fees or charges provided for Texas residents for a term or semester at an institution of higher education if the member:

1. At least one year preceding the first day of the term or semester executed a document with the applicable military service that is in effect on the first day of the term or semester and that:
   a. Indicates that the member’s permanent resident address is in Texas; and
b. Designates Texas as the member’s place of legal residence for income tax purposes;

2. Has been registered to vote in Texas for the entire year preceding the first day of the term or semester; and

3. Satisfies at least one of the following requirements:
   a. For the entire year preceding the first day of the term or semester has owned real property in Texas and in that time has not been delinquent in the payment of any taxes on the property;
   b. Has had an automobile registered in Texas for the entire year preceding the first day of the term or semester; or
   c. At least one year preceding the first day of the term or semester executed a will that has not been revoked or superseded indicating that the member is a resident of this state and deposited the will with the county clerk of the county of the member’s residence under Section 71, Texas Probate Code.

A Texas institution of higher education may charge to the United States government the nonresident tuition fee for a veteran enrolled under the provisions of a federal law or regulation authorizing educational or training benefits for veterans.

The spouse or dependent child of a member of the Armed Forces of the United States or a Commissioned Officer of the Public Health Service who dies or is killed is entitled to pay the resident tuition fee if the spouse or child become residents of Texas within 60 days of the date of death.

If a member of the Armed Forces of the United States or a Commissioned Officer of the Public Health Service is stationed outside Texas and the member’s spouse or child establishes residence in Texas by residing in Texas and by filing with the Texas institution of higher education at which the spouse or child plans to register a letter of intent to establish residence in Texas, the institution of higher education shall permit the spouse or child to pay the tuition, fees, and other charges provided for Texas residents without regard to length of time that the spouse or child has resided in Texas.

A former member of the Armed Forces of the United States, a Commissioned Officer of the Public Health Service or the spouse or dependent child of the former member or officer is entitled to pay the tuition fees and other fees or charges provided for Texas residents for any term or semester at a state institution of higher edu-
cation that begins before the first anniversary of the member’s separation from the Armed Forces if the former member:

1. Has retired or been honorably discharged from the Armed Forces;

2. At least one year preceding the first day of the term or semester executed a document with the applicable military service that is in effect on the first day of the term or semester and that:
   a. Indicates that the member’s permanent resident address is in Texas; and
   b. Designates Texas as the member’s place of legal residence for income tax purposes;

3. Has been registered to vote in Texas for the entire year preceding the first day of the term or semester; and

4. Satisfies at least one of the following requirements:
   a. For the entire year preceding the first day of the term or semester has owned real property in Texas and in that time has not been delinquent in the payment of any taxes on the property;
   b. Has had an automobile registered in Texas for the entire year preceding the first day of the term or semester; or
   c. At least one year preceding the first day of the term or semester executed a will that has not been revoked or superseded indicating that the member is a resident of this state and deposited the will with the county clerk of the county of the member’s residence under Section 71, Texas Probate Code.

A member of the Armed Forces of the United States or the child or spouse of a member of the Armed Forces of the United States who is entitled to pay tuition and fees at the rate provided for Texas residents under another provision of this section while enrolled in a degree or certificate program is entitled to pay tuition and fees at the rate provided for Texas residents in any subsequent term or semester while the person is continuously enrolled in the same degree or certificate program. For purposes of this provision, a person is not required to enroll in a summer term to remain continuously enrolled in a degree or certificate program. The person’s eligibility to pay tuition and fees at the rate provided for Texas residents under this provision does not terminate because the person is no longer a member of the Armed Forces of the United States or
the child or spouse of a member of the Armed Forces of the United States.

*Education Code 54.058; 19 TAC 21.735(10)*

**SCHOLARSHIP STUDENTS**

A student who holds a competitive scholarship of at least $1,000 for the academic year or summer for which the student is enrolled and who is either a nonresident or a citizen of a country other than the United States of America is entitled to pay the fees and charges required of Texas residents without regard to the length of time the student has resided in Texas. The student must compete with other students, including Texas residents, for the scholarship and the scholarship must be awarded by a scholarship committee recognized by the administration and must be approved by the Coordinating Board. *Education Code 54.064; 19 TAC 21.735(4)*

**RESIDENT OF BORDERING STATE**

The nonresident tuition fee shall not apply to a nonresident student who is a resident of Arkansas, Louisiana, New Mexico, or Oklahoma and who registers in a Texas public junior college situated in a county immediately adjacent to the state in which the nonresident student resides. The nonresident junior college student described in this section shall pay an amount equivalent to the amount charged a Texas student registered at a similar school in the state in which the nonresident student resides. *Education Code 54.060; 19 TAC 21.735(5)(A)*

**EMPLOYEES AND DEPENDENTS**

A teacher or professor of an institution of higher education, and the spouse and children of such a teacher or professor, are entitled to register in an institution of higher education by paying the tuition fee and other fees or charges required for Texas residents without regard to the length of time the teacher or professor has resided in Texas. A teacher or professor of an institution of higher education and the teacher’s or professor’s family are entitled to the benefit of this section if the teacher or professor is employed at least one-half time on a regular monthly salary basis by an institution of higher education. *Education Code 54.059; 19 TAC 21.735(2)*

**ECONOMIC DEVELOPMENT AND DIVERSIFICATION**

A person who registers at an institution of higher education without having established resident status in this state under Education Code 54.052 is entitled to pay tuition and required fees at the rate provided for residents of this state if:

1. The person or, as determined by Coordinating Board rule, an adult member of the person’s family who resides in the person’s household and is a primary caretaker of the person establishes by the institution’s enrollment date a residence in this state as a result of the person’s or caretaker’s employment by a business or organization that became established in this state as part of the program of state economic devel-
opment and diversification authorized by the law of this state; and

2. The person files with that institution of higher education a letter of intent to establish residency in this state.

_Education Code 54.073; 19 TAC 21.735(1)_

**NATO AGREEMENT**

A nonimmigrant alien who resides in this state in accordance with the Agreement between the Parties to the North Atlantic Treaty Regarding the Status of Their Forces and the spouse or children of that alien are considered to be residents for tuition and fee purposes under this title. _Education Code 54.074; 19 TAC 21.735(10)(G)_

**TEXAS TOMORROW FUND BENEFICIARIES**

Beneficiaries of the Texas Tomorrow Fund shall pay resident tuition and required fees for semester hours paid under the prepaid tuition contract. If the person is not a Texas resident, all tuition and fees not paid under the contract shall be paid at the nonresident rate. _19 TAC 21.735(6)_

**INMATES**

All inmates of the Texas Department of Criminal Justice shall pay resident tuition. _19 TAC 21.735(7)_

**FOREIGN SERVICE OFFICERS**

A foreign service officer employed by the United States Department of State and enrolled in an institution of higher education is entitled to pay the tuition and fees at the rates provided for Texas residents if the person is assigned to an office of the Department of State that is located in Mexico. _Education Code 54.070; 19 TAC 21.735(7)_

**STUDENTS 55 YEARS OF AGE OR OLDER**

The College District may charge a student 55 years of age or older tuition and fees at rates that are lower than the rates otherwise provided, under the condition that a student under 55 years of age will not be precluded from enrolling in a course for credit toward a degree or certificate. The College District may set additional qualifications that a student must meet to qualify for tuition and fees at rates set under this section and may set different rates for different programs, campuses, or courses. The College District may set rates under this section for resident students, nonresident students, or both, and may set different rates for resident students and nonresident students.

A tuition or fee rate set under this section must apply uniformly to each student that meets the applicable qualifications set by the College District to pay tuition or fees at that rate.

_Education Code 54.013_
LIABILITY FOR UNPAID NONRESIDENT TUITION

If an institution of higher education erroneously classifies a person as a resident of this state and the person is not entitled or permitted to pay resident tuition under this subchapter, the institution of higher education shall charge nonresident tuition to the person beginning with the first academic term that begins after the date the institution discovers the error. Not earlier than the first day of that term, regardless of whether the person is still enrolled at the institution, the institution may request the person to pay the difference between resident and nonresident tuition for an earlier term as permitted by Education Code 54.057. For nonpayment of the amount owed, the institution may impose sanctions only as provided by that section. The institution may not require payment as a condition for any subsequent enrollment by the person in the institution.

Regardless of the reason for the error, if an institution of higher education erroneously classifies a person as a nonresident of this state, the institution shall charge resident tuition to the person beginning with the academic term in which the institution discovers the error. The institution immediately shall refund to the person the amount of tuition the person paid in excess of resident tuition. Education Code 54.056

REPEATED COURSES OR EXCESSIVE HOURS

The College District may charge a student tuition at a higher rate than would otherwise be charged for certain repeated courses or excessive hours, as allowed by law. Education Code 130.0034; 54.014; 19 TAC Chapter 13, subchapter F

The College District shall inform in writing each new undergraduate student enrolling at the College District of the limitation provided by law on the number of hours or types of courses that a Texas resident is entitled to complete while paying tuition at the rate provided for Texas residents and the tuition rate that will be charged to affected students. Education Code 54.014(e); 19 TAC 13.109(b)

INSTALLMENT PLAN

The Board shall provide for the payment of tuition and fees during the fall and spring semesters through the following alternatives:

1. Full payment of tuition and fees in advance of the beginning of the semester; or

2. One-half payment of tuition and fees in advance of the beginning of the semester, one-quarter payment prior to the start of the sixth class week, and the final one-quarter payment before the beginning of the eleventh class week.

The Board may permit the payment of tuition and fees during a summer term through the following alternatives:
1. For a student enrolled for a summer term of 12 weeks or longer that is not covered by item 2 below, one-half payment of tuition and fees in advance of the beginning of the summer term, one-quarter payment before the beginning of the fifth class week, and the final one-quarter payment before the beginning of the ninth class week;

2. For a student enrolled for a summer term of 16 weeks or longer, one-half payment of tuition and fees in advance of the beginning of the summer term, one-quarter payment before the beginning of the sixth class week, and the final one-quarter payment before the beginning of the 11th class week; and

3. For a student enrolled for a summer term not covered by items 1 and 2 above in a public junior college, public technical institution, or public state college, one-half payment of tuition and fees in advance of the beginning of the summer term and the remaining amount in one or two later payments to be made in the percentages and by the dates determined by the Board of the College District or institute, provided that the final payment must be made before the beginning of the last week of the summer term.

A student who fails to make full payment of tuition and fees, including any incidental fees, by the due date may be prohibited from registering for classes until full payment is made. A student who fails to make payment prior to the end of the semester may be denied credit for the work done that semester. The Board may not impose on a student any sanction authorized by this subsection unless the Board includes in any promissory note signed by a student the following statement printed in boldfaced type or in capital letters: “A STUDENT WHO FAILS TO MAKE FULL PAYMENT OF TUITION AND FEES, INCLUDING ANY INCIDENTAL FEES, BY THE DUE DATE MAY BE PROHIBITED FROM REGISTERING FOR CLASSES UNTIL FULL PAYMENT IS MADE. A STUDENT WHO FAILS TO MAKE PAYMENT PRIOR TO THE END OF THE SEMESTER MAY BE DENIED CREDIT FOR THE WORK DONE THAT SEMESTER.” The governing board shall notify a student of any delinquent tuition or fee payment as soon as practicable. The College District’s records may be adjusted to reflect the student’s failure to have properly enrolled for that semester.

Education Code 54.007(a), (b), (d)

A student may elect to pay the tuition and fees of the College District by installment under this section regardless of whether the student intends to apply a financial aid award administered by the College District toward the tuition and fees, except that a student
whose financial aid award or awards are available to cover the total amount of tuition and fees may not pay by installment under this section.

On receipt of notice of a student’s election to pay tuition and fees by installment, the governing board of the College District shall apply any financial aid award administered for the student toward the amount of tuition and fees due for that semester or summer session until the tuition and fees are paid in full and shall immediately release any remaining amount of the award to the student, except that the institution is not required to apply the award or awards toward the total amount of tuition and fees in exigent circumstances as determined by the institution.

The Board shall require a student who elects to pay tuition and fees by installment under Education Code 54.007 to enter into a written agreement reflecting the terms and conditions required by that section.

*Education Code 54.007(f)*

The Board of the College District may postpone the due date for the payment of all or part of the tuition and fees for a student for a semester or summer session in which the student will receive one or more delayed financial aid awards if the student has not received the awards by the regular due date for payment of the tuition and fees and the student agrees to assign to the College District a portion of the awards equal to the amount of tuition and fees for which the due date is postponed. *Education Code 54.0071; 19 TAC 21.4(b)*

A student paying tuition and fees by installments shall be granted the options of delayed payment if he or she is awaiting the disbursement of financial aid. *19 TAC 21.4(c)*

If the College District’s financial aid office has awarded aid to a student but the College District has not received the relevant disbursements by the date that tuition and fees must be paid, the student’s aid is delayed. *19 TAC 21.4(b)(1)*

*Credit Card Fees*

An institution of higher education may charge a fee or other amount in connection with a payment of tuition, a fee, or another charge to an institution of higher education that is made or authorized in person, by mail, by telephone call, or through the Internet by means of an electronic funds transfer or a credit card, in addition to the amount of the tuition, fee, or other charge being paid, including:

1. A discount, convenience, or service charge for the transaction; or
2. A service charge in connection with a payment transaction that is dishonored or refused for lack of funds or insufficient funds.

A fee or other charge under Education Code 54.5011 must be in an amount reasonable and necessary to reimburse the institution for the expense incurred by the institution in processing and handling the payment or payment transaction.

Before accepting a payment by credit card, the institution shall notify the student of any fee to be charged.

*Education Code 54.5011*

**WITHDRAWAL FOR MILITARY SERVICE**

If a student withdraws because he or she is called to active military service, the College District, at the student’s option, shall refund the tuition and fees paid by the student for the semester in which the student withdraws. *Education Code 54.006(f)* [See EGA for grading and credit options]

**REFUNDS AND ADJUSTMENTS OF TUITION AND FEES**

As soon as practicable, a college district shall refund the amount of tuition and mandatory fees collected for courses from which students drop within the first 12 days of a fall or spring semester or a summer term of ten weeks or longer, within the first four days of a term or session of more than five weeks but less than ten weeks, or within the period specified by the college district for a term or session of five weeks or less that is substantially proportional to the period specified by this subsection for a longer term or session. *Education Code 54.006(a)*

The College District may not delay a refund under this subsection on the grounds that the student may withdraw from the institution or unit later in the semester or term.

A college district may assess a nonrefundable $15 matriculation fee if the student withdraws from the institution before the first day of classes.

*Education Code 54.006(a-1)*

Generally, a college district shall refund from the amount paid by a student withdrawing from the college district an amount equal to the product of the amount of tuition and mandatory fees charged for each course in which the student is enrolled on the date the student withdraws multiplied by the applicable percentage derived from the following tables:

1. If the student withdraws during a fall or spring semester or a summer term of ten weeks or longer:
   a. Prior to the first class day = 100 percent;
b. During the first five class days = 80 percent;
c. During the second five class days = 70 percent;
d. During the third five class days = 50 percent;
e. During the fourth five class days = 25 percent;
f. After the fourth five class days = none.

2. If the student withdraws during a term or session of more than five weeks but less than ten weeks:
   a. Prior to the first class day = 100 percent;
   b. During the first, second, or third class day = 80 percent;
   c. During the fourth, fifth, or sixth class day = 50 percent;
   d. Seventh day of class and thereafter = none.

3. If the student withdraws from a term or session of five weeks or less:
   a. Prior to the first class day = 100 percent;
   b. During the first class day = 80 percent;
   c. During the second class day = 50 percent;
   d. During the third class day and thereafter = none.

