



UPDATE 26 Adoption Notification Form

Update 26 contains (LOCAL) policies that require board action before we can incorporate Update 26 to your college's *Policy On Line* manual.

Please fill out this form and fax to the attention of Loretta Jeschke at 512-467-3618 or complete the form electronically at <http://www.tasb.org/policy/pol/private/polfdbk.html> or email pol-support@tasb.org.

232501 Southwest Texas Junior College

Your Name: _____

E-mail: _____
We will send a confirmation e-mail when your Update is placed online.

About previous Updates:

- Please check the box to confirm. The board has adopted all prior updates. [Please note: Policy Service cannot place Update 26 online unless the board has adopted all prior updates.]

About Update 26:

Please provide us with the **Adoption date:** _____ and **status** of Update 26 by checking one of the boxes below:

- Place Update 26 online immediately. Our board has adopted it as sent to us by TASB.

OR

- Our board has acted on all of Update 26, and made additional changes to the policies listed below*:

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

If you have any questions, please contact Loretta Jeschke by phone at 800-580-7529, ext. 6229.

TASB Policy Service

Fax: 512-467-3618

Localized Policy Manual

Update 26

Southwest Texas Junior College

Update 26 to your localized policy manual includes new legal material arising from administrative action and legislation passed since the last Update that affect the governance and management of Texas community colleges. Of particular significance in this update are policy revisions/additions that address:

- Accounting Audits and Related Reports
- Online Posting Requirements
- Board Vacancies
- Tax Officials
- Accident Prevention
- Records Management
- Social Media
- Information Resources
- Breaks for Nonexempt Employees
- Salary Deductions
- Distance Learning
- Off-Campus and Self-Supporting Programs
- Textbook Information
- Degree Programs
- Accommodations for Disabled Students
- Credit for Transfer Students

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

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

Please note:

- This **Update 26** packet contains:
 - INSTRUCTIONS** . . . providing specific directions on which policies have been revised, added, or deleted at this Update;
 - EXPLANATORY NOTES** . . . summarizing and pointing out changes occurring within each policy code; and
 - UPDATED POLICIES** . . . reflecting new or replacement materials included in this Update.

Regarding board action on Update 26 . . .

- Board action on Localized Update 26 must occur within an open meeting of the board and may be addressed on the agenda posting as “Review updated (LEGAL) policies and act on (LOCAL) policies (see attached list).” Using the INSTRUCTION SHEET as a guide, create and attach to the posting a list of the (LOCAL) policy codes and the titles/subtitles of those policies.
- An appropriate motion for board action on Localized Update 26 is as follows:
“I move that the board add, revise, or delete (LOCAL) policies as recommended by TASB Policy Service and according to the INSTRUCTION SHEET for TASB Localized Policy Manual Update 26 [with the following changes:]”
- The board’s action on Localized Update 26 must be reflected in board minutes. The INSTRUCTION SHEET—annotated to reflect any changes made by the board—and the EXPLANATORY NOTES for the Update should be filed with the board minutes where they comprise the authoritative historical record of your Localized Policy Manual. Also include in the historical record a copy of the (LOCAL) policies replaced or rescinded. **Notify your policy consultant of any changes made by the board so that Policy Service records correctly reflect your manual.**

Regarding manual maintenance and administrative regulations . . .

- The Update should be incorporated into each of the college district’s Localized Policy Manuals as soon as practicable. If the college district uses *Policy On Line*, please notify Policy Service of the board’s action on Update 26 so that this action may be reflected in your Localized Policy Manual as it appears on TASB’s Web server.

Policy On Line support staff can be reached by phone (800-580-7529 or 512-467-0222), fax (512-467-3618; see the form enclosed), e-mail (Pol-Support@tasb.org), or Internet feedback form (<http://www.tasb.org/policy/pol/private/polfdbk.html>).
- Administrative procedures and documents—including formal (REGULATIONS), handbooks, and guides—that may be affected by Update 26 policy changes should be inspected and revised as needed. If the college district routinely submits (REGULATIONS) to Policy Service for processing or desires that the updated (REGULATIONS) be included in the *Policy On Line* manual, please submit these changes to your Policy Consultant at your earliest convenience.

If you have any questions concerning this Update, please call Amy Kadlecsek or Kristin McGuire, TASB Policy Consultants and Community College Liaisons at 800-580-7529 or 512-467-0222.

PLEASE NOTE: This Localized Update 26 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.