*Education Code 54.006(b)*

If a student has not paid the total amount of the tuition and mandatory fees charged to the student by the institution or unit for the courses in which the student is enrolled by the date the student withdraws from the college district, instead of issuing the student a refund in the amount required by the above provisions, the college district may credit the amount to be refunded toward the payment of the outstanding tuition and mandatory fees owed by the student. The college district shall issue a refund to the student if any portion of the amount to be refunded remains after the outstanding tuition and mandatory fees have been paid. *Education Code 54.006(b-1)*

A college district may provide to a student withdrawing from the college district a refund of a portion of the tuition and mandatory fees charged to the student by the college district for the courses in which the student is enrolled on the date the student withdraws in an amount greater than the amounts listed in the chart above. The institution or unit may apply the portion of the refund authorized by this provision toward the payment of any outstanding tuition and
fees as described above, and may refund the remainder of that portion in the form of either:

1. A payment made directly to the student; or

2. Credit toward payment of tuition and mandatory fees for a subsequent semester or other academic term at the institution or unit.

*Education Code 54.006(b-2)*

**REFUNDS FOR OPTIONAL FEES**

Separate withdrawal refund schedules may be established for optional fees. *Education Code 54.006(c)*

**DONATED FUNDS REFUNDED TO SOURCE**

A college district shall refund tuition and fees paid by a sponsor, donor, or scholarship to the source rather than directly to the student who has withdrawn if the funds were made available through the college district. *Education Code 54.006(d)*

**STUDENT SERVICES MAY BE TERMINATED AT WITHDRAWAL**

A college district may terminate a student’s services and privileges, including health services, library privileges, facilities and technology usage, and athletic and cultural entertainment tickets, when the student withdraws from the institution. *Education Code 54.006(e)*

**WITHDRAWAL DUE TO MILITARY SERVICE**

If a student withdraws from a college district because the student is called to active military service, the institution, at the student’s option, shall:

1. Refund the tuition and fees paid by the student for the semester in which the student withdraws;

2. Grant a student, who is eligible under the institution’s guidelines, an incomplete grade in all courses by designating "withdrawn-military" on the student’s transcript; or

3. As determined by the instructor, assign an appropriate final grade or credit to a student who has satisfactorily completed a substantial amount of coursework and who has demonstrated sufficient mastery of the course material.

*Education Code 54.006(f)*
Texas residency shall be determined according to statute and Coordinating Board rules. *Education Code 54.052; 19 TAC 21.727*

The College District shall designate an individual that is employed by the College District as a Residence Determination Official. The Residence Determination Official shall be knowledgeable of the requirements set out in Coordinating Board rules and the applicable statutes; and attend at least one training or workshop provided by the Coordinating Board regarding the rules and applicable statutes in each state fiscal year. *19 TAC 21.736*

In this subchapter:

1. “Census date” means the date in an academic term on which the College District is required to certify a student’s enrollment to the Coordinating Board for purposes of determining formula funding for the College District. *Education Code 54.0501; 19 TAC 21.728(1)*

2. “Dependent” means a person who:
   a. Is less than 18 years of age and has not been emancipated by marriage or court order; or
   b. Is eligible to be claimed as a dependent of a parent of the person for purposes of determining the parent’s income tax liability under the Internal Revenue Code of 1986. *Education Code 54.0501; 19 TAC 21.728(4)*

3. “Domicile” means a person’s principal, permanent residence to which the person intends to return after any temporary absence. *Education Code 54.0501; 19 TAC 21.728(5)*

A domicile in Texas is presumed if, at least 12 months prior to the census date of the semester in which he or she is to enroll, the person owns real property in Texas, owns a business in Texas, or is married to a person who has established a domicile in Texas. Gainful employment other than work-study and other such student employment can also be a basis for establishing domicile. *19 TAC 21.730(d)*

The temporary presence of a person or a dependent’s parent in Texas for the purpose of service in the U.S. Armed Forces, Public Health Service, Department of Defense or service with the U.S. Department of State, or as a result of any other type of employment assignment does not preclude the person or parent from establishing a domicile in Texas. *19 TAC 21.730(f)*
4. “Established a domicile in Texas” means a person has met the conditions shown in 19 TAC 21.730(d). 19 TAC 21.728(7)

5. “Maintain a residence” means to physically reside in a location. The maintenance of a residence is not interrupted by a temporary absence from the state, as provided in 19 TAC 21.730(e). 19 TAC 21.728(14)

6. “Parent” means a natural or adoptive parent, managing or possessory conservator, or legal guardian of a person. The term does not include a step-parent. Education Code 54.0501; 19 TAC 21.728(17)

7. “Regular semester” means a fall or spring semester, typically consisting of 16 weeks. 19 TAC 21.728(21)

8. “Residence” means a person’s home or other dwelling place. Education Code 54.0501; 19 TAC 21.728(22)

9. “Temporary absence” means an absence from the state of Texas with the intention to return, generally for a period of less than five years. 19 TAC 21.728(25)

The temporary absence of a person or a dependent’s parent from the state for the purpose of service in the U.S. Armed Forces, Public Health Service, Department of Defense, U.S. Department of State, as a result of an employment assignment, or for educational purposes, shall not affect a person’s ability to continue to claim that he or she is a domiciliary of this state. The person or the dependent’s parent shall provide documentation of the reason for the temporary absence. 19 TAC 21.730(e)

RESIDENTS

Subject to the other applicable provisions of Education Code Chapter 54, Subchapter B governing the determination of resident status, the following persons are considered residents of this state for purposes of this title:

1. A person who:
   a. Established a domicile in this state not later than one year (12 months) before the census date of the academic term in which the person is enrolled in an institution of higher education; and
   b. Maintained that domicile continuously for the year (12 months) immediately preceding the census date of the academic semester in which the person enrolls in an institution.

   Education Code 54.052; 19 TAC 21.730(a)(2)
To apply for residence status under this provision, a person must submit the following information:

c. A statement of the dates and length of time the person has resided in this state, as relevant to establish resident status under this subchapter; and

d. A statement by the person that the person’s presence in this state for that period was for a purpose of establishing and maintaining a domicile.

*Education Code 54.053*

2. A dependent whose parent:

   a. Established a domicile in this state not later than one year (12 months) before the census date of the academic term in which the dependent is enrolled in an institution of higher education; and

   b. Maintained that domicile continuously for the year (12 months) immediately preceding the census date of the academic semester in which the person enrolls in an institution.

*Education Code 54.052; 19 TAC 21.730(a)(3)*

To apply for residence status under this provision, a person must submit the following information:

c. A statement of the dates and length of time any parent of the person has resided in this state, as relevant to establish resident status under this subchapter; and

d. A statement by the parent or, if the parent is unable or unwilling to provide the statement, a statement by the person that the parent’s presence in this state for that period was for a purpose of establishing and maintaining a domicile.

*Education Code 54.053*

3. A person who:

   a. Graduated from a public or accredited private high school in this state or, as an alternative to high school graduation, received the equivalent of a high school diploma in this state, including the successful completion of a nontraditional secondary education; and

   b. Maintained a residence continuously in this state for:
(1) The three years (36 months) immediately preceding the date of graduation or receipt of the diploma equivalent, as applicable; and

(2) The year (12 months) preceding the census date of the academic term in which the person is enrolled in an institution of higher education.

*Education Code 54.052; 19 TAC 21.730(a)(1)*

To apply for residence status under this provision, a person must submit the following information:

c. A statement of the dates and length of time the person has resided in this state, as relevant to establish resident status under this subchapter; and

d. If the person is not a citizen or permanent resident of the United States, an affidavit stating that the person will apply to become a permanent resident of the United States as soon as the person becomes eligible to apply.

*Education Code 54.053; 19 TAC 21.731(c)*

For purposes of this section, the domicile of a dependent’s parent is presumed to be the domicile of the dependent unless the person establishes eligibility for resident status under the third option.  

*Education Code 54.052; 19 TAC 21.730(c)*

Non-U.S. citizens may establish a domicile in this state, as allowed by law.  

*19 TAC 21.730(b)*

**EVIDENCE OF RESIDENT STATUS**

An institution of higher education may not require a person to provide evidence of resident status that is not required by Coordinating Board rule.  

*Education Code 54.075(b); 19 TAC 21.731(d)*

**CONTINUING RESIDENT STATUS**

A person classified by an institution of higher education as a resident of this state under Education Code Chapter 54, Subchapter B is entitled, without submitting the information required by Education Code 54.053, to be classified as a resident by that institution in each subsequent academic term in which the person enrolls.

A person classified by an institution of higher education as a resident is entitled, without submitting the information required by Education Code 54.053 to the subsequent institution, to be classified as a resident by another institution of higher education in which the person subsequently enrolls.

*Education Code 54.054(a), (b)*

A person who was enrolled in an institution for any part of the previous state fiscal year and who was classified as a resident of this
state under Education Code Chapter 54, Subchapter B in the last academic period of that year for which the person was enrolled is considered to be a resident of this state for purposes of this subchapter, as of the beginning of the fall 2006 semester. If the College District acquires documentation that a person is a continuing student who was classified as a resident at the previous institution, no additional documentation is required. 19 TAC 21.732(a)

EXCEPTIONS

A person who enrolls in an institution of higher education after two or more consecutive regular semesters during which the person is not enrolled in an institution of higher education must submit the information required by Education Code 54.053 and 19 TAC 21.731 and satisfy all applicable requirements to establish resident status for that enrollment. If the person is classified as a resident on that enrollment, Education Code 54.054(a) and (b) apply to the person in a subsequent enrollment. Education Code 54.054(c); 19 TAC 21.732(c)

ADDITIONAL OR CHANGED INFORMATION

On the basis of additional or changed information, an institution of higher education may reclassify as a resident or nonresident of this state under Education Code Chapter 54, Subchapter B a person who has previously been classified as a resident or nonresident under the subchapter. A reclassification does not apply to an academic term if the reclassification is made on or after the census date of that term. If the reclassification is made prior to the census date, it will apply to the current semester. Education Code 54.055; 19 TAC 21.733

If an institution of higher education erroneously classifies a person as a resident of this state and the person is not entitled or permitted to pay resident tuition under Education Code Chapter 54, Subchapter B, the institution of higher education shall charge nonresident tuition to the person beginning with the first academic term that begins after the date the institution discovers the error. Education Code 54.056; 19 TAC 21.734 [See FBB(LEGAL)]

If an institution erroneously classified a person as a resident of this state and the person is entitled or permitted to pay resident tuition, that person is not liable for the difference between resident and nonresident tuition under this section. 19 TAC 21.734(d)
College Districts may require immunizations against diphtheria, rubeola, rubella, mumps, tetanus, and poliomyelitis.

The Texas Board of Health immunization requirements apply to all students enrolled in health-related courses that will involve direct patient contact in medical or dental care facilities and to veterinary medical students whose course work involves direct contact with animals or animal remains regardless of:

1. Number of courses taken.
2. Number of hours taken.
3. Classification of the student.

The College District shall comply with any modifications or deletions in this requirement that may be made by the Texas Board of Health.

*Education Code 51.933; 25 TAC 97.64*

**EXCEPTIONS**

Immunization is not required for admission to the College District if the student submits to the admitting official:

**MEDICAL REASONS**

1. An affidavit or a certificate signed by the student's physician (M.D. or D.O.) who is duly registered and licensed to practice medicine in the United States and who has examined the student.

   The affidavit or certificate must state that, in the physician’s opinion, the immunization required is medically contraindicated or poses a significant risk to the health and well-being of the student or any member of the student’s household. Unless it is written in the statement that a lifelong condition exists, the exemption statement is valid for only one year from the date signed by the physician.

   or

**REASONS OF CONSCIENCE**

2. An affidavit signed by the student or, if a minor, the student’s parent or guardian stating that the student declines immunization for reasons of conscience, including a religious belief. The affidavit will be valid for a two-year period.

   The affidavit must be on a form obtained from the Department of Health and must be submitted to the admitting official not later than the 90th day after the date the affidavit is notarized.

   A student who has not received the required immunizations for reasons of conscience may be excluded from school in times of emergency or epidemic declared by the commissioner of public health.
3. Proof that he or she is a member of the armed forces of the United States and is on active duty.

*Education Code 51.933(d); 25 TAC 97.62*

**PROVISIONAL ENROLLMENT**

Students whose course work involves direct patient contact may be provisionally enrolled for up to one semester or one quarter. The provisional enrollment will allow students to attend classes while obtaining the required immunizations and documentation (immunization records) of required immunizations. Student health care providers cannot be provisionally enrolled without receipt of at least one dose of MMR vaccine, if direct patient contact will occur during the provisional enrollment period, unless exclusions, waivers, or verification of illnesses apply to the student. *25 TAC 97.64(b), (c)*

The Texas Department of State Health Services (TDSHS) may by rule prohibit a student from attending school during the provisional enrollment period. *Att’y Gen. Op. GA-178 (2004)*

**ACCEPTABLE DOCUMENTS OF IMMUNIZATION**

Vaccines administered after September 1, 1991, shall include the month, day, and year each vaccine was administered.

Documentation of vaccines administered that include the signature or stamp of the physician or his/her designee, or public health personnel is acceptable.

An official immunization record generated from a state or local health authority, such as a registry, is acceptable.

A record received from school officials including a record from another state is acceptable.

The College District is required to maintain immunization records sufficient for a valid audit to be completed.

*25 TAC 97.67-.68*

**ANNUAL REPORT OF IMMUNIZATION STATUS**

A required annual report of the immunization status of students shall be submitted by the College District at such time and in such manner as is indicated in the instructions from the TDSHS. *25 TAC 97.71*

**REQUIRED IMMUNIZATIONS OF CERTAIN STUDENTS**

**POLIO**

1. Polio vaccine is not required for any student. All students enrolled in health-related courses are encouraged to ascertain that they are immune to poliomyelitis.
TETANUS / DIPHTHERIA
2. One dose of tetanus/diphtheria toxoid (Td) is required within the past ten years.

MEASLES
3. All students who were born on or after January 1, 1957, must show, prior to patient contact, proof of either:
   a. Two doses of measles vaccine administered since January 1, 1968, or
   b. Serologic confirmation of measles immunity or serologic evidence of infection. [See 25 TAC 97.64 and 97.65]

RUBELLA
4. All students must show, prior to patient contact, proof of either:
   a. One dose of rubella vaccine administered on or after their first birthday, or
   b. Serologic confirmation of rubella immunity or serologic evidence of infection. [See 25 TAC 97.64 and 97.65]

MUMPS
5. All students who were born on or after January 1, 1957, must show, prior to patient contact, proof of either:
   a. One dose of mumps vaccine administered on or after their first birthday, or
   b. Serologic confirmation of mumps immunity or serologic evidence of infection. [See 25 TAC 97.64 and 97.65]

HEPATITIS B
6. Students must receive a complete series of hepatitis B vaccine prior to the start of direct patient care or show serologic confirmation of immunity to hepatitis B virus.

VARICELLA
7. Students must show proof of two doses of varicella vaccine unless the first dose was received prior to 13 years of age. A parent- or physician-validated history of varicella disease (chickenpox) or varicella immunity is acceptable in lieu of vaccine. [See 25 TAC 97.64 and 97.65]

VETERINARY STUDENTS
Students enrolled in schools of veterinary medicine must receive a complete primary series of rabies vaccine prior to the start of contact with animals or their remains; and, a booster dose of rabies vaccine every two years unless protective serum antibody levels are documented.

Education Code 51.933; 25 TAC 97.64

ADDITIONAL REQUIREMENTS
If there is an outbreak of vaccine-preventable disease in or near a community, the local health authority may require or recommend additional doses or boosters to provide further protection for students attending institutions of higher education. 25 TAC 97.72
An individual may not receive a loan, grant, scholarship, or other financial assistance funded by state revenue, including federal funds or gifts and grants accepted by this state, or receive a student loan guaranteed by this state or the Texas Guaranteed Student Loan Corporation, unless the individual files a statement of the individual’s selective service status with the institution or other entity granting or guaranteeing the financial assistance as required by this section.

This section does not apply to:

1. A female individual if females are not subject to general selective service registration under federal law; or
2. An individual older than the maximum age at which an individual is required to be registered with the selective service system under federal law.

The statement of an individual’s selective service status required by this section must require the individual to certify that the individual:

1. Has registered with the selective service system as required by federal law; or
2. Is exempt from selective service registration under federal law.

The Texas Higher Education Coordinating Board shall adopt rules for the administration of this section and shall prescribe the statement to be used under this section.

Education Code 51.9095

A person is not eligible to receive a scholarship originating from and administered by the College District if the person is related to a current member of the governing board of the institution or system, unless:

1. The scholarship is granted by a private organization or third party not affiliated with the institution of higher education or university system;
2. The scholarship is awarded exclusively on the basis of prior academic merit;
3. The scholarship is an athletic scholarship; or
4. The relationship is not within the third degree by consanguinity or the second degree by affinity, as determined under Government Code, Chapter 573, Subchapter B [see DBE].
**Education Code 51.969(a)-(b)**

A person applying for a scholarship originating from and administered by an institution of higher education or university system must file a written statement with the application indicating whether the person is related within the third degree by consanguinity or the second degree by affinity to a current member of the governing board of the institution or system.

A person commits an offense, a Class B misdemeanor, if the person knowingly files a false statement indicating family relationships.

**Education Code 51.969(c), (e)-(f)**
For the purposes of this policy, the term “education records” means those records, files, documents, and other materials that contain information directly related to a student and are maintained by an education agency or institution or by a person acting for such agency or institution.

The term “education records” does not include:

1. Records that contain only information about a student after he or she is no longer a student in the College District.

2. Records made by College District personnel that are kept in the sole possession of the maker and are not accessible or revealed to any one other than a temporary substitute for the maker of the record.

3. Records of a law enforcement unit of the College District, but only if education records are not disclosed to the unit and law enforcement records are maintained separately from education records, maintained solely for law enforcement purposes, and disclosed only to law enforcement officials of the same jurisdiction.

4. Records on a student who is 18 years of age or older, or is attending an institution of postsecondary education, which are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his professional or paraprofessional capacity, or assisting in that capacity, and which are made, maintained, or used only in connection with the provision of treatment to the student, and are not available to anyone other than persons providing such treatment, except that such records can be personally reviewed by a physician or other appropriate professional of the student's choice.

20 U.S.C. 1232g(a)(4); 34 CFR 99.3

To the extent the College District is a covered entity under the Health Insurance Portability and Accountability Act (HIPAA), the College District must comply with the Privacy Rule, 45 CFR Part 164, with respect to protected health information that is not an education record. 45 CFR 160.103, 164.501 [See CKD]

Access to the education records of a student who is or has been in attendance in the College District shall be granted to the student and to the parent of a student who is a dependent for tax purposes. “Parent” includes a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or guardian. 34 CFR 99.3, 99.10, 99.31(a)(8)
Whenever a student has attained 18 years of age or is attending an institution of post-secondary education, the rights accorded to, and consent required of, parents transfer from the parents to the student. 34 CFR 99.5

If material in the education record of a student includes information on another student, only the portion of the material relating to the student whose records were requested may be inspected and reviewed. 34 CFR 99.12(a)

Personally identifiable information in education records shall not be released without the written consent of the student, except to the following:

1. School officials, including faculty, who have legitimate educational interests.

2. Officials of other schools or school systems in which the student seeks or intends to enroll, provided that the College District either:
   a. Includes in its policies a statement that notifies the student that it forwards education records on request of the other school to such officials; or
   b. Makes a reasonable attempt to notify the student (unless the record transfer is initiated by the student).

   In either case, the College District shall furnish a copy of the transferred records to the student if requested, and give the student an opportunity for a hearing to challenge the content of the record.

3. Authorized representatives of the comptroller general of the United States, the attorney general of the United States, the secretary of education, or state and local educational authorities who require access to student or other records necessary in connection with the audit and evaluation of federal- or state-supported education programs or in connection with the enforcement of or compliance with federal legal requirements that relate to such programs.

4. Personnel involved with a student’s application for, or receipt of, financial aid.

5. State and local officials to whom such information is specifically required to be reported or disclosed by state statute adopted prior to November 19, 1974.

6. Organizations conducting studies for educational agencies or institutions for the purpose of developing, validating, or ad-
ministering predictive tests, administering student aid programs, and improving instruction. Such studies must be conducted so that personal identification of students and their parents will not be revealed to persons other than authorized personnel of the organizations conducting the studies. Such information must be destroyed when no longer needed for the original purposes of the studies.

7. Accrediting organizations that require the information for purposes of accreditation.

8. Parents, as defined in 34 CFR 99.3, of a dependent student, as defined in section 152 of the Internal Revenue Code.

9. The court, without a court order or subpoena, if the College District initiates legal action against a parent or student and the educational records are relevant for the College District to proceed with the legal action as plaintiff.

If a parent or eligible student initiates legal action against the College District, the College District may disclose to the court, without a court order or subpoena, the student’s education records that are relevant for the College District to defend itself.

10. Appropriate persons who, in an emergency, must have such information in order to protect the health or safety of the student or other person.

11. Any person requesting directory information, as defined in this policy, after the College District has given public notice of that definition.

12. Subject to the requirements in Section 99.39, a victim of an alleged perpetrator of a crime of violence or a nonforcible sex offense. The disclosure may only include the final results of the disciplinary proceeding conducted by the College District with respect to that alleged crime or offense. The College District may disclose the final results of the disciplinary proceeding, regardless of whether the College District concluded a violation was committed.

13. Subject to the requirements in Section 99.39, any person if the disclosure is in connection with a disciplinary proceeding in the College District. The College District must not disclose the final results of the disciplinary proceeding unless it determines that:

   a. The student is an alleged perpetrator of a crime of violence or nonforcible sex offense; and
b. With respect to the allegation made against him or her, the student has committed a violation of the College District’s rules or policies.

The College District may not disclose the name of any other student, including a victim or witness, without the prior written consent of the other student.

This section applies only to disciplinary proceedings in which the final results were reached on or after October 7, 1998.

14. A parent of a student in the College District regarding the student’s violation of any federal, state, or local law, or of any rule or policy of the College District, governing the use or possession of alcohol or a controlled substance if:

a. The College District determines that the student has committed a disciplinary violation with respect to that use or possession; and

b. The student is under the age of 21 at the time of the disclosure to the parent.

This section does not supersede any provision of state law that prohibits the College District from disclosing information.

20 U.S.C. 1232g(b)(1), 1232g(b)(6), 1232g(i); 34 CFR 99.35, 99.36, 99.37, 99.39

DEFINITIONS

As used in items 12 and 13 above:

1. “Alleged perpetrator of a crime of violence” is a student who is alleged to have committed acts that would, if proven, constitute any of the following offenses or attempts to commit the following offenses that are defined in FJ(EXHIBIT) B:

a. Arson

b. Assault offenses

c. Burglary

d. Criminal homicide—manslaughter by negligence

e. Criminal homicide—murder and nonnegligent manslaughter

f. Destruction/damage/vandalism of property

g. Kidnapping/abduction

h. Robbery

i. Forcible sex offenses
2. “Alleged perpetrator of a nonforcible sex offense” means a student who is alleged to have committed acts that, if proven, would constitute statutory rape or incest. These offenses are defined in FJ(EXHIBIT) B.

3. “Final results” means a decision or determination, made by an honor court or council, committee, commission, or other entity authorized to resolve disciplinary matters within the College District. The disclosure of final results must include only the name of the student, the violation committed, and any sanction imposed by the College District against the student.

4. “Sanction imposed” means a description of the disciplinary action taken by the College District, the date of its imposition, and its duration.

5. “Violation committed” means the College District rules or code sections that were violated and any essential findings supporting the College District’s conclusion that the violation was committed.

34 CFR 99.39

Upon request of a properly qualified individual, access to a student’s education record shall be granted within a reasonable period of time, not to exceed 45 days. The College District shall respond to reasonable requests for explanations and interpretations of the records. 34 CFR 99.10

34 CFR 99.10(e)

The College District shall not destroy any education records if there is an outstanding request to inspect and review the records.

SUBPOENAED RECORDS

The College District shall release student records to an entity or person designated in a subpoena. The College District shall not disclose to any person the existence or contents of the subpoena if a court orders the College District to refrain from such disclosure. Unless the court or other issuing agency orders the College District to refrain from such disclosure, the College District shall make a reasonable effort to notify the parents and the student of all such subpoenas in advance of compliance. 20 U.S.C. 1232g(b)(1)(J), (b)(2)(B; 34 CFR 99.31(9)

TRANSFER NOT PERMITTED

Personal information from student education records shall be transferred to a third party only on the condition that such party will not permit any other party to have access to such information without the written consent of the student. This prohibition does not apply to disclosures made to parents of dependent students under Section 99.31(a)(8), to disclosures made pursuant to court orders, lawfully issued subpoenas, or litigation under Section 99.31(a)(9).
to disclosures of directory information under Section 99.31(a)(11),
to disclosures made to a parent or student under Section 99.31(a)(12), to disclosures made in connection with a disciplinary proceeding under Section 99.31(a)(14), or to disclosures made to parents under Section 99.31(a)(15). 34 CFR 99.33(c)

The College District shall inform a party to whom a disclosure is made of the requirements of 34 CFR 99.33, unless the disclosure is made pursuant to a court order, lawfully issued subpoena, or litigation; the disclosed information is directory information; or the disclosure is made to a parent of a student who is not an eligible student or to a student. 34 CFR 99.33(c). (d)

Each school shall maintain a record, kept with the education record of each student, that indicates all individuals, agencies, or organizations that have requested or obtained access to a student’s education records. The records shall include at least the name of the person or agency that made the request and the legitimate interest the person or agency had in the information. The record will be maintained as long as the College District maintains the student’s education record. The record of access shall be available only to students, school officials responsible for custody of the records, and those state, local, and federal officials authorized to audit the operation of the system. 20 U.S.C. 1232g(b)(4)(A)

The record shall not include requests for access by, or access granted to, the student or officials of the College District, requests accompanied by prior written consent of the student, or requests for directory information. 34 CFR 99.32(d)

A student whose records are covered by this policy may ask the College District to amend the student’s record if he or she believes it contains information that is inaccurate, misleading, or in violation of the student’s right of privacy or other rights. If the College District decides not to amend the education records requested, it shall inform the student of its decision and his or her right to a hearing to challenge the content of the student’s education records.

If the College District decides to amend the records as a result of the hearing, it shall inform the student in writing. If, as a result of the hearing, the College District decides not to amend the records, it shall inform the student of the right to place a statement in the records commenting on the contested information and/or stating why the student disagrees with the decision of the College District. Any explanation shall be maintained with the contested part of the record for as long as the record is maintained and shall be disclosed whenever the contested portion of the record is disclosed.

34 CFR 99.20, 99.21
The College District shall give students in attendance annual notification of their rights under the Family Educational Rights and Privacy Act of 1974 and of the places where copies of this policy may be located, including notice of the right to file complaints concerning alleged failures by the College District to comply with the provisions of the Act. The College District shall effectively notify students who have a primary or home language other than English. 20 U.S.C. 1232g(e); 34 CFR 99.7 [See FJ(EXHIBIT)]

Directory information means information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed. It includes, but is not limited to, the student’s name, address, telephone listing, electronic mail address, photograph, date and place of birth, major field of study, dates of attendance, grade level, enrollment status (e.g., undergraduate or graduate; full-time or part-time), participation in officially recognized activities and sports, weight and height of members of athletic teams, degrees, honors and awards received, and the most recent educational agency or institution attended. 34 CFR 99.3

The College District may release information if it has given public notice of:

1. The types of personally identifiable information that it has designated as directory information.

2. The right of the student to refuse to permit the College District to designate any or all of that information about the student as directory information.

3. The period of time within which the student must notify the College District in writing that he or she does not want any or all of those types of information about the student designated as directory information.

An educational agency or institution may disclose directory information about former students without satisfying the public notice conditions above. 34 CFR 99.3, 34 CFR 99.37

No fee shall be charged to search for or to retrieve the education records of a student. A fee may be charged for copies of education records that are made for students under this policy provided that the fee does not effectively prevent them from exercising their right to inspect and review those records. Hardship cases shall be dealt with on an individual basis. 20 U.S.C. 1232g; 34 CFR 99.11
The College District shall participate in an electronic student records system that satisfies the standards approved by the Commissioner of Education and the Commissioner of Higher Education.

The electronic student records system must permit an authorized state or college district official or an authorized representative of an institution of higher education to electronically transfer to and from an educational institution in which the student is enrolled and retrieve student transcripts, including information concerning a student's:

1. Course or grade completion;
2. Teachers of record;
3. Assessment instrument results;
4. Receipt of special education services, including placement in a special education program and the individualized education program developed; and
5. Personal graduation plan as described by Education Code 28.0212.

Any person involved in the transfer and retrieval of student information under this system is subject to any state or federal law governing the release of or providing access to any confidential information to the same extent as the educational institution from which the data is collected. A person may not release or distribute the data to any other person in a form that contains confidential information.

*Education Code 7.010*
The College District shall provide a risk management program for members of student organizations registered at the institution at least one time during each academic year. Any member of a student organization who is not otherwise required to attend may attend the program.

Unless a college district requires each student organization registered at the institution to have representatives attend a program under Education Code 51.9361, a college district shall adopt a policy that specifies one or more student organizations or types of student organizations that are required to have representatives attend. The selection of student organizations or types of student organizations must be based on the college district’s determination that those organizations could particularly benefit from risk management guidance.

Each advisor who has not previously attended a program under Education Code 51.9361 and each person serving in a designated officer position of a student organization that is required to have representatives attend a program shall attend the program. An institution may allow an advisor, other than a faculty or staff member of the institution, to satisfy the attendance requirements prescribed by this subsection through completion of an appropriate computer-based risk assessment program.

The College District may designate not more than four officer positions of a student organization, such as the president, membership chair, risk management chair, social chair, or pledge class or new member chair, to attend the program. If a student organization does not have one of the listed officer positions or if such an officer position is vacant, the institution shall, to the extent practicable, identify and designate an equivalent officer position, and the person serving in that officer position shall attend the program.

Each advisor or officer required to attend a program shall report on the program’s contents at a meeting of the full membership of the student organization the advisor or officer represented at the program.

A program under this section may address any issue determined appropriate by the college district and must address:

1. Possession and use of alcoholic beverages and illegal drugs, including penalties that may be imposed for possession or use;
2. Hazing;
3. Sexual abuse and harassment;
4. Fire and other safety issues, including the possession and use of a firearm or other weapon or of an explosive device;  

5. Travel to a destination outside the area in which the institution is located;  

6. Behavior at parties and other events held by a student organization; and  

7. Adoption by a student organization of a risk management policy.  

The College District shall provide notice of a program under this section to student organizations in the manner determined by the college district. The College District shall also take attendance at the program and may impose reasonable sanctions on a person who is required to attend the program and fails to attend. These sanctions must be provided for in the College District policy.