Instruction Sheet

Community College Localized Policy Manual Update 26

District Southwest Texas Junior College

| Code | Action To Be Taken | Note |
|--------------|---------------------------|---------------------------|
| BBC (LEGAL) | Replace policy | Revised policy |
| BCAE (LEGAL) | Replace policy | Revised policy |
| BI (LEGAL) | Replace policy | Revised policy |
| BIA (LEGAL) | Replace policy | Revised policy |
| CAI (LEGAL) | Replace policy | Revised policy |
| CAJ (LEGAL) | Replace policy | Revised policy |
| CDC (LEGAL) | Replace policy | Revised policy |
| CDDA (LEGAL) | Replace policy | Revised policy |
| CF (LEGAL) | Replace policy | Revised policy |
| CGB (LEGAL) | DELETE policy | See explanatory note |
| CGB (LOCAL) | DELETE policy | See explanatory note |
| CH (LEGAL) | Replace policy | Revised policy |
| CIA (LEGAL) | Replace policy | Revised policy |
| CKD (LEGAL) | Replace policy | Revised policy |
| CS (LEGAL) | Replace policy | Revised policy |
| DBE (LEGAL) | Replace policy | Revised policy |
| DC (LEGAL) | Replace policy | Revised policy |
| DEA (LEGAL) | Replace policy | Revised policy |
| DECA (LEGAL) | Replace policy | Revised policy |
| DECB (LEGAL) | Replace policy | Revised policy |
| DGBA (LEGAL) | Replace policy | Revised policy |
| DGBA (LOCAL) | Replace policy | Revised policy |
| DH (LOCAL) | Replace policy | Revised policy |
| DHB (LEGAL) | Replace policy | Revised policy |
| DMAC (LOCAL) | Replace policy | Revised policy |
| DO (LEGAL) | Replace policy | Revised policy |
| E (LEGAL) | Replace table of contents | Revised table of contents |
| EBB (LEGAL) | Replace policy | Revised policy |
| EBD (LEGAL) | ADD policy | See explanatory note |
| EDA (LEGAL) | Replace policy | Revised policy |
| EFAA (LEGAL) | Replace policy | Revised policy |
| EFB (LEGAL) | Replace policy | Revised policy |

Instruction Sheet
Community College Localized Policy Manual Update 26

| | | |
|--------------|----------------|----------------|
| EFCA (LEGAL) | Replace policy | Revised policy |
| EGA (LEGAL) | Replace policy | Revised policy |
| FBA (LEGAL) | Replace policy | Revised policy |
| FBC (LEGAL) | Replace policy | Revised policy |
| FDAB (LEGAL) | Replace policy | Revised policy |
| FH (LEGAL) | Replace policy | Revised policy |
| FJ (LEGAL) | Replace policy | Revised policy |
| GAA (LEGAL) | Replace policy | Revised policy |
| GAB (LEGAL) | Replace policy | Revised policy |
| GH (LEGAL) | Replace policy | Revised policy |

Explanatory Notes

Community College Localized Policy Manual Update 26

District: Southwest Texas Junior College
BBC (LEGAL) BOARD MEMBERS
VACANCIES AND REMOVAL FROM OFFICE

This policy has been reorganized to reflect three types of board vacancies that may occur: vacancies created by board member resignation, vacancies created by operation of law because a board member no longer resides in the college district, and vacancies created by involuntary removal from office. Text throughout the policy has been revised for clarity and to better match statutory language. We have also changed the term “trustee” to “board member” throughout for consistency within the policy. Specific changes include:

- Rewording the provision at RESIGNATION to better reflect statutory language;
- Revising the text at HOLDOVER DOCTRINE to clarify that a board member who resigns continues to be subject to the nepotism provisions until the vacancy created by the board member’s resignation is filled by a successor;
- Adding text at RESIDENCE DEFINED, which matches the text at BBA(LEGAL);
- Adding several existing statutory provisions to provide more detail about quo warranto proceedings, which are court actions filed by the attorney general or county district attorney to remove a board member from office, and the procedure to file a written petition for removal in district court; and
- Revising the list of items for which a board member may be removed from office to separately list purchasing violations.

The material on FILLING A VACANCY has also been reorganized. We have created new margin notes to outline the process and have added detail on how to conduct a SPECIAL ELECTION to fill a vacancy, including procedures for ORDERING ELECTIONS.

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

Text throughout this policy on selection and duties of chief tax officials has been revised for clarity and to better match statutory language. Provisions have also been reordered for better flow.

For example, we have replaced text at SELECTION OF ASSESSOR AND COLLECTOR with language from Chapter 130 of the Education Code specifying the entities with which a college district can contract for assessment and collection of taxes. We have also simplified the DUTIES of the ASSESSOR and the COLLECTOR, listed on pages 1 and 2, to provide a broader overview.

BI (LEGAL) REPORTS

This policy has been updated to include the new financial reporting requirement for a college district to post an electronic copy of its annual audit report to the Coordinating Board’s collection server.

BIA (LEGAL) REPORTS
WEB SITE POSTINGS

We have added the requirement from the Higher Education Opportunity Act for a college district to post on its Web site ISBN and cost information about required and recommended textbooks and supplemental materials for all courses.

Explanatory Notes

Community College Localized Policy Manual Update 26

CAI (LEGAL) APPROPRIATIONS AND REVENUE SOURCES
AD VALOREM TAXES

On page 9, a new Administrative Code provision, effective March 1, 2010, is cited at HOMESTEADS RENDERED UNINHABITABLE OR UNUSABLE that addresses the duration of the homestead exemption under these circumstances.

We also revised the margin note at REINVESTMENT ZONES/TAX INCREMENT FINANCING on page 15 for clarification and updated several cites throughout the policy.

CAJ (LEGAL) APPROPRIATIONS AND REVENUE SOURCES
APPRAISAL DISTRICT

At PARTICIPATION, we have revised the text to better match statutory language. In addition, more detail has been added to this policy on the college district board's rights and responsibilities regarding the appraisal district, including the college district board's authority, along with the other taxing units that participate in the appraisal district, to:

- Approve proposals of the appraisal district to acquire or convey real property and the method of allocating proceeds from a conveyance of real property;
- Approve the budget and the method used to allocate the costs of operating the appraisal district; and
- Disapprove actions of the appraisal district board of directors by adopting a resolution.

Several existing statutory provisions have been added at APPRAISAL REVIEW BOARDS to provide information about board member appointment to the review board and eligibility to serve on the review board. In addition, we have added a provision at PROHIBITION ON CONTRACTS, on page 5, prohibiting a college district from contracting with an appraisal review board member or certain relatives of a member of an appraisal review board.

CDC (LEGAL) ACCOUNTING
AUDITS

This policy now includes the new financial reporting requirement for a college district to post a copy of its ANNUAL AUDIT REPORT to the Coordinating Board's collection server.

CDDA (LEGAL) PAYROLL PROCEDURES
SALARY DEDUCTIONS

We have updated the first paragraph of this policy on salary deductions to clarify that college districts can enter into salary reduction agreements with employees and are not limited to the list of deductions authorized by law.

Explanatory Notes

Community College Localized Policy Manual Update 26

CF (LEGAL) PURCHASING AND ACQUISITION

This policy has been updated to include new requirements that became effective last year related to purchases of COMPUTERS AND COMPUTER-RELATED EQUIPMENT. College districts are required to include specific provisions in competitive bids for the purchase or lease of computer equipment and in contracts for the purchase or lease of hardware and software.

Citations have been updated as well.

CGB (LEGAL) SAFETY PROGRAM ACCIDENT PREVENTION

Since a college district is only required to have a policy addressing eye protection when it contracts with a school district to provide vocational services, we have deleted this legally referenced policy from the manual.

CGB (LOCAL) SAFETY PROGRAM ACCIDENT PREVENTION

As mentioned above, college districts are only required to have a policy addressing eye protection when providing vocational services to a school district; therefore, we recommend deletion of this policy from the manual.

CH (LEGAL) SITE MANAGEMENT

Existing language from the Administrative Code, added on page 5, clarifies that the college district must provide a buyer of college district property any CERTIFICATE OF MOLD REMEDIATION issued during the five years preceding the date the college district sells the property.

We have also updated cites throughout, including adding a citation to the Administrative Code at POOLS.

CIA (LEGAL) EQUIPMENT AND SUPPLIES MANAGEMENT RECORDS MANAGEMENT

We have added a link on page 3 to the records RETENTION SCHEDULES published by the State Library and Archives Commission that apply to college districts. One of these schedules, Local Schedule JC-Records for Public Junior Colleges, was updated in September 2010.

Explanatory Notes

Community College Localized Policy Manual Update 26

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

Existing statutory text added at ELECTION TO BE EXEMPTED, beginning on page 4, lists the HIPAA provisions from which the plan sponsor of a nonfederal governmental group health plan, in this case a college district, may elect to be exempted. Existing statutory text was also added regarding the FORM OF ELECTION and the TIMING OF ELECTION, as well as the CONTENTS OF NOTICE that must be provided to enrollees annually and at the time of their enrollment under the plan.

CS (LEGAL) INFORMATION RESOURCES

Beginning at SECURITY BREACH NOTIFICATION on page 2, we have added more detail, including definitions for “breach of system security” and “sensitive personal information”, about a college district’s obligations to notify affected persons in the event of a breach of system security affecting sensitive personal information.