Until at least the third anniversary of the date of the program, the College District shall maintain a record of that attendance and of the notice provided in an appropriate location at the institution.

*Education Code 51.9361*

**RECOGNITION**  
Recognition of student groups shall not be denied on the basis of the views expressed by the group. Recognition of student groups may be denied if they violate reasonable campus rules, interrupt classes, substantially interfere with the opportunity of other students to obtain an education, or if it is reasonable to believe that the group poses a substantial threat of material disruption to the campus. Recognition may be withdrawn if the organization refuses to comply with any valid campus rules. *Healy v. James, 408 U.S. 169 (1972)*

If the College District provides significant assistance to fraternities, sororities, or similar organizations, the College District shall ensure that the membership practices of such organizations do not permit discrimination that is in violation of the disability laws and provisions. *34 CFR 104.47(c)*

**SALES TAX**  
A taxable item sold by a qualified student organization and for which the sales price is $5,000 or less, is exempted from the taxes imposed by Subchapter C of the Tax Code, except that a taxable item manufactured by or donated to the organization is exempt from the taxes imposed by Subchapter C of the Tax Code regardless of sales price unless sold to the donor, if the student organization:
1. Sells the items at a sale that may last for one day only and the primary purpose of which is to raise funds for the organization; and

2. Holds not more than one sale described above each month for which the exemption is claimed for an item sold.

In each calendar year, the first $5,000 of a qualified student organization’s total receipts from sales of taxable items not otherwise exempt is exempt from the taxes imposed by Subchapter C of the Tax Code.

A student organization qualifies for the exemptions if the student organization:

1. Is affiliated with an institution of higher education as defined by Section 61.003, Education Code, or a private or independent college or university that is located in this state and that is accredited by a recognized accrediting agency under Section 61.003, Education Code;

2. Has as its primary purpose a purpose other than engaging in business or performing an activity designed to make a profit; and

3. Files a certification with the comptroller.

A student organization must file with the comptroller a certification issued by the College District showing that the organization is affiliated with the College District.

The storage, use, or consumption of a taxable item acquired tax-free under this section is exempted from the use tax imposed by Subchapter D of the Tax Code until the item is resold or subsequently transferred.

_Tax Code 151.321_

**RAFFLES**

The College District shall allow the sale of tickets to a raffle by a student organization recognized by the College District at any facility of the institution, subject to reasonable time, place, and manner restrictions. _Occupations Code 2002.057_
The 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. 

**First Amendment**

Students do not shed their constitutional rights to freedom of speech or expression at the schoolhouse gate. At school and school events, students have First Amendment rights, applied in light of the special characteristics of the school environment.

Student expression that is protected by the First Amendment may not be prohibited absent a showing that the expression will materially and substantially interfere with the operation of the school or the rights of others.


**Protected Speech**

The College District may prohibit expression by students if:

1. It materially and substantially interferes with school activities;
2. It materially and substantially interferes with the rights of other students or teachers; or
3. The College District can demonstrate reasonable cause to believe that the expression would engender such material and substantial interference.

The College District shall not prohibit student expression solely because other students, teachers, administrators, or parents may disagree with its content.

**Limitations on Expression**

The College District may limit student expression in manner, place, or time by means of reasonable and equally applied regulations.

**Shanley v. Northeast Indep. Sch. Dist.**, 462 F.2d 960 (5th Cir. 1972) [See also CHE for use of the College District’s mail system]
DISRUPTIONS
Students shall be subject to the provisions of policy GFA regarding disruption of classes and disruption of lawful assembly. *Education Code 51.935*

DEMONSTRATIONS
Student demonstrations and similar activities shall be prohibited when there is evidence that may reasonably lead school authorities to forecast substantial disruption of, or material interference with, normal school operations or approved school activities.

The evidence must support a “reasonable forecast of substantial disruption” of school operations; “undifferentiated fear” or mere apprehension of disturbance is not sufficient to justify restrictions on students’ otherwise legitimate right to freedom of expression.

VIOLATIONS
Students who participate in any prohibited activities described above are subject to disciplinary action, based on the severity of the violation and its overall effect on the welfare of other students.

The College District shall take no action abridging the freedom of speech or the right of the people to petition the Board for redress of grievances. \textit{U.S. Const. Amend. I, XIV} [See FLAA]


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. \textit{Tex. Const. Art. I, Sec. 27}

There is no requirement that the Board negotiate or even respond to complaints. However, the Board must stop, look, and listen and must consider the petition, address, or remonstrance. \textit{Professional Association of College Educators v. El Paso County Community [College] District}, 678 S.W.2d 94 (Tex. App.—El Paso 1984, writ ref’d n.r.e.)

The College District that receives federal financial assistance, directly or indirectly, and 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 Section 504 of the Rehabilitation Act of 1973. \textit{34 CFR 104.7(b)}

The 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). \textit{28 CFR 35.107}

The College District that receives 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. \textit{34 CFR 106.8(b)} [See FA]

The College District shall give a student, on request, an opportunity for a hearing to challenge the content of the student’s education records on the grounds that the information contained in the re-
cords is inaccurate, misleading, or in violation of the privacy rights of the student. 34 CFR 99.21 [See FJ]

CLOSED MEETING

The Board may conduct a closed meeting on a student complaint to the extent required or provided by law. [See BDA]

DISRUPTION

It is a criminal offense for a person, with intent to prevent or disrupt a lawful meeting, to substantially obstruct or interfere with the ordinary conduct of a meeting by physical action or verbal utterance and thereby curtail the exercise of others’ First Amendment rights. Penal Code 42.05; Morehead v. State, 807 S.W.2d 577 (Tex. Crim. App. 1991)

Note: See GFA for provisions concerning students barred from campus.
The District has inherent authority to maintain order and discipline students. It may discipline students for failing to abide by its standards of conduct. *Speake v. Grantham*, 317 F. Supp. 1253 (S.D. Miss. 1970)

Students who cause disorders and disrupt the school's educational environment may be disciplined. *Lansdale v. Tyler Junior College*, 318 F. Supp. 529 (E.D. Tex. 1970)


The District may define offenses for which suspension (for the rest of the semester or for a longer period of time) may be imposed and determine whether the offense has been committed. Students are entitled to a fair notice or warning of what constitutes prohibited conduct. Students shall be given a fair opportunity to demonstrate innocence in a hearing before school officials. Students are entitled to due process in disciplinary hearings, including being given adequate notice of the hearing and definite charges in advance and the right to a fair hearing before an impartial tribunal. *Foley v. Benedict*, 55 S.W.2d 805 (Tex. Comm. App. 1932); *Cornette v. Aldridge*, 408 S.W.2d 935 (Tex. Civ. App. 1966); *Jenkins v. Louisiana State Board of Education*, 506 F.2d 992 (5th Cir. 1975); *Shamloo v. Mississippi State Board of Trustees, etc.*, 620 F.2d 516 (5th Cir. 1980)

The Board may expel from the District any student who is a citizen of a country other than the United States attending the District under a nonimmigrant visa issued by Immigration and Naturalization Service and who is finally convicted of certain offenses defined by state law. *Education Code 51.909(a)*
The Board shall have the right to collect special fees authorized by law. *Education Code 54.005*

The College District may not collect from students any fee or charge except as permitted by law. Students may not be refused admission to or be discharged from the College District for the nonpayment of any fee or charge except as permitted by law. *Education Code 54.003*

The Board of the College District may establish a fee for extraordinary costs associated with a specific course or program and may provide that the exemptions provided by Education Code 54.203(a) and (b) do not apply to this fee.

College District students registered for a course or courses in art, architecture, drama, speech, or music, where individual coaching or instruction is the usual method of instruction, shall pay a fee in addition to the regular tuition. The fee shall be as set by the Board. *Education Code 54.051(l)*

The College District shall set and collect a laboratory fee in an amount sufficient to cover the general cost of laboratory materials and supplies used by a student. The College District may charge a laboratory fee in an amount that does not exceed the lesser of $24 per semester credit hour of laboratory course credit for which the student is enrolled or the cost of actual materials and supplies used by the student.

The Board may set and collect a fee per contact hour, not to exceed $4, for each person registered in an aerospace mechanics certification course where the fee is required to offset that portion of the cost of the course, including the cost of equipment and of professional instruction or tutoring, that is not covered by state funding or by laboratory fees. *Education Code 54.501*

The College District may collect a reasonable deposit in an amount not to exceed $100 from each student to insure the institution against any losses, damages, and breakage for which the student is responsible and to cover any other amounts owed by the student to the institution. The College District shall return to the student the deposit, less any such amounts owed to the College District by the student. The deposit must be returned within a reasonable period after the date of the student's withdrawal or graduation from the institution, not to exceed 180 days, that provides the College District with sufficient time to identify all amounts owed and to determine that the student does not intend to enroll at the College District in the semester or summer session immediately following the withdrawal or graduation.
The student deposit fund shall be used, at the discretion of the Board, for making scholarship awards to needy and deserving students of the College District and making grants under Education Code Chapter 56, Subchapter C.

The Board shall administer the scholarship awards for the institution, including the selection of recipients and the amounts and conditions of the awards. The recipients of the scholarships must be residents of the state as defined for tuition purposes.

Not later than August 31 of each fiscal year, each institution of higher education that has an unobligated and unexpended balance in its student deposit fund that exceeds 150 percent of the total deposits to that fund during that year shall remit to the Texas Higher Education Coordinating Board the amount of that excess. The Coordinating Board shall allocate on an equitable basis amounts received under this subsection to institutions of higher education that do not have an excess described by this subsection for deposit in their student deposit fund. The amount allocated under this subsection may be used only for making scholarship awards to needy and deserving students under this section.

Education Code 54.5021

Prior to recommending the student fee budget to the Board, the College President shall consider the report and recommendations of a student fee advisory committee. Each committee shall be composed of the following nine members:

1. Five student members who are enrolled for not less than six semester credit hours at the College District and who are representative of all students enrolled at the College District, selected by one of the following methods:
a. If the College District has a student government, the student government shall appoint three students to serve two-year terms on the committee and two students to serve one-year terms on the committee.

b. If the College District does not have a student government, the students enrolled at the College District shall elect three students to serve two-year terms on the committee and two students to serve one-year terms on the committee. A candidate for a position on the committee must designate whether the position is for a one-year or two-year term.

2. Four members who are representative of the entire College District, appointed by the President.

A student member of the committee who withdraws from the College District must resign from the committee.

A vacancy in an appointive position on the committee shall be filled for the unexpired portion of the term in the same manner as the original appointment. A vacancy in an elective position on the committee shall be filled for the unexpired portion of the term by appointment by the President.

The committee shall:

1. Study the type, amount, and expenditure of any compulsory fee, and

2. Meet with appropriate administrators of the College District, submit a written report on the study, and recommend the type, amount, and expenditure of a compulsory fee to be charged for the next academic year.

If the President’s recommendations to the governing board are substantially different from the committee’s recommendations to the President, the administration of the College District shall notify the committee not later than the last date on which the committee may request an appearance at the Board meeting. On request of a member of the committee, the administration of the College District shall provide the member with a written report of the President’s recommendations to the Board.

*Education Code 54.5031*

The Board may charge and collect from students registered in the College District fees to cover the cost of student services, as defined by Education Code Section 53.503(a)(1). The fee or fees may be either voluntary or compulsory as determined by the Board.
The total of all compulsory student fees collected for any one semester or summer session shall not exceed $250. No portion of the compulsory fees collected may be expended for parking facilities or services, except as related to providing shuttle bus services. *Education Code 54.503(b)*; *Atty. Gen. Op. DM-450 (Sept. 2, 1997)*

**DUAL ENROLLMENT**

If a student registers at more than one institution of higher education within a college or university system under concurrent enrollment provisions of joint or cooperative programs between institutions, the student shall pay all compulsory student services fees to the institution designated as the home institution under the joint or cooperative program. The governing board of the college or university system may waive the payment of all compulsory student services fees at the other institution or institutions. *Education Code 54.503(g)*

**VEHICLE REGISTRATION / PARKING AND TRAFFIC FEES**

The Board may charge a reasonable fee for registration of a vehicle under Education Code 51.202. The Board may fix and collect a reasonable fee(s) for providing facilities and enforcing and administering traffic and parking regulations approved by the Board. No fee for parking facilities shall be charged to a student, unless the student desires to use the facilities. *Education Code 54.505*

**INTERNATIONAL EDUCATION FEE**

The Board may charge and collect from students registered at the College District a fee in an amount not less than $1 and not more than $4 for each semester or summer session. The amount of the fee may be increased only if the increase is approved by a majority vote of the students at the College District participating in an election called for that purpose.

Fees collected shall be deposited in an international education financial aid fund outside the state treasury. Money in the fund may be used only to assist students participating in international student exchange or study programs.

The international education financial aid fund shall be used in accordance with guidelines jointly developed by the student governing body of the College District and the administration. If the College District does not have a student governing body, the President may appoint a Committee of Students to assist with the development of the guidelines.

The fee imposed under this section may not be considered in determining the maximum student services fee that may be charged under Section 54.503(b) of this code. *Education Code 54.5132*
CONTINUING EDUCATION COURSE FEES

The Board shall charge a reasonable fee to each person registered in a continuing education course at the College District. The Board shall set the fee in an amount sufficient to permit the College District to recover the costs to the College District of providing the course.

This section applies only to a course for which the College District does not collect tuition or receive formula funding, including an extension course, correspondence course, or other self-supporting course.

Subchapters B and D of Chapter 54 of the Education Code do not apply to a fee charged under this section, except to a fee for a correspondence course taken by a student who would qualify for an exemption from tuition under Section 54.203 if the correspondence course applies towards the student’s degree plan. The Board may grant an exemption provided by Section 54.203 for continuing education courses.

*Education Code 54.545*

EXEMPTION FROM PAYMENT OF FEES

Students for whom Texas law provides specific exemptions from tuition and/or dues, fees, and charges shall be granted those exemptions. *Education Code chapter 54, subsection D; Education Code 130.008*

REPORT OF CERTAIN EXEMPTIONS

The Board of the College District shall electronically report to the Texas Higher Education Coordinating Board the information required by Education Code 61.0516 relating to each individual receiving an exemption from fees and charges under Education Code 54.203(a) or (b). The College District shall report the information not later than December 31 of each year for the fall semester, May 31 of each year for the spring semester, and September 30 of each year for the summer session. *Education Code 54.203(h)*

INCIDENTAL FEES

The Board may fix the rate of incidental fees to be paid by students and prospective students and may make rules for the collection of the fees and for the distribution of the funds so designated. The rate of an incidental fee shall reasonably reflect the actual cost to the College District of the materials or services for which the fee is collected. In fixing the rate, the Board may consult with a student fee advisory committee which the Board may establish if it does not presently exist.

The Board shall publish in the general catalog a description of the amount of each fee to be charged.

Incidental fees include, without limitation, such fees as late registration fees, library fines, microfilming fees, thesis or doctoral
manuscript reproduction or filing fees, bad check charges, application processing fees, and laboratory breakage charges, but does not include other legally authorized fees.


**PRORATION OF FEES**

Based on the length of the semester or term for which a student is enrolled, the Board may prorate the amount of any fee charged to the student under Education Code Chapter 54.

For a student fee authorized by Education Code Chapter 54 to be charged per academic semester or term, including a fee authorized to be charged per semester credit hour, the Board shall prorate the amount of the fee charged for a term of the summer session of nine weeks or less based on the length of the term, unless the statute authorizing the fee specifies a reduced fee amount for that term.