The persons who a college district must notify in such circumstances and the time lines that a college district must comply with vary, as provided by Business and Commerce Code 521.053. According to the statute, if a college district owns or licenses the computerized data, the college district must notify any Texas resident whose personal information was, or is reasonably believed to have been, acquired. In this case, notification must be made as quickly as possible or as necessary to determine the scope of the breach and restore the reasonable integrity of the data system. If a college district only maintains but does not own the computerized data, the college district must immediately notify the owner or license holder. There are exceptions to these time lines if a criminal investigation is pending. In addition, a college district that is required to notify more than 10,000 persons at one time must also notify each consumer reporting agency without unreasonable delay.

DBE (LEGAL) EMPLOYMENT REQUIREMENTS AND RESTRICTIONS NEPOTISM

Citations in this policy have been updated.

DC (LEGAL) HIRING PRACTICES

Revisions to this policy are as follows:

- We have revised the margin note at FORMER BOARD MEMBER EMPLOYMENT.
- At PENALTIES, we have replaced detailed text on failure to report new hires with a cite to the relevant statutory provision.

Explanatory Notes

Community College Localized Policy Manual Update 26

DEA (LEGAL) COMPENSATION AND BENEFITS SALARIES

Changes at FAIR LABOR STANDARDS ACT, beginning on page 2, incorporate existing law on BREAKS FOR NONEXEMPT EMPLOYEES and add new provisions requiring college districts to provide BREAKS FOR NURSING MOTHERS. A college district must pay nonexempt employees for rest breaks, including coffee or snack breaks, of up to 20 minutes. Meal breaks of 30 minutes or more are unpaid as long as the employee is completely relieved of job duties during the break. The new nursing mother provisions require college districts to provide a nonexempt employee a reasonable break to express breast milk each time the employee needs to do so for up to one year after a child's birth. The college district must make available to the employee a location, other than a bathroom, that is shielded from coworkers and the public. The college district is not required to pay a nonexempt employee for a break to express milk. Exemptions from the provisions on breaks for nursing mothers apply to college districts that employ fewer than 50 employees.

Citations have also been updated throughout the policy.

DECA (LEGAL) LEAVES AND ABSENCES FAMILY AND MEDICAL LEAVE

The National Defense Authorization Act for Fiscal Year 2010, effective October 28, 2009, expands employee leave benefits for a qualifying exigency arising out of a relative's military service. Previously this type of leave was available only if the relative was serving in the reserves. The leave is now available if the relative is on "covered active duty," which includes regular service in the armed forces if the relative is being deployed to a foreign country. See QUALIFYING REASONS FOR LEAVE, item 5, on page 2.

Throughout this policy, we have added citations to the definitions of relevant terms for ease of use. In addition, we have added a section for DEFINITIONS beginning on page 3, including definitions for NEXT OF KIN, PARENT, SON OR DAUGHTER, and SPOUSE, since these definitions are frequently needed for reference.

The second paragraph at DESIGNATION NOTICE has been added to clarify which form should be used to notify an employee that leave will be designated as FMLA leave.

Finally, minor editorial revisions have been made at PREGNANCY OR BIRTH on page 3, FAILURE TO PAY PREMIUMS on page 8, and MEDICAL CERTIFICATION OF SERIOUS HEALTH CONDITION on page 13.

DECB (LEGAL) LEAVES AND ABSENCES MILITARY LEAVE

In addition to several minor editorial changes to make the policy easier to read, we have added after FEDERAL MILITARY LEAVE margin notes for REEMPLOYMENT and for an EXCEPTION to reemployment. Also, the definition of "uniformed services" is now a separate paragraph.

DGBA (LEGAL) PERSONNEL-MANAGEMENT RELATIONS EMPLOYEE COMPLAINTS

Citations in this policy have been updated.

Explanatory Notes

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DGBA (LOCAL) PERSONNEL-MANAGEMENT RELATIONS EMPLOYEE COMPLAINTS

HB1043 requires that a hiring preference be given to any individual who has been under the conservatorship of the Department of Family and Protective Services as a foster child. Specific grievance procedures related to this provision are included in DC(LEGAL). Therefore, we have added to the list of EXCEPTIONS at item 5, text clarifying that grievances related to an employment preference being given to an individual who was in foster care are not applicable to this policy on employee complaints.

The remaining text in the policy, which has been locally developed by the college district, has been retained with slight editing for policy style and consistency.

DH (LOCAL) EMPLOYEE STANDARDS OF CONDUCT

To ensure clear guidance on employee use of electronic media, we have included recommended text at this code addressing employee standards of conduct.