*Education Code 54.5025, 54.010*

**WAIVER OF FEES**

Except as provided below, the Board may waive a mandatory or discretionary fee for a student if the Board determines that the student is not reasonably able to participate in or use the activity, service, or facility for which the fee is charged.

Except as provided below, the Board may waive a mandatory or discretionary fee for a specific category of students if the Board determines that the waiver is in the best interest of the College District or is critical to the viability of an academic initiative.

The Board must ensure that a waiver under this section does not result in the College District’s inability to service a debt to which revenue from the fee is obligated or to support an activity, service, or facility for which the fee is charged.

The Board is not permitted to waive payment of tuition or laboratory fees.

The Board may limit or prohibit a student’s participation in or use of an activity, service, or facility supported by a fee that is waived for the student.

*Education Code 54.5035*

**CREDIT CARD FEES**

An institution of higher education may charge a fee or other amount in connection with a payment of tuition, a fee, or another charge to an institution of higher education that is made or authorized in person, by mail, by telephone call, or through the Internet by means of an electronic funds transfer or a credit card, in addition to the amount of the tuition, fee, or other charge being paid, including:
1. A discount, convenience, or service charge for the transaction; or

2. A service charge in connection with a payment transaction that is dishonored or refused for lack of funds or insufficient funds.

A fee or other charge under Education Code 54.5011 must be in an amount reasonable and necessary to reimburse the institution for the expense incurred by the institution in processing and handling the payment or payment transaction.

Before accepting a payment by credit card, the institution shall notify the student of any fee to be charged.

*Education Code 54.5011*
SECTION G: COMMUNITY AND GOVERNMENTAL RELATIONS

GA PUBLIC INFORMATION PROGRAM
GAA Access to Information
GAB Requests for Information
GAC Student’s Right to Know

GB PUBLIC COMPLAINTS AND HEARINGS

GC RELATIONS WITH COMMUNITY ORGANIZATIONS

GD COMMUNITY INSTRUCTIONAL RESOURCES

GE ADVERTISING AND FUND-RAISING

GF STUDENT AND COMMUNITY USE OF COLLEGE DISTRICT FACILITIES
GFA Conduct on College District Premises

GG RELATIONS WITH GOVERNMENTAL AGENCIES AND AUTHORITIES
GGA Local Governmental Authorities
GGB County Governmental Authorities
GGC State Governmental Authorities
GGD Federal Governmental Authorities
GGE Emergency Management

GH RELATIONS WITH SCHOOLS AND DISTRICTS

GI RELATIONS WITH OTHER COLLEGES AND UNIVERSITIES

GJ RELATIONS WITH REGIONAL EDUCATION SERVICE CENTERS

GK RELATIONS WITH EDUCATIONAL ACCREDITATION AGENCIES

GL ACCESS TO PROGRAMS, SERVICES, AND ACTIVITIES
"Public information" means information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business by the Board or for the Board and to which the Board has a right of access. *Gov't Code 552.002(a)*

**AVAILABILITY**

Public information is available, at a minimum, to the public during the College District’s normal business hours. *Gov't Code 552.021*

Unless they are expressly confidential under other law, categories of public information that are not excepted from required disclosure under this policy include:

1. A completed report, audit, evaluation, or investigation made of, for, or by the Board, except as provided in Government Code 552.108.

2. The name, sex, ethnicity, salary, title, and dates of employment of each employee and officer of the College District.

3. Information in an account, voucher, or contract relating to the receipt or expenditure of public funds.

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 the Board, on completion of the estimate.

6. A description of the College District’s organization and where, from whom, and how the public may obtain information, submit information or requests, and obtain decisions.

7. A statement of the general course and method by which the College District’s functions are channeled and determined, including the nature and requirements of all formal and informal policies and procedures.

8. A rule of procedure, description of forms available or the places where forms may be obtained, and instructions relating to the scope and content of all papers, reports, or examinations.

9. A substantive rule of general applicability adopted or issued by the Board and a statement of general policy or interpretation of general applicability formulated and adopted by the Board.

10. Any amendment, revision, or repeal of the information described in items 6–9.
11. Final opinions and orders issued in adjudication of cases.

12. A policy statement or interpretation adopted or issued by the Board.

13. Administrative manuals and instructions to staff that affect a member of the public.

14. Information regarded as open to the public under the College District's policies.

15. Information that is in a bill for attorney's fees and that is not privileged under the attorney-client privilege or confidential under other law.

16. Information that is also contained in a public court record.

17. A settlement agreement to which the Board is a party.

A court in this state may not order the Board or the College District's officer for public information to withhold from public inspection any category of public information described above or to not produce the information for inspection or duplication, unless the information is expressly made confidential under other law.

*Gov't Code 552.022*

**INVESTMENT INFORMATION**

Certain College District investment information, as specified by Government Code 552.0225, is public information and not excepted from disclosure. *Gov't Code 552.0225*

**PERSONAL INFORMATION**

Each College District employee, other than peace officers, and Board member and each former employee and Board member shall choose whether to allow public access to College District-held information relating to the person's home address, telephone number, or social security number, or any other information that reveals whether the person has family members. Employees and Board members shall state their choice to the College District's main personnel officer in a signed writing not later than the 14th day after employment begins, election or appointment to the Board occurs, or service with the College District ends. If an employee or Board member fails to state his or her choice within 14 days, the information is available to the public. However, an employee or Board member may make a written request at any time to the personnel officer to open or close the information relating to the person's home address, telephone number, social security number, or any other information that reveals whether the person has family members. *Gov't Code 552.024*
| **PEACE OFFICERS / SECURITY OFFICERS** | College District-held information relating to the home address, home telephone number, or social security number of peace officers or security officers commissioned by the Board of Private Investigators and Private Security Agencies, or any information that reveals whether the person has family members, is confidential and may not be disclosed if the person chooses to restrict public access to the information and notifies the College District on a form provided by the College District, accompanied by evidence of the individual’s status. *Gov’t Code 551.1175* |
| **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 the College District 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.  
*Gov’t Code 552.136* |
| **E-MAIL ADDRESSES CONFIDENTIAL** | An e-mail address of a member of the public that is provided for the purpose of communicating electronically with the College District is confidential and not subject to disclosure unless the member of the public affirmatively consents to its release.  
**EXCEPTIONS** | This confidentiality does not apply to an e-mail address:  
1. Provided to the College District by a person who has a contractual relationship with the College District or by the contractor’s agent;  
2. Provided to the College District by a vendor who seeks to contract with the College District 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 College District in the course of negotiating the terms of a contract or potential contract; or  
4. Provided to the College District on a letterhead, coversheet, printed document, or other document made available to the public. |
The College District may also disclose an e-mail address for any reason to another governmental body or to a federal agency.  

_Gov’t Code 552.137_

### PARTICIPANT IN ADDRESS CONFIDENTIALITY PROGRAM

Information relating to a participant in the Address Confidentiality Program for Victims of Family Violence, Sexual Assault, and 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.  _Code of Criminal Procedure 56.88_

### VICTIMS OF CERTAIN CRIMES

A College District employee who is also a victim under Code of Criminal Procedure Chapter 56, Subchapter B may elect whether to allow public access to information held by the College District that would identify or tend to identify the victim, including a photograph or other visual representation of the victim. An election under this subsection must be made in writing on a form developed by the College District, be signed by the employee, and be filed with the College District 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_

### INFORMATION EXCEPTED FROM PUBLIC DISCLOSURE

The Board or the officer for public information voluntarily may make part or all of its records available to the public, unless the disclosure is expressly prohibited by law or the records are confidential by law.  _Gov’t Code 552.007_

Categories of information that are excepted from disclosure to the public include:

1. Information considered to be confidential by law, either constitutional, statutory, or by judicial decision.  _Gov’t Code 552.101_

2. Information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, and transcripts from institutions of higher education main-
3. Information relating to litigation of a civil or criminal nature to which the College District is, or may be, a party or to which an officer or employee of the College District, as a consequence of the office or employment, is or may be a party, but only if the litigation is pending or reasonably anticipated at the time the College District’s public information officer receives the request. *Gov’t Code 552.103*

4. Information that, if released, would give advantage to competitors or bidders. The requirement of Government Code 552.022 that a category of information listed under 552.022(a) is public information and not excepted from required disclosure unless expressly confidential under law does not apply to information that is excepted from required disclosure under this paragraph. *Gov’t Code 552.104*

5. Information pertaining to the location of real or personal property for a public purpose prior to public announcement of the project, or information pertaining to appraisals or purchase price of real or personal property for a public purpose prior to the formal award of contracts for the property. *Gov’t Code 552.105*

6. Drafts and working papers involved in the preparation of proposed policies. *Gov’t Code 552.106*

7. Information the College District’s attorney is prohibited from disclosing because of a duty to the College District under the Texas Rules of Evidence or the Texas Disciplinary Rules of Professional Conduct or information that a court order has prohibited from disclosure. *Gov’t Code 552.107*

8. Under certain circumstances, information (except basic information about an arrested person, an arrest, or a crime) held by a law enforcement agency or prosecutor, including:
   a. Information that deals with detection, investigation, or prosecution of crime; and
   b. An internal record or notation that is maintained for internal use in matters relating to law enforcement or prosecution.
   
   *Gov’t Code 552.108*
9. Private correspondence and communications of an elected office holder relating to matters the disclosure of which would constitute an invasion of privacy. Gov’t Code 552.109

10. A trade secret obtained from a person and privileged or confidential by statute or judicial decision. Gov’t Code 552.110(a)

11. 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. Gov’t Code 552.110(b)

12. Interagency or intra-agency memoranda or letters that would not be available by law to a party in litigation with the College District. Gov’t Code 552.111; City of Garland v. Dallas Morning News, 22 S.W.3d 351 (Tex. 2000)

13. An audit working paper of an audit of the College District auditor. If information in an audit working paper is also maintained in another record, that other record is not excepted. Gov’t Code 552.116

14. Student records, except to College District personnel, the student, or the student’s parents, guardian, or spouse. The College District is not required to release student records, except in conformity with FERPA. Gov’t Code 552.114, 552.026 [See FL]

15. Information that relates to the home address, home telephone number, or social security number of the following persons, or that reveals whether the person has family members:
   a. A current or former College District employee or Board member, except as provided by Section 552.024; or
   b. A peace officer or a security officer commissioned by the Board of Private Investigators and Private Security Agencies, regardless of whether the officer complies with Section 552.1175.

Gov’t Code 552.117

16. A photograph that depicts a peace officer, the release of which would endanger the life or physical safety of the officer, unless:
   a. The officer is under indictment or charged with an offense by information;
   b. The officer is a party in a fire or police civil service hearing or a case in arbitration; or
c. The photograph is introduced as evidence in a judicial proceeding.

If a photograph is exempt from public disclosure as described above, it may be made public only if the officer gives written consent.

Gov’t Code 552.119

17. Test items developed by a state-funded educational institution. Gov’t Code 552.122

18. The certified agenda or tape recording of a closed meeting, unless a court order makes it available for public inspection and copying. Gov’t Code 551.104(c)

19. Records of a school library or library system that identify or serve to identify a person who requested, obtained, or used a library material or service, unless the records are disclosed:
   a. Because the library determines that disclosure is reasonably necessary for the operation of the library and the records are not confidential under other state or federal law;
   b. To a person with a special right of access under Government Code 552.023; or
   c. To a law enforcement agency or prosecutor under a court order or subpoena.

Gov’t Code 552.124

20. The name of an applicant for College President, except the Board must give public notice of the name or names of the finalists being considered for that position at least 21 days before the date of the meeting at which final action or a vote is to be taken on the applicant’s employment. Gov’t Code 552.123 [See BF]

21. Motor vehicle record information that relates to:
   a. A motor vehicle operator’s or driver’s license or permit issued by an agency of this state;
   b. A motor vehicle title or registration issued by an agency of this state; or
   c. A personal identification document issued by an agency of this state or a local agency authorized to issue an identification document.
The motor vehicle record information described above may be released only in accordance with Transportation Code Chapter 730.

Gov’t Code 552.130

22. An informer’s name or information that would substantially reveal the identity of an informer, unless:

a. The informer or the informer’s spouse consents to disclosure of the informer’s name.

b. The informer planned, initiated, or participated in the possible violation.

“Informer” means a student or former student or an employee or former employee of the College District who has furnished a report of another person’s possible violation of criminal, civil, or regulatory law to the College District or the proper regulatory enforcement authority.

Gov’t Code 552.135

23. Information in a commercial book or publication purchased or acquired by the College District for research purposes, if the book or publication is commercially available to the public. The College District is not required to make copies of commercially available information, but the College District 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 College District. Gov’t Code 552.027

24. Information that relates to economic development negotiations involving the Board and a business prospect that the Board seeks to have locate, stay, or expand in or near the College District, if that information relates to:

a. A trade secret of the business prospect; or

b. 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.

25. Unless and until an agreement is made with the business prospect, information about a financial or other incentive being offered to a business prospect by the Board or by another person.

After an agreement is made, information about a financial or other incentive being offered is no longer exempted from pub-
lic disclosure if the information is about a financial or other incentive being offered to the business prospect:

a. By the Board; or

b. By another person, if the financial or other incentive may directly or indirectly result in the expenditure of public funds by the College District or a reduction in revenue received by the College District from any source.

\textit{Gov't Code 552.131}

26. Information that relates to computer network security or to the design, operation, or defense of a computer network. The following information is confidential:

a. A computer network vulnerability report; and

b. Any other assessment of the extent to which data processing operations, a computer, or a computer program, network, system, or software of the College District or of a contractor of the College District is vulnerable to unauthorized access or harm, including an assessment of the extent to which the College District's or contractor's electronically stored information is vulnerable to alteration, damage, or erasure.

\textit{Gov't Code 552.136}

27. A military veteran's Department of Defense Form DD-214 or other military discharge record that first comes into the possession of the College District on or after September 1, 2003. The record is confidential for the 75 years following the date it comes into the possession of the College District in accordance with Government Code Section 552.140. A College District that obtains information from the record shall limit the use and disclosure of the information to the purpose for which the information was obtained. \textit{Gov't Code 552.140}

28. The Social Security number of a living person. The Social Security number is not confidential, however. The College District may redact the Social Security number of a living person from any information the College District discloses to the public without the necessity of requesting a decision from the attorney general. \textit{Gov't Code 552.147}

29. Certain College District investment information, as specified by Government Code 552.143, is not public information and is excepted from disclosure. \textit{Gov't Code 552.143}
The College President shall be the College District’s officer for public information. Each department head shall be an agent of the officer for public information for the purposes of complying with the public information laws and the College District’s policy on public records. The officer for public information shall:

1. Make public information available for public inspection and copying.

2. Carefully protect public information from deterioration, alteration, mutilation, loss, or unlawful removal.

3. Repair, renovate, or rebind public information when necessary to maintain it properly.

The officer for public information is responsible for the release of public information as required by Government Code Chapter 552. The officer is not responsible for the use made of the information by the requestor or the release of the information after it is removed from a record.