The enclosed policy broadly defines electronic media to include all forms of social media, such as text or instant messaging, e-mail, blogs, chat rooms, video-sharing sites, and posting editorial comments on Web sites. All forms of telecommunication, such as landlines, cell phones, and Web-based applications, are also included in the definition.

The second paragraph requires employees to comply with established college district retention and destruction schedules, as applicable. We encourage the college district to review its record retention schedules to ensure all are up to date.

Finally, the policy also addresses employee use of electronic media for personal reasons. The intent is to reinforce that professional standards of conduct apply to any type of personal behavior, including the use of electronic media. If such use violates law or college district policy or interferes with the employee's ability to effectively perform his or her job duties, the employee may be subject to disciplinary action. If your college district already includes text on use of electronic media in your employee handbook, you will need to make sure that the policy and handbook text are consistent.

We have also moved the text addressing VIOLATIONS of employee standards of conduct closer to the beginning of the policy.

DHB (LEGAL) EMPLOYEE STANDARDS OF CONDUCT SEARCHES AND ALCOHOL/DRUG TESTING

Citations in this policy have been updated.

DMAC (LOCAL) TERM CONTRACTS RESIGNATION

We have restructured this policy on resignation as follows:

- A new provision at GENERAL REQUIREMENTS provides additional information regarding the submission of a resignation.

Explanatory Notes

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- We have distinguished between resignations submitted effective at the END OF A CONTRACT TERM and those resignations submitted effective PRIOR TO THE END OF A CONTRACT TERM. Those resignations submitted effective at the end of the contract term must be submitted in accordance with the deadline provided in the policy. The college president is authorized to make exceptions to the deadline requirement in extenuating circumstances. Only the board or its designee can accept a resignation effective prior to the end of a contract's term.
- At BOARD REPORT, language has been included stating that a list of employees who have resigned from the college district will be provided to the board at the next board meeting.
- We have also included a new provision at WITHDRAWAL OF RESIGNATION requiring board consent for withdrawal of an accepted resignation.

Please contact your policy consultant if adjustments to this policy are necessary to reflect the college district's practice regarding resignation of employees.

DO (LEGAL) EMPLOYEE WELFARE

Citations in this policy have been updated.

E (LEGAL) INSTRUCTION

A new code, EBD, has been added to the E section table of contents to house provisions on Off-Campus and Self-Supporting Courses and Programs.

EBB (LEGAL) BRANCH CAMPUSES AND DISTANCE LEARNING DISTANCE LEARNING

The deletion of Title 19, Chapter 4, Subchapter E of the Administrative Code and the adoption of Title 19, Chapter 4, Subchapter P has prompted extensive revisions to this policy on distance learning. Changes include:

- Adding a definition of DISTANCE EDUCATION and descriptions of the two types of distance learning courses: fully distance education courses and hybrid/blended courses.
- Deleting provisions addressing extension courses and programs and adding new text at SELF-SUPPORTING COURSES.
- Adding a new provision, beginning on page 3, titled STANDARDS AND CRITERIA FOR DISTANCE EDUCATION COURSES and revising the standards and criteria college districts must follow for distance learning programs, courses, and faculty.
- Replacing the Institutional Report for Distance Education, on page 5, with the Institutional *Plan* for Distance Education.
- Adding on page 6 detailed provisions on FORMULA FUNDING for distance learning courses.

Explanatory Notes

Community College Localized Policy Manual Update 26

EBD (LEGAL) BRANCH CAMPUSES AND DISTANCE LEARNING
OFF-CAMPUS AND SELF-SUPPORTING COURSES AND
PROGRAMS

This policy has been added to address off-campus and self-supporting distance learning courses and programs prompted by the addition of Title 19, Chapter 4, Subchapter Q of the Administrative Code. It includes DEFINITIONS, GENERAL STANDARDS AND CRITERIA FOR OFF-CAMPUS AND SELF-SUPPORTING PROGRAMS AND COURSES, and the standards and criteria a college district must follow related to programs and faculty. Other provisions address dual credit courses provided to high schools outside a college district's service area, formula funding, and the reporting of fees collected by the college district for self-supporting or out-of-state/country courses.

EDA (LEGAL) INSTRUCTIONAL RESOURCES
INSTRUCTIONAL MATERIALS

Changes from the Higher Education Opportunity Act regarding how a college district provides information about textbooks and supplemental materials required for courses have been incorporated into this policy on instructional materials. Cost information and information about the ISBN is to be posted on the college district's Web site, as well as provided to bookstores operated or affiliated in some manner with the college district. College districts are also encouraged to provide students with cost-saving strategies regarding textbooks, including information about book rentals, buy-back, and alternative content delivery programs.