Gov’t Code 552.201–552.204

The 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 the Board, and the procedures for inspecting or obtaining a copy of public information under Government Code Chapter 552. The officer shall display the sign at one or more places in the administrative offices of the College District where it is plainly visible to:

1. Members of the public who request public information in person; and

2. Employees of the College District whose duties include receiving or responding to public information requests.

Gov’t Code 552.205

The College District may promulgate reasonable rules of procedure by which public information may be inspected and copied efficiently, safely, and without delay. These rules may not be inconsistent with any provision of Government Code Chapter 552. Gov’t Code 552.230

The College President or designee shall promptly produce public information for inspection, duplication, or both, in College District offices on application by any person. “Promptly” means as soon as possible under the circumstances, that is, within a reasonable time, without delay.
The College President or designee complies with such a request by providing the information for inspection or duplication in the College District’s offices or by sending copies of the information by first class mail, if the requestor requests that the copies be provided and pays the postage and any other applicable charges that the requestor has accrued under Chapter 552, Subchapter F.

**TIME FOR RESPONSE**

If the requested information is unavailable because it is in storage or active use, the College President or designee 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. If the College President or designee cannot produce the public information for inspection or duplication within ten business days after the date the information is requested, the College President or designee 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. An original copy of public information shall not be removed from College District offices by a requestor.

*Gov’t Code 552.221, 552.226; Tex. Atty. Gen. ORD-664 (2000)*

The officer for public information shall not make an inquiry of any requestor, except to establish proper identification or to ask the requestor to clarify the request. If a large amount of information has been requested, the officer may discuss with the requestor how the scope of the request might be narrowed, but the officer may not inquire into the purpose for which the information will be used. All reasonable comfort and facility shall be extended to the requestor.

*Gov’t Code 552.222, 552.224*

The officer for public information or the officer’s 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. *Gov’t Code 552.223*

A written request for clarification or discussion or for additional information must include a statement as to the consequences of the failure by the requestor to timely respond. The request must be sent to the address provided by the requestor. If the requestor does not respond by the 61st day, the underlying request for public information is considered to have been withdrawn by the requestor.

*Gov’t Code 552.222, 552.224*

**EXAMINATION**

A requestor shall complete the examination of the information not later than the tenth business day after the date the officer for public information makes it available. If the requestor does not complete
the examination of the information within ten business days after
the date the information is made available and does not file a re-
quest for additional time, the requestor is considered to have with-
drawn the request. The officer shall extend the initial examination
period by an additional ten business days if, within the initial pe-
riod, the requestor files with the officer a written request for addi-
tional time. The officer shall permit a second additional ten busi-
ness day examination period if, within the first additional period, the
requestor files with the officer a second written request for time.
The time during which a person may examine information may be
interrupted by the officer if the information is needed for use by the
Board. 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

Providing Suitable Copy

The officer for public information shall provide a suitable copy of
public information within a reasonable time after the date on which
the copy is requested.

Specific Medium

If public information exists in an electronic or magnetic medium, the
requestor may request a copy either on paper or in an electronic
medium, such as on diskette or on magnetic tape. The officer for
public information shall provide a copy in the requested medium if
the College District has the technological ability to produce the in-
formation in the requested medium and is not required to purchase
any software or hardware to accommodate the request, and provid-
ing the copy will not violate any copyright agreement between the
College District and a third party.

If the officer is unable to comply with a request to produce a copy
of information in a requested medium for any of these reasons, the
College District shall provide either a paper copy or a copy in an-
other medium that is acceptable to the requestor. The officer is not
required to copy information onto a diskette or other material pro-
vided by the requestor but may use College District supplies.

Gov’t Code 552.228

Requests Requiring Programming or Manipulation

If the officer determines that responding to a request for informa-
tion will require programming or manipulation of data and that
compliance with the request is not feasible or will result in substan-
tial interference with operations or the information could be made
available in the requested form only at a cost that covers the pro-
gramming and manipulation of data, it shall provide to the re-
questor a written statement that includes all of the following infor-
mation:

1. A statement that the information is not available in the re-
quested 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. [See GBAA (EXHIBIT)]

5. A statement of the anticipated time required to provide the information in the requested form.

The officer shall provide the written statement to the requestor within 20 days after the date the officer receives the request. The officer has an additional ten days to provide the statement if the officer gives written notice to the requestor within 20 days after receiving the request that additional time is needed.

After providing the written statement described above, the officer has no 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 writes to the officer stating that the requestor wants the information in the requested form according to the time and cost parameters set out in the officer’s statement or that the requestor wants the information in the form in which it is available. If a requestor does not make a timely written response, the requestor is considered to have withdrawn the request for information.

The officer for public information shall establish policies that assure the expeditious and accurate processing of requests for information that require programming or manipulation of data. The Board shall maintain a readily accessible file containing all written statements issued concerning requests for information that require programming or manipulation of data.

Gov't Code 552.231

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If the officer determines that a requestor has made a request for information for which the College District has previously furnished or made copies available to the requestor on payment of applicable charges, the officer shall respond to the request for information for which copies have been already furnished or made available, except that:

1. The College District is not prohibited from furnishing the information or making the information available to the requestor again in accordance with the request; and
2. The College District is not required to comply with the procedures described below in relation to information that the College District simply furnishes or makes available to the requestor again in accordance with the request.

Information for which the College District has not previously furnished copies or made copies available to the requestor on payment of applicable charges, information that was redacted from information provided earlier, or that did not exist at the time of an earlier request, shall be treated in the same manner as any other request.

PROCEDURES

The officer shall, free of charge, certify to the requestor that copies of all or part of the requested information were previously furnished or made available to the requestor on payment of applicable charges. 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 that the College District received the requestor’s original request for that information.

3. The date that the College District previously furnished copies of 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

ATTORNEY GENERAL DECISIONS

If the College District receives a written request, including a request that is sent by electronic mail or facsimile transmission if that request is sent to the College President or designee, for information it wishes to withhold from public disclosure and that it considers to be within one of the exceptions to required disclosure, but for which there has been no previous determination that it falls within one of the exceptions, the College District, not later than the tenth business day after receiving the written request, shall ask for a decision from the attorney general about whether the information is within one of the exceptions and state the exception that applies. If a decision from the attorney general is not so requested or the College District fails to provide the requestor with the statement and a copy of the College District’s communications to the attorney general, as described below, the information is presumed to be public information and must be released unless there is a compelling rea-
son to withhold it. *Gov’t Code 552.301(a), (b), (c), 552.302; Tex. Atty. Gen. ORD-673 (2000)*

The College District may not request an open records decision from the attorney general if the College District reasonably believes that the requested information is not excepted from required disclosure. The College District must promptly produce the requested information to the requestor. *Tex. Atty. Gen. ORD-665 (2000)*

The College District shall release the requested information and may not ask for an attorney general decision if the College District 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 that is not within one of the exceptions. *Gov’t Code 552.301(f); Tex. Atty. Gen. ORD-673 (2000)*

The College District 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 Government Code chapter 552, Subchapter G if:

1. A suit challenging the prior decision was timely filed against the attorney general 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)*

The College District must promptly release public information not excepted from required disclosure. The prompt release of information requires release as soon as possible under the circumstances and within a reasonable time, without delay. The College District may not automatically withhold for ten business days public information not excepted from disclosure. *Tex. Atty. Gen. ORD-664 (2000)*

If the College District requests an attorney general decision, it 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 College District 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.

2. A copy of the College District’s written communication to the attorney general asking for the decision. If the College District’s written communication to the attorney general discloses the requested information, the College District shall provide a redacted copy of that written communication to the requestor.

_Gov’t Code 552.301(d)_

When the College District requests a decision, it shall, within a reasonable time but not later than the 15th business day after the date of receiving the request for information, submit to the attorney general all of the following:

1. Written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld.

2. A copy of the written request for information.

3. A signed statement as to the date on which the written request for information was received by the College District or evidence sufficient to establish that date.

4. A copy of the specific information requested, or representative samples of the information, if a voluminous amount of information was requested. These copies must be labeled to indicate which exceptions apply to which parts of the copy.

Unless the information is confidential by law, the officer may disclose the requested information to the public or the requestor before a final determination that the information is public has been made by the attorney general or a court with jurisdiction.

If the attorney general determines that additional information is necessary to render a decision, the attorney general shall give the College District and the requestor written notice of that fact. Upon receipt of such notice, the officer 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 the officer does not comply with the attorney general’s request for additional information, the information 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(d), (e), 552.303_

A College District that submits written comments to the attorney general stating the reasons why the stated exceptions apply shall send a copy of those comments to the person who requested the
information from the College District. If the written comments disclose or contain the substance of the information requested, the copy of the comments provided to the requestor must be a redacted copy. *Gov't Code 552.301(e-1)*

**SPECIAL INTERESTS**

In a case in which information is requested and a person’s privacy or property interests may be involved, including a case under Government Code 552.101, 552.104, and 552.114 (see pages 2–3 of this policy), the College District may decline to release the information for the purpose of requesting a decision from the attorney general. The College District may, but is not required to, submit its reasons why the information should be withheld or released.

**NOTICE TO OWNER OF PROPRIETARY INFORMATION**

If release of a person’s proprietary information may be subject to exception under Government Code 552.101, 552.110, 552.113, or 552.131, a College District that requests an attorney general decision shall make a good faith attempt to notify that person of its request for the attorney general decision. The notice must include a copy of any written request the College District received for the information and a statement, in the form prescribed by the attorney general, that the person is entitled to submit to the attorney general, not later than the tenth business day after the person receives the notice, a written statement of the reason(s) why the information should be withheld and a letter, memorandum, or brief supporting the reason(s).

*Gov't Code 552.305*

**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. 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 connected with each other or a remote storage facility. If the charge for providing a copy of public information includes costs of labor, the requestor may require the officer 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 or the officer’s agent, and the officer or the officer’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. The College District shall also charge for the cost of materials, labor, and overhead when the request is for any number of copies of information that is not readily available. Charges for providing a
copy of public information are considered to accrue at the time the governmental body advises the requestor that the copy is available on payment of the applicable charges. *Gov't Code 552.261*

The College District shall use the attorney general’s rules to determine the charges for providing copies of public information and to determine 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. 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. The College District may determine its own charges for producing 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 it requests an exemption. *Gov't Code 552.261, 552.262; 1 TAC 70.1(b)* [See also GBAA(EXHIBIT)]

**EXEMPTIONS**

The College District 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, the attorney general shall grant the exemption by giving written notice of the determination within 90 days of the request. When it receives the notification, the College District may amend its charges for providing copies of public information or its charge, deposit, or bond required for making public information that exists in a paper record available for inspection according to the terms of the attorney general’s determination. *Gov't Code 552.262(c)*

**STATEMENT OF ESTIMATED CHARGES**

If a request for a copy of public information or a request to inspect a paper record will result in the imposition of a charge that exceeds $40, the College District 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 College District regarding the alternative method. The College District must inform the requestor of the responsibilities imposed on the requestor by this section and the rights granted...
by this entire section and give the requestor the information needed to respond as detailed in Government Code 552.2615(a).

If, after the College District provides the requestor the itemized statement but before it makes the copy or the paper record available, the College District determines that the estimated charges will exceed the charges detailed in the original itemized statement by 20 percent or more, the College District shall send to the requestor an updated written itemized statement that details all estimated charges that will be imposed, including any allowable charges for labor or personnel costs.

**REQUESTOR'S RESPONSE**

A request for which the College District is required to produce an (original or updated) itemized statement of estimated charges is considered to have been withdrawn if the requestor does not respond in writing to the itemized statement by informing the College District 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.

**ACTUAL CHARGES**

If the actual charges that the College District imposes for a copy or inspection of public information exceed $40, the charges may not exceed:

1. The amount estimated in the updated itemized statement; or
2. If an updated itemized statement is not sent to the requestor, an amount that exceeds by 20 percent or more the amount estimated in the original itemized statement.

**TIMING OF DEADLINES**

An original or updated itemized statement is considered to have been sent by the College District, and a requestor is considered to have responded to the statement, on the date that the statement or response is:

1. Delivered in person;
2. Deposited, properly addressed, in the U.S. mail; or
3. Transmitted by electronic mail or facsimile, provided the request or agrees to receive the statement by those means.

The time deadlines for providing the required statement of estimated charges do not affect the application of a time deadline im-
posed on the College District for requesting a decision by the attorney general under Government Code 552, Subchapter G.

Gov’t Code 552.2615

DEPOSIT OR BOND

The officer for public information or his or her agent may require a deposit or bond for payment of anticipated costs for the preparation of a copy of public information if the officer for public information or the officer’s agent has provided the requestor with the required written itemized statement detailing the estimated charge for providing the copy and if the charge for providing the copy of the public information specifically requested by the requestor is estimated by the College District to exceed $100, if the College District has more than 15 full-time employees; or $50, if the College District has fewer than 16 full-time employees. The officer for public information or the officer’s agent may not require a deposit or bond be paid as a down payment for copies of future information that the requestor may request in the future. Gov’t Code 552.263(a), (b); 1 TAC 70.7 (d)

The officer for public information or the officer’s agent may require a deposit or bond for payment of unpaid amounts the requestor owes the College District in relation to previous public information requests 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)

The College District must fully document the existence and amount of those unpaid amounts or the amount of any anticipated costs before requiring a deposit or bond under this section. The documentation is subject to required public disclosure. Gov’t Code 552.263(d)

For the purposes of charging for providing copies of public information or for requesting an attorney general’s opinion, if the College District requires a deposit or bond from the requestor, a request for a copy of public information is considered to have been received by the College District on the date it receives the deposit or bond for payment of anticipated costs or unpaid amounts. A requestor who fails to make such a deposit or post such a bond before the tenth business day after the date the deposit or bond is required is considered to have withdrawn the request. Gov’t Code 552.263(e), (f)

WAIVERS

If the cost to the College District of processing the collection of a charge for providing a copy of public information will exceed the amount of the charge, the Board may waive the charge. If the Col-
lege District determines that waiver or reduction of the charge is in
the public interest because providing the copy of the information
primarily benefits the general public, the College District may waive
or reduce the charge for a copy of public information.  *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 the College District for public
dissemination. If the cost of the publication is not determined by
state law, the College District may determine the charge for provid-
ing the publication, or it may provide the publication free of charge,
if state law does not require a certain charge.  *Gov't Code 552.270*

**INSPECTION OF
PUBLIC INFORMATION**

If the requestor does not request a copy of public information, the
College District may not impose a charge for making available for
inspection any public information that exists in a paper record. If a
page contains confidential information that must be edited from the
record before the information can be made available for inspection,
however, the College District may charge for the cost of making a
photocopy of the page from which the confidential information must
be edited. No charge other than the cost of the photocopy may be
imposed.  *Gov't Code 552.271(a), (b)*

**PAYMENT, OR
DEPOSIT OR BOND**

The 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 only 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 the officer’s agent esti-
   mates that more than five hours will be required to make the
   public information available for inspection.

*Gov't Code 552.271(c)*

**CERTAIN SMALL
COLLEGE
DISTRICTS**

If the College District has fewer than 16 full-time employees, the
payment, or 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 assem-
   bled will completely fill, three or more archival boxes; and

2. The officer for public information or the officer’s agent esti-
   mates that more than two hours will be required to make the
   public information available for inspection.

*Gov't Code 552.271(d)*
If the College District receives a request to inspect information that exists in an electronic medium and the information is not available directly on-line 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 Board shall notify the requestor before assembling the information and provide the requestor with an estimate of charges that will be imposed.

If public information exists in an electronic form on a computer owned or leased by the College District, and the public has access to that information 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 College District’s computer before the information is copied. If such information does require processing, programming, or manipulation before it can be copied, the Board may impose charges.

If the College District creates or keeps information in an electronic form, it is encouraged to explore options to separate confidential information from public information and make the public information available to the public through electronic access through a computer network or other means.

_Gov’t Code 552.272_

**ELECTRONIC RECORDS**

**LARGE OR FREQUENT REQUESTS**

The College District may establish a reasonable limit on the amount of time that employees 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 College District’s fiscal year.