EFAA (LEGAL) INSTRUCTIONAL PROGRAMS AND COURSES
ACADEMIC COURSES

We have updated this policy to clarify that a college district can approve SUBSTITUTIONS AND WAIVERS for core curriculum components on an individual basis for a student with a learning disability documented by a medical professional.

EFB (LEGAL) CURRICULUM DESIGN
DEGREES AND DEGREE PLANS

We have added existing statutory provisions addressing The Higher Education Coordinating Board's periodic review of all degree and certificate programs offered by a college district and the Coordinating Board's authority to initiate, consolidate, or eliminate programs in the best interest of the college district or the state. New Administrative Code provisions about LOW-PRODUCING DEGREE PROGRAMS, including requirements for college districts to phase out these programs or to request a temporary exemption to develop an action plan for improvement, have also been added to this policy on degrees and degree plans.

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EFCA (LEGAL) SPECIAL PROGRAMS
DISABLED STUDENTS

This policy has been revised at ACADEMIC ADJUSTMENTS to clarify that a college district may approve an accommodation to the core curriculum for a disabled student, and the college district does not have to request approval from the Commissioner.

EGA (LEGAL) ACADEMIC ACHIEVEMENT
GRADING AND CREDIT

A minor revision has been made to the text at TRANSFER OF CORE CURRICULUM to clarify that the college district will evaluate courses that a student transferring from a non-Texas public institution of higher education completed prior to admission in order to determine which courses can be applied to the college district's core curriculum requirements.

FBA (LEGAL) ADMISSIONS AND ATTENDANCE
ADMISSIONS REQUIREMENTS

Citations in this policy have been updated.

FBC (LEGAL) ADMISSIONS AND ATTENDANCE
RESIDENCY

Revisions to the Administrative Code deleted specific training requirements for residence determination officials; therefore, we have revised this policy to clarify that a college district's RESIDENCE DETERMINATION OFFICIAL is still responsible for acquiring knowledge regarding residence status and waiver programs for nonresident students, as well as applicable statutes.

FDAB (LEGAL) HEALTH REQUIREMENTS AND SERVICES
IMMUNIZATIONS

At REASONS OF CONSCIENCE on page 1, the title of "commissioner of public health" has been replaced with "commissioner of state health services."

On page 4, at VETERINARY STUDENTS, we updated the wording to reflect the changes to 25 Administrative Code 97.64, which redefined the specific veterinary students who need vaccinations.

FH (LEGAL) WORK STUDY STUDENTS

Revisions to this policy clarify that, effective April 1, 2010, a college district must make the LIST OF WORK-STUDY EMPLOYMENT OPPORTUNITIES available online through a link on the financial aid page of the college district's Web site.

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FJ (LEGAL) STUDENT RECORDS

Citations in this policy have been updated and provisions at 'EDUCATION RECORDS' DEFINED have been reworded to better track the Administrative Code.

GAA (LEGAL) PUBLIC INFORMATION PROGRAM ACCESS TO INFORMATION

HB 3544, from the 81st Texas Legislature, creates an exception to the general rule that E-MAIL ADDRESSES used by members of the public to communicate with a college district are confidential. The exception provides that an e-mail address provided to a college district for the purpose of receiving decisions from a governmental body or to comment on or receive notices related to an application for a license are not confidential. For a college district, this might apply, for example, if a citizen provides his or her e-mail address to receive notice of board activity or information on a professional license or certificate. See page 4.

GAB (LEGAL) PUBLIC INFORMATION PROGRAM REQUESTS FOR INFORMATION

This policy has been revised on page 8 regarding PREVIOUS DETERMINATIONS of the attorney general. Under current law, when the attorney general has issued a previous determination decision on information that is the subject of a request, the college district may not request another attorney general decision on the SAME INFORMATION. A citation to the relevant Open Records Decision No. 673 has also been added.

When the attorney general has issued a previous determination decision that a category of information is not subject to disclosure under the Public Information Act, a college district may withhold information that falls within that category without first seeking an attorney general decision. Recently, the attorney general issued Open Records Decision 684 (2010), which provides a list of CATEGORIES OF INFORMATION for which the attorney general has issued a previous determination. If a college district receives a request for information that falls within one of the categories, it may withhold the information without first seeking an attorney general decision. In addition to the categories addressed in ORD-684, the attorney general has previously determined that a college district may withhold personally identifiable, non-directory information in "education records" as defined by FERPA. Lastly, a citation to the relevant Open Records Decision No. 634 has been added.

GH (LEGAL) RELATIONS WITH SCHOOLS AND DISTRICTS

We have substantially reorganized this policy for clarification and to update citations throughout. Additionally, language referencing an athletic stadium authority was deleted as it does not apply to community colleges.

BOARD MEMBERS
VACANCIES AND REMOVAL FROM OFFICE

BBC
(LEGAL)

RESIGNATION A Board member may resign by delivering written notice, signed by the Board member, to the presiding officer of the Board. The Board may not refuse to accept a resignation. *Election Code 201.001(a)-(b)*

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

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

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

RESIDENCE
DEFINED "Residence" means domicile, one's home and fixed place of habitation to which one intends to return after any temporary absence. A person does not lose one's residence status by leaving to go to another place for temporary purposes only. A person does not acquire a residence in a place to which the person has come for temporary purposes only and without the intention of making that place the person's home. Residence shall be determined in accordance with the common-law rules, as enunciated by the courts of this state, except as otherwise provided by the Election Code. *Election Code 1.015*

Note: The issue of whether a candidate has satisfied residency requirements should be judicially determined. *State v. Fischer, 769 S.W.2d 619 (Tex. App.—Corpus Christi 1989, writ dismissed w.o.j)*

INVOLUNTARY
REMOVAL FROM
OFFICE On his or her own motion, or at the request of an individual, the attorney general or the county district attorney may petition the district court for leave to file an action in quo warranto to remove a Board member. An action in quo warranto is available if:
QUO WARRANTO

BOARD MEMBERS
VACANCIES AND REMOVAL FROM OFFICE

BBC
(LEGAL)

1. A person usurps, intrudes into, or unlawfully holds or executes a public office; or
2. A public officer does an act or allows an act that by law causes forfeiture of office.

Civ. Prac. & Rem. Code 66.001–.002

REMOVAL BY
PETITION AND
TRIAL

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

REASONS FOR
REMOVAL

A public officer may be removed from office for:

1. "Incompetency," which means:
 - a. Gross ignorance of official duties;
 - b. Gross carelessness in the discharge of those duties; or
 - c. Unfitness or inability to promptly and properly discharge official duties because of a serious physical or mental defect that did not exist at the time of election.
2. "Official misconduct," which means intentional, unlawful behavior relating to official duties by a Board member entrusted with the administration of justice or the execution of the law. The term includes an intentional or corrupt failure, refusal, or neglect of a Board member to perform a duty imposed on the Board member by law.
3. Intoxication on or off duty caused by drinking an alcoholic beverage, but not if it was caused by drinking an alcoholic beverage on the direction and prescription of a licensed physician.
4. Conviction of a Board member by a jury for any felony or for misdemeanor official misconduct. The conviction of a public officer by a petit jury for any felony or for a misdemeanor involving official misconduct operates as an immediate removal from office of that officer.
5. Nonattendance of Board meetings if the member is absent from more than half of the regularly scheduled Board meetings that the member is eligible to attend during a calendar year, not counting an absence for which the member is excused by a majority vote of the Board.

BOARD MEMBERS
VACANCIES AND REMOVAL FROM OFFICE

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Tex. Const., Art. V, Sec. 24; Local Gov't Code 87.011, .013, .031; Education Code 130.0845

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| REMOVAL FOR PURCHASING VIOLATIONS | A Board member who is convicted of a purchasing offense [see CF(LEGAL), IMPERMISSIBLE PRACTICES] is considered to have committed official misconduct and is subject to removal under Local Government Code Chapter 87. <i>Education Code 44.032</i> |
| FILLING A VACANCY AT LARGE | <p>Any vacancy occurring on the Board through death, resignation, or otherwise, shall be filled by a special election ordered by the Board or by appointment by resolution or order of the Board. If the vacancy occurs on a board whose members are elected at large/by position, the person appointed to fill the unexpired term shall serve until the next regular election of members to a board, at which time the position shall be filled by election for a term appropriately shortened to conform with what regularly would have been the length of the term for that position. <i>Tex. Const. Art. XVI, Sec. 27; Education Code 130.082(d)</i></p> <p>An election to fill a vacancy shall be to fill the unexpired term only. <i>Tex. Const. Art. XVI, Sec. 27</i></p> |
| APPOINTMENT | <p>To be eligible to be appointed to the Board, a person must have the qualifications set forth at Election Code 141.001(a). <i>Election Code 141.001(a)</i> [See BBA]</p> <p>An appointment to the Board may be made with the intent to ensure that the Board is representative of the constituency served by the Board. A Board that chooses this option shall adopt procedures for its implementation. <i>Local Gov't Code 180.005(b)-(c)</i></p> |
| SPECIAL ELECTION | A special election to fill a vacancy shall be conducted in the same manner as the College District's general election, except as provided in the Election Code. <i>Education Code 130.082(d)</i> |
| DATE OF ELECTION | A special election shall be conducted on the next uniform election date that will afford enough time to hold the election in the manner required by law. <i>Election Code 41.001(a), 41.004(a)</i> [See BBB] |
| ORDERING ELECTIONS | If a vacancy is to be filled by special election, the election shall be ordered as soon as practicable after the vacancy occurs. The special election shall be held on the first authorized uniform election date occurring on or after the 30th day after the date the election is ordered. If the special election is to be held on the date of the general election for state and county officers, the election shall be ordered not later than the 70th day before election day. <i>Election Code 201.051-.052</i> |