**PERSONNEL TIME**

**REQUEST BY MINOR**

Any time spent complying with a request 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.

**EXCEPTION**

This section does not apply if the requestor is:

1. A representative of a radio or television station that holds a license issued by the Federal Communications Commission;
2. A representative of 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. An elected official of the United States, this state, or a political subdivision of this state; or

4. A representative of a publicly funded legal services organization that is a federal tax exempt entity under Section 501(c)(3), Internal Revenue Code of 1986.

If a College District establishes a time limit, each time the College District complies with a request for public information, the College District 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 included in the statement.

If the cumulative amount of personnel time spent complying with requests for public information from the same requestor equals or exceeds the time limit established under this section, the College District 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 on or before the tenth day after the date on which the request was made. 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.

If the College District provides the requestor with written notice that additional time is required to prepare the written estimate, the College District must provide the requestor with the written estimate as soon as practicable, but on or before the tenth day after the date the College District provided the notice that additional time was required.

The College District 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 College District provided the written estimate, the requestor submits a written statement to the College District in which the requestor commits to pay the lesser of:
1. The actual costs incurred in complying with the requestor's request, including the cost of materials and personnel time and overhead; or

2. The amount stated in the written estimate.

If the requestor fails or refuses to respond, the requestor is considered to have withdrawn the request.

This section does not prohibit the College District 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 Government Code 552.267 [see WAIVERS, above].

Gov't Code 552.275

The Board or officer for public information may, within the time lines provided for in Government Code 552.324(b) and 552.353(b)(3), file suit seeking to withhold information, but the requestor may not be named as a party to that action. The Board or officer for public information must demonstrate to the court that the Board or officer made a timely good faith effort to inform the requestor, by certified mail or other method of written notice that requires the return of a receipt, of:

1. The existence of the suit, including the subject matter, the cause number, and the court in which the suit is filed.

2. The requestor’s right to intervene in the suit or to choose not to participate.

3. The fact that the suit is against the attorney general.

4. The address and phone number of the office of the attorney general.

Gov't Code 552.324, 552.325

A College District that files suit seeking to withhold information may raise only those exceptions to required disclosure that the College District properly raised before the attorney general in connection with a request for a decision by the attorney general, unless the exceptions raised by the College District in its suit seeking to withhold information are required by federal law or involve property or privacy interests of another person. Gov't Code 552.326
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 are as follows:

1. 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.

2. Nonstandard-size copy. The charges for nonstandard copies are:
   a. Diskette — $1.00
   b. Magnetic tape — actual cost
   c. Data cartridge — actual cost
   d. Tape cartridge — actual cost
   e. Rewritable CD (CD-RW) — $1.00
   f. Non-rewritable CD (CD-R) — $1.00
   g. Digital video disc (DVD) — $3.00
   h. JAZ drive — actual cost
   i. Other electronic media — actual cost
   j. VHS video cassette — $2.50
   k. Audio cassette — $1.00
   l. Oversize paper copy (e.g., 11" x 17", greenbar, bluebar, not including maps and photographs using specialty paper) — $.50
   m. Specialty paper (e.g., Mylar, blueprint, blueline, map, photographic) — actual cost

Personnel charges are as follows:

1. 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 College District 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. College Districts that do not have in-house programming capabilities will comply with requests in accordance with Government Code 552.231. [See CQ]
2. 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.

3. A labor charge will not be billed in connection with complying with requests that are for 50 or fewer pages of paper records, unless the documents to be copied are located in two or more separate buildings that are not physically connected to each other or a remote storage facility. For purposes of this provision, two buildings connected by a covered or open sidewalk, an elevated or underground passageway, or a similar facility, are not considered to be separate buildings.

4. A labor charge should not be recovered for any time spent by an attorney, legal assistant, or any other person who reviews the requested information:
   a. To determine whether the College District will raise any exceptions to disclosure of the requested information under Government Code, Subchapter C, Chapter 552; or
   b. To research or prepare a request for a ruling by the attorney general’s office pursuant to section 552.301 of Government Code. [See CQ]

5. When confidential information pursuant to a mandatory exception of the Act is mixed with public information in the same page, a labor charge may be recovered for time spent to redact, blackout, or otherwise obscure confidential information in order to release the public information. A labor charge will not be made for redacting confidential information for requests of 50 or fewer pages, unless the request also qualifies as a labor charge pursuant to Government Code 552.261(a)(1) or (2).

Overhead charges are as follows:

1. Whenever any labor charge is applicable to a request, the College District 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 the College District chooses to recover such costs, a charge will be made in accordance with the methodology described in item 3 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.

2. An overhead charge will not be made for requests for copies of 50 or fewer pages of standard paper records unless the request also qualifies for a labor charge pursuant to Government Code 552.261(a)(1) or (2).

3. 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.
Microfiche and microfilm charges are as follows:

1. If the College District 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 fiche or film can be released in its entirety, the College District should make a copy of the fiche or film. The charge for a copy must not exceed the cost of reproduction. College Districts 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.

2. 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.

Remote document retrieval charges are as follows:

1. 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 the College District 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.

2. If the College District 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 College District the boxes must still be searched for records that are responsive to the request, a labor charge is allowed in accordance with item 2 under personnel charges, above.

Computer resource charges are as follows:

1. 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.

2. 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.

3. The charges in this section are averages based on a survey of governmental bodies with a broad range of computer capabilities. Each college district using this cost recovery charge will determine which category(ies) of computer system(s) used to fulfill the public information request most closely fits its existing system(s) and set its charge accordingly.
<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>

4. 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 above, at Personnel Charges. 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 / 20) = $3.33.

The College District that does not have in-house computer capabilities will comply with requests in accordance with Government Code 552.231. [See CQ]

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.

Governmental bodies may add any related postal or shipping expenses that are necessary to transmit the reproduced information to the requesting party.

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, Sections 3.341 and 3.342).

A College District 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; 70.10
**UNITED STATES CONSTITUTION**

The College District shall take no action abridging the freedom of speech or the right of the people to petition the Board for redress of grievances. *U.S. Const. Amend. I, XIV*


**TEXAS CONSTITUTION**

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*

**RESPONSE TO COMPLAINTS**

There is no requirement that the Board negotiate or even respond to complaints. However, the Board must stop, look, and listen and must consider the petition, address, or remonstrance. *Professional Ass’n of Coll. Educators v. El Paso County Cmty Dist.*, 678 S.W.2d 94 (Tex. App.—El Paso 1984, writ ref’d n.r.e.)

**FEDERAL LAWS**

The College District that receives federal financial assistance, directly or indirectly, and 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 Section 504 of the Rehabilitation Act of 1973. *29 U.S.C. 794; 34 CFR 104.7(b)*

The 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 CFR 35.107*

**CLOSED MEETING**

The Board may conduct a closed meeting on a public complaint to the extent required or provided by law. [See BEC]

**DISRUPTION**

It is a criminal offense for a person, with intent to prevent or disrupt a lawful meeting, to substantially obstruct or interfere with the ordinary conduct of a meeting by physical action or verbal utterance and thereby curtail the exercise of others’ First Amendment rights. *Penal Code 42.05; Morehead v. State*, 807 S.W.2d 577 (Tex. Crim. App. 1991)
PROHIBITED ACTS

An officer or employee of the 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 College District;

2. Refuse to permit the person to participate in a program owned, operated, or managed by or on behalf of the College District;

3. Refuse to grant a benefit to the person; or

4. Impose an unreasonable burden on the person.

Civil Practices and Remedies Code 116.001

FORUM FOR COMMUNICATION

The College District may create a public forum of a place or channel of communication for use by the public at large for assembly and speech, for use by certain speakers, or for the discussion of certain subjects. **Perry Educ. Ass’n v. Perry Local Educators’ Ass’n**, 460 U.S. 37 (1983); **Chiu v. Plano ISD**, 260 F.3d 330 (5th Cir. 2001)

The College District is not required to allow persons to engage in every type of speech when the College District establishes a limited public forum; the College District may be justified in reserving its forum for certain groups or for the discussion of certain topics. The College District shall not discriminate against speech on the basis of viewpoint, and any restriction must be reasonable in light of the purpose served by the forum. **Good News Club v. Milford Cent. Sch.**, 533 U.S. 98 (2001); **Lamb’s Chapel v. Center Moriches Union Free Sch. Dist.**, 508 U.S. 384, 113 S. Ct. 2141 (1993)

FEES FOR USE

The Board shall be authorized to fix and collect rentals, rates, charges, 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 the Board. **Education Code 130.123(c)**

FACILITIES AS POLLING PLACES

The College District shall make its buildings available for use as polling places in any election that covers territory in which the buildings are located. If more than one authority requests the use of the buildings for the same day and simultaneous use is impractical, the College District 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, shall be made for the use of a College District building for a polling place if the day of the election is a day on which the building is normally open. If the day of an election is a day on which the building is not normally open, a charge may be made only for the reimbursement of actual expenses resulting from use of the building in the election. *Election Code 43.033(a)*

<table>
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<tr>
<th>POLITICAL PARTY CONVENTIONS</th>
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<td>The College District shall not assess a charge for the use of a school building for a precinct, county, or senatorial district convention, except for reimbursement for the actual charges resulting from use of the building for the convention. The College District shall provide an itemized statement of expenses to the reimbursing authority. <em>Election Code 174.0631</em></td>
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<tr>
<th>DISTRIBUTION OF NONSCHOOL LITERATURE</th>
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If the College District creates a forum for the distribution of non-school literature, the College District may impose time, place, and manner regulations and may reserve its facilities for their intended purposes, communicative or otherwise, as long as the regulation on speech is reasonable and not an effort to suppress expression merely because public officials oppose the speaker’s view. *Perry Educ. Ass’n v. Perry Local Educators’ Ass’n*, 460 U.S. 37 (1983)

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<tr>
<th>USE OF COLLEGE DISTRICT MAIL SYSTEM</th>
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<td>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. <em>Perry Educ. Ass’n v. Perry Local Educators’ Ass’n</em>, 460 U.S. 37 (1983) [See also CHE]</td>
</tr>
</tbody>
</table>
TRESPASS AND DAMAGES

No person shall trespass on to the grounds of the College District or damage or deface any of the buildings, statues, monuments, memorials, trees, shrubs, grasses, or flowers on the grounds of the College District. *Education Code 51.204*

DISRUPTIVE ACTIVITIES

A person commits an offense if the person, alone or in concert with others, intentionally engages in disruptive activity on the campus or property of the College District. For purposes of this section, disruptive activity includes:

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*

PERIODS OF DISRUPTION

A period of disruption shall be any period in which it reasonably appears that there is a threat of destruction to institutional property, injury to human life on the campus or facility, or a threat of willful disruption of the orderly operation of the campus or facility. *Education Code 51.231*

IDENTIFICATION OF PERSONS ON CAMPUS

During periods of disruption, as determined by the College President or a representative designated by the College President to maintain order on the campus or facility of the institution, the College President or designated representatives 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, the student or employee official identification card, or other evidence of relationship with the College District, and if it reasonably appears that the person has no legitimate reason to be on the campus or facility, the person may be ejected from the campus or facility.

*Education Code 51.232*

**Withdrawal of Consent to Remain on Campus**

During periods of disruption, the College President or a designated representative 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 fourteen days from the date on which consent was initially withdrawn.

*Education Code 51.233*

**Entering or Remaining on Campus after Withdrawal of Consent**

Any person who has been notified that the consent to remain on the campus or facility has been withdrawn 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 defined by law.

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 College President, authorized officer, or authorized employee for the reinstatement of consent or for the sole purpose of attending a hearing on the withdrawal.

*Education Code 51.239*

[See also Education Code 51.234-.238, 51.240-.244 for additional procedural requirements related to periods of disruption]

**Students and Employees Barred from Campus After Suspension or Dismissal**

Every student or employee who has been suspended or dismissed from the College District 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 College District for the period of suspension, and in the case of dismissal, for a period not to exceed one year. *Education Code 51.241(a)*
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 the College District 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 the College District controlling and managing the building or property, if the circumstances are such as to indicate that the individual or individuals have no apparent lawful business to pursue. *Education Code 51.242*

HEARING PROCEDURES

A person from whom consent to remain on the campus of the College District has been withdrawn shall be entitled, in addition to the procedures set out in this policy (see Education Code 51.233), to the following:

1. Be represented by counsel.
2. The right to call and examine witnesses and to cross-examine adverse witnesses.
3. Have all matters upon which the decision may be based introduced into evidence at the hearing in his or her presence.
4. Have the decision based solely on the evidence presented at the hearing.
5. Prohibit the introduction of statements made against him or her 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.
6. Have all findings made at the hearing be final, subject only to the person's right to appeal to the College President and the Board.

*Education Code 51.243*

FIREARMS/WEAPONS

A person commits an offense if the person knowingly, intentionally, 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 or any grounds or building in which an activity sponsored by a school or educational institution is being conducted, or a passenger transportation vehicle of a College District or educational institution, unless pursuant to written regulations or written authorization of the College District. *Penal Code 46.03* [See also FNCG]

“Premises,” for purposes of this policy, means a building or a portion of a building. The term does not include any public or private...
A concealed handgun license holder commits an offense if the license holder carries a handgun 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.

For purposes of this section, 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 appearing in contrasting colors with block letters at least one inch in height and displayed in a conspicuous manner clearly visible to the public.

An offense under this section is a Class A misdemeanor.

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 the College District and is not a premises or other place on which the license holder is prohibited from carrying the handgun under Section 46.03 or 46.035.

Penal Code 30.06 [See also FNCG]

A license holder commits an offense if the license holder intentionally, knowingly, or recklessly carries a handgun under the authority of Subchapter H, Chapter 411, Government Code, 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 College Board, 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) [see INTERSCHOLASTIC EVENTS and BOARD MEETINGS, 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 Section 411.201, Government Code;
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)*

A person may not explode or ignite fireworks within 600 feet of the College District unless the person receives authorization in writing from the College District. *Occupations Code 2154.251(a)(1)*
A College District that maintains the capability to provide mutual aid may render mutual aid to other local government entities under mutual aid agreements or the Texas Statewide Mutual Aid System. Gov’t Code 418.107(c)

The College District may provide mutual aid assistance on request from another local government entity or organized volunteer group. The College President, with the approval and consent of the Board President, may provide that assistance while acting in accordance with the policies, ordinances, and procedures established by the Board. Gov’t Code 418.109(d)

“Local government entity” means a county, incorporated city, independent school 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.

“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

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 not later than the 30th day after the date the request was made. Gov’t Code 418.115

When contacted with a request for mutual aid assistance, a College District 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 College District 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 College District;

4. The designated supervisory personnel of the College District 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 College District; and
   c. Report work progress to the requesting local government entity; and

5. The College District’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 College District are no longer required; or
2. The College District 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 College District employing the person in response to a request under the Texas Statewide Mutual Aid System 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 College District 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 College District 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 College District. A request for reimbursement made to the division must be made in accordance with procedures developed by the division. \textit{Gov't Code 418.118}

If a local government entity requests mutual aid assistance from the College District under the system, the requesting local government entity shall reimburse the actual costs of providing mutual aid assistance to the College District, including costs for personnel, operation and maintenance of equipment, damaged equipment, food, lodging, and transportation, incurred by the College District 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. \textit{Gov't Code 418.1181}

EMERGENCY MANAGEMENT TRAINING

This section applies only to an appointed public officer:

1. Whose position description, job duties, or assignment includes emergency management responsibilities; or

2. Who plays a role in emergency preparedness, response, or recovery.

An appointed public officer shall complete a course of training provided or approved by the division of emergency management in the office of the governor of not less than three hours regarding the responsibilities of state and local governments under this chapter not later than the 180th day after the date the person:

1. Takes the oath of office, if the person is required to take an oath of office to assume the person’s duties as an appointed public officer; or

2. Otherwise assumes responsibilities as an appointed public officer, if the person is not required to take an oath of office to assume the person’s duties.

The division or other entity providing the training shall provide a certificate of course completion to public officers who complete the training required by this section. A public officer who completes the training required by this section shall maintain and make available for public inspection the record of the public officer’s completion of the training.
Not later than January 1, 2009, each public officer who has taken the oath of office for a College District office before January 1, 2008, and who is required to complete a course of training under this section must complete the training.

*Government Code 418.005*

[See CGC for emergency management within the College District]
* The Board along with ______________________________ Dis-
  trict has created an athletic stadium authority by resolution of both
  Boards. The authority shall be known as ____________________
  ______________________, and is a body politic and corporate,
  and is governed by the requirements of the Texas Education Code.
  Education Code 45.151

* (The above policy should be adopted by college districts that
  have created an athletic stadium authority with an independent
  school district.)

The Board of the Junior College District may establish and operate
a dual usage educational complex to provide a shared facility for
the educational activities of the College District and other partici-
pating entities.

The Board 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 uni-
form service region as adopted by the Coordinating Board.

The Junior College District shall coordinate and supervise the op-
eration of the complex. The use and the costs associated with the
establishment and operation of the complex shall be shared by the
College District and the other participating entities under the terms
of the cooperative agreement.

Education Code 130.0103

Under guidelines established by the Coordinating Board and the
State Board of Education, the College District shall report student
performance during the first year enrolled after graduation from
high school to the high school or junior college last attended. This
report shall include, but not be limited to, appropriate student test
scores, a description of developmental courses required, and the
student’s grade point average. Appropriate safeguards for student
privacy shall be followed. Education Code 51.403(e); 19 TAC 9.23

Unless the College District is already operating under a plan to in-
crease enrollment, not later than May 1 of each year the Coordinat-
ing Board shall notify affected college districts in closest geo-
graphic proximity to a school district to which Education Code
29.904 applies of the applicability of this section to the school dis-
trict unless the school district is operating under a plan required by
this section.
Affected school districts are those 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.

Not later than August 1 of the year in which an affected school district receives notice from TEA, a school district shall enter into an agreement with the public institution of higher education in this state in closest geographic proximity to the school district to develop a plan to increase the percentage of the school district's graduating seniors who enroll in an institution of higher education for the academic year following graduation. That public institution of higher education shall enter into an agreement unless that institution or the school district recruits another public institution of higher education in this state to enter into the agreement. A school district and the public institution of higher education entering into the agreement with the school 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.

The plan:

1. Must establish clear, achievable goals for increasing the percentage of the school district's graduating seniors who enroll in an institution of higher education for the academic year following graduation;
2. Must establish an accurate method of measuring progress toward the goals established under item 1 above that may include the percentage of school district high school students who:
   a. Are enrolled in a course for which a student may earn college credit, such as an advanced placement or international baccalaureate course or a course offered through concurrent enrollment in high school and at an institution of higher education;
   b. Are enrolled in courses that meet the curriculum requirements for the recommended or advanced high school program;
c. Have submitted a free application for federal student aid (FAFSA);
d. Are exempt under Education Code 51.306(l) or (m) from administration of a test instrument under 51.306 or have performed successfully on a test instrument;
e. Graduate from high school;
f. Graduate from an institution of higher education; and
g. Have taken college entrance examinations and the average score of those students on the examinations;

3. Must cover a period of at least five years; and

4. May be directed at school district students at any level of primary or secondary education.

A school district shall file the plan with the Commissioner of Education and the Commissioner of Higher Education. A school district must implement the plan at the beginning of the school year following the year during which the school district receives notice from TEA. A school district may revise the plan as necessary in response to achieving or failing to achieve goals under the plan.

*Education Code 29.904*

**COLLEGE CREDIT PROGRAM**

If requested by a school district, the College District must assist the school district in developing and implementing a program under which students may earn the equivalent of at least 12 semester credit hours of college credit in high school. 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.

*Education Code 28.009(a)*

**COLLEGE COURSES IN SCHOOL DISTRICT FACILITIES**

By resolution, the Board may enter into a contract with the trustees of an independent school district in a county adjacent to, but not a part of, the College District to hold college courses in the school district’s facilities. *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 the College District if the board obtains written consent from the College President or other chief executive officer of the College District.

The College President or other chief executive officer of the College District may provide written consent to a board of trustees of a school district regardless of whether the College District is located within the boundaries of the school district.

*Education Code 11.166*

Types of partnerships include:

1. **Partnerships for Award of High School Credit Only.** Contractual agreements between public school districts and the College District in which the latter provides instruction in courses to high school students for award of high school credit only. Rules for these agreements are located in 19 TAC 9.125.

2. **Partnerships for Award of Concurrent Course Credit.** Partnerships between secondary schools and the College District in which the latter provides instruction to high school students for immediate award of both high school credit and college certificate and associate degree credit. Rules covering these partnerships may be found in 19 TAC Chapter 4, Subchapter D.

3. **Partnerships for Tech-Prep Programs.** Partnerships between public school districts and the College District 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 College District in an associate degree or certificate program.

4. **Partnerships for Remedial or Development Instruction for High School Graduates.** Partnerships between public school districts and the College District to provide instruction by the latter to high school students for either remedial course work to prepare students to pass the Texas Assessment of Knowledge and Skills (TAKS) test or developmental course work to prepare the students to pass an assessment instrument approved by the Coordinating Board.

*19 TAC 9.143*

For any instructional partnership between a secondary school and the College District, an agreement must be approved by the governing boards of both the public school district or private secondary school district and the College District.
school and the College District 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
8. Funding provisions

19 TAC 9.144

The College District may contract to provide instruction for public secondary schools. Provision of instruction for public secondary schools by the College District 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. Instructors in contract programs with public secondary schools must meet qualifications required by the College District as well as the minimum guidelines approved by the State Board of Education. An agreement between the College District and the public secondary school must be approved by both governing boards. 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 College District and the public secondary school. 19 TAC 9.125

The Board may contract with the governing board of an independent school district in the College District’s service area for the College District 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.

The Board may exempt from tuition a student enrolled in a remedial program. The grant of an exemption from tuition does not affect the right of the College District to a proportionate share of state appropriations under Section 130.003 attributable to the contact hours of the College District with the student receiving the exemption. For instances when state funding is provided to both a school district and a public junior college district for a student enrolled in
courses offered by a junior college district, the Commissioner of Education and the Commissioner of Higher Education shall jointly develop a mechanism to identify and eliminate duplication of state funding.

High school students who have passed all sections of the exit-level TAKS test with the high school graduation standard may be permitted to enroll in state-funded developmental courses offered by the College District at the College District’s discretion if a need for such course work 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; 19 TAC 9.146*

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, the College District 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 College District, if the student has been admitted to the College District or becomes eligible to enroll in and is subsequently admitted to the College District.

The College District 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 shall be included in the contact hours used to determine the College District’s proportionate share of the state money appropriated and distributed to public junior college districts under Sections 130.003 and 130.0031, even if the College District waives all or part of the tuition or fees for the student.

*Education Code 130.008*

In admitting or enrolling high school students in a course offered for joint high school and junior college credit, the College District 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*

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 Texas Success Initiative on relevant section or sections of an assessment instrument approved by the Coordinating Board; or

2. Demonstrates that he or she is exempt under the provisions of the Texas Success Initiative.

An eleventh grade high school student is also eligible to enroll in dual credit courses under any of the following conditions;

1. A student achieves a score of 2200 on Mathematics and/or a score of 2200 on English/Language Arts with a writing subsection score of at least 3 on the tenth grade TAKS relevant to the courses to be attempted. An eligible high school student who has enrolled in dual credit courses in the eleventh grade under this provision shall not be required to demonstrate further evidence of eligibility to enroll in dual credit courses in the twelfth grade;

2. The student achieves a combined score of 107 on the PSAT/NMSQT with a minimum of 50 on the critical reading and/or mathematics test relevant to the courses to be attempted. An eligible high school student who has enrolled in dual credit under this provision must demonstrate eligibility to enroll in dual credit courses in twelfth grade; or

3. The student achieves a composite score of 23 on the PLAN with a 19 or higher in mathematics and English. An eligible high school student who has enrolled in dual credit under this provision must demonstrate eligibility to enroll in dual credit courses in twelfth grade.

*19 TAC 4.85(b)(1)–(2)*

A high school student is eligible to enroll in workforce education dual credit courses in the eleventh and/or twelfth grade if the student demonstrates that he or she has achieved the minimum high school passing standard on the Mathematics section and/or the English/Language Arts section on the tenth or eleventh grade TAKS.
1. A student may enroll only in those workforce education dual credit courses for which the student has demonstrated eligibility.

2. A student who is exempt from taking TAKS may be otherwise evaluated by the College District to determine eligibility for enrolling in workforce education dual credit courses.

19 TAC 4.85(b)(3)

Students who are enrolled in private or nonaccredited secondary schools or who are homeschooled must satisfy the provisions of 19 TAC 4.85(b)(1)–(3). 19 TAC 4.85(b)(4)

To be eligible for enrollment in a dual credit course offered by the College District, students must meet all the College District’s regular prerequisite requirements designated for that course, e.g., minimum score on a specified placement test, minimum grade in a specified previous course, and the like. Students must also have at least junior year high school standing. Exceptions to this requirement for students with demonstrated outstanding academic performance and capability, as evidenced by grade point average, PSAT scores, or other assessment indicators, may be approved by the principal of the high school and the chief academic officer of the College District. Students with less than junior year high school standing must demonstrate eligibility as set forth at 19 TAC 4.85(b)(1). 19 TAC 4.85(b)(5)–(6)

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 District. 19 TAC 4.85(b)(7)

The College District may impose additional requirements for enrollment in courses for dual credit that do not conflict with this section. 19 TAC 4.85(b)(8)

The College District shall select instructors of dual credit courses. These instructors must be regularly employed faculty members of the College District or must meet the same standards, including minimal requirements of the Southern Association of Colleges and Schools, and approval procedures used by the College District to select faculty responsible for teaching the same courses at the main campus of the College District.
The College District 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 District.

19 TAC 4.85(e)

Dual credit courses may be taught on the College District campus
or on the high school campus. For dual credit courses taught ex-
clusively 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 TAC 4.101–4.108. 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)

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 Recommended or Distinguished
   Achievement 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 place-
   ment 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)

Students in dual credit courses must be eligible to utilize the same
or comparable support services that are afforded College District
students on the main campus. The College District is responsible
for ensuring timely and efficient access to such services (e.g., aca-
demic advising and counseling), to learning materials (e.g., library
resources), and to other benefits for which the student may be eli-
gable. 19 TAC 4.85(g)(2)

Courses offered for dual credit by the College District must be iden-
tified 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.
The College District may not offer remedial and developmental courses for dual credit.

19 TAC 4.85(a)

The College District shall ensure that a dual credit course and the corresponding course offered at the main campus of the College District 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 District’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, and the like. 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)

FUNDING

The state funding for dual credit courses shall be available to both public school districts and the College District based upon the current funding rules of the State Board of Education and the Coordinating Board. The College District may claim funding for all students getting college credit in dual credit courses. 19 TAC 4.85(i)(1)–(2)

NO REQUIREMENT

The College District is not required, under the provisions of 19 TAC 4.85, to offer dual credit courses for high school students. 19 TAC 4.85(b)(9)
Nondiscrimination

No person shall, on the grounds of race, color, or national origin, be excluded from participation, be denied the benefits of, or be subjected to discrimination under any College District program or activity. 42 U.S.C. 2000d

Social Security Numbers

It shall be unlawful for a College District to deny to any individual any right, benefit, or privilege provided by law because of the individual’s refusal to disclose his or her Social Security number.

Exceptions

The above provision does not apply 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. Any disclosure to a College District 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.


Individuals with Disabilities

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 the College District, or be subjected to discrimination by the College District. Nor shall the College District exclude or otherwise deny equal services, programs, or activities to an individual because of the known disability of an individual with whom the individual is known to have a relationship or association. 42 U.S.C. 12132; 28 CFR 35.130(g)

Definition

A “qualified individual with a disability” is 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 CFR 35.104

REASONABLE MODIFICATION

The College District shall make reasonable modifications in poli-
cies, practices, or procedures when the modifications are neces-
sary to avoid discrimination on the basis of disability, unless the
College District can demonstrate that making the modifications
would fundamentally alter the nature of the service, program, or
activity. 28 CFR 35.130(b)(7)

COMMUNICATIONS

The College District shall take appropriate steps to ensure that
communications with applicants, participants, and members of the
public with disabilities are as effective as communications with oth-
ers. To this end, the College District shall furnish appropriate auxil-
ary aids and services where necessary to afford an individual with
a disability an equal opportunity to participate in, and enjoy the
benefits of, a service, program, or activity conducted by the College
District. In determining what type of auxiliary aid or service is nec-
essary, the College District shall give primary consideration to the
requests of the individual with disabilities. 28 CFR 35.160

AUXILIARY AIDS
AND SERVICES

“Auxiliary aids and services” includes
1. Qualified interpreters, note-takers, transcription services, writ-
ten materials, assistive listening systems, and other effective
methods for making aurally delivered materials available to
individuals with hearing impairments;

2. Qualified readers, taped texts, audio recordings, Braille mate-
rials, large print materials, or other effective methods for mak-
ing visually delivered materials available to individuals with
visual impairments;

3. Acquisition or modification of equipment or devices; and

4. Other similar services and actions. 28 CFR 35.104

LIMITS OF REQUIRED MODIFICATION

The College District is not required 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 adminis-
trative burdens. Any decision that compliance with its responsibility
to provide effective communication for individuals with disabilities
would fundamentally alter the service, program, or activity or un-
duly burden the College District shall be made by the Board after
considering all resources available for use in funding and operating
the program, service, or activity. The decision shall be accompa-
nied by a written statement of the reasons for reaching that conclu-
sion. 28 CFR 35.164
### NOTICE
The College District shall make available to applicants, participants, beneficiaries, and other interested persons information regarding the provisions of Title II of the Americans with Disabilities Act (ADA) and its applicability to the services, programs, or activities of the College District. The information shall be made available in such manner as the Board and College President find necessary to apprise such persons of the protections against discrimination assured them by the ADA. *28 CFR 35.106*

### COMPLIANCE COORDINATOR
The College District shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under Title II of the ADA, including any investigation of any complaint communicated to it alleging its noncompliance or alleging any actions that would be prohibited under the ADA. The College District shall make available to all interested individuals the name, office address, and telephone number of the employee(s) so designated and shall adopt and publish procedures for the prompt and equitable resolution of complaints alleging any action that would be prohibited under the ADA. *28 CFR 35.107*

### ACCESS TO ELECTRONIC AND INFORMATION RESOURCES
The College District shall develop, procure, maintain, and use accessible electronic and information resources that conform to rules adopted by the Department of Information Resources. *Government Code 2054.454; 1 TAC 206.70–.75*

### RELIGIOUS FREEDOM
The College District may not substantially burden a person’s free exercise of religion, unless it is acting in furtherance of a compelling governmental interest and has used the least restrictive means of furthering that interest. *Civil Practice and Remedies Code 110.003* [See also DAA and FB]