BOARD MEMBERS
VACANCIES AND REMOVAL FROM OFFICE

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PRECLEARANCE
REQUIRED

A special election is subject to federal preclearance requirements to the extent that a College District makes changes in the practices or procedures to be followed. Any discretionary setting of the date for a special election or scheduling of events leading up to or following a special election is subject to the preclearance requirement. *28 CFR 51.17* [See BBB]

TEMPORARY
REPLACEMENT OF
BOARD MEMBER ON
MILITARY ACTIVE
DUTY

A Board member who enters active duty in the armed forces of the United States as a result of being called to duty, drafted, or activated does not vacate the office held, but the Board may appoint a replacement to serve as a temporary Board member if the elected or appointed Board member will be on active duty for longer than 30 days.

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

A temporary Board member has all the powers, privileges, and duties of the office as the Board member who is temporarily replaced. A temporary Board member shall perform the duties of office for the shorter period of:

1. The term of the active military service of the Board member who is temporarily replaced; or
2. The term of office of the Board member who is temporarily replaced.

“Armed Forces of the United States” means the United States Army, the United States Navy, the United States Air Force, the United States Marine Corps, the United States Coast Guard, any reserve or auxiliary component of any of those services, or the National Guard.

Tex. Const., Art. XVI, Sec. 72

BOARD OFFICERS AND OFFICIALS
SELECTION AND DUTIES OF CHIEF TAX OFFICIALS

BCAE
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APPRAISAL FUNCTION The county appraisal district is responsible for appraising property in the College District for ad valorem tax purposes. *Tax Code 6.01(a)-(b)*

REGISTRATION
REQUIREMENTS In accordance with the Property Taxation Professional Certification Act, the following College District tax officials shall be registered with the Texas Department of Licensing and Regulation:

1. An assessor-collector, collector, or other person designated by the College District as the chief administrator of the College District's assessment functions, collection functions, or both;
2. All persons engaged in appraisals of real or personal property for ad valorem tax purposes; and
3. A person who performs assessment or collection functions for a College District and who is required to register by the chief administrator of the College District's tax office.

Occupations Code 1151.151(a)

SELECTION OF
ASSESSOR AND
COLLECTOR The Board shall have the taxable property assessed and/or its taxes collected, in whole or in part, by the tax assessors and/or tax collectors, respectively, of any county, city, taxing district, or other governmental subdivision in which all or any part of the College District is located. Any method adopted shall remain in effect until changed by the Board. *Education Code 130.121; Tax Code 6.22(c), .24(a)*

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

ASSESSOR In addition to any other duties that may be required by law, the assessor shall:

1. On receipt of the appraisal roll, determine the total appraised value, total assessed value, and total taxable value of property taxable by the College District. *Tax Code 26.04(a)*
2. By August 1 or as soon thereafter as practicable, submit to the Board the appraisal roll showing the total appraised, assessed, and taxable values. *Tax Code 26.04(b)*
3. On receipt of notice of the tax rate for the current tax year, calculate the tax imposed on each property on the appraisal roll for the College District. *Tax Code 26.09(a)*
4. By October 1 or as soon thereafter as practicable, prepare and mail a tax bill to each person in whose name the prop-

BOARD OFFICERS AND OFFICIALS
SELECTION AND DUTIES OF CHIEF TAX OFFICIALS

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erty is listed on the tax roll and to the person's authorized agent. *Tax Code 31.01(a)*

COLLECTOR

In addition to any other duties that may be required by law, the collector shall:

1. By August 1 or as soon thereafter as practicable, certify to a Board an estimate of the collection rate for the current year. If the collector certified an anticipated collection rate in the preceding year that was lower than the actual collection rate, the collector shall also certify the amount collected in excess of the anticipated amount in the preceding year. *Tax Code 26.04(b)*
2. Each month, prepare and submit to a Board a written report made under oath accounting for all taxes collected during the preceding month. Reports of collections made in the months of October through January are due on the 25th day of the month following the month that is the subject of the report. Reports of collections made in all other months are due on the 15th day of the month following the month that is the subject of the report. *Tax Code 31.10(a)*
3. Annually, prepare and submit to a Board a report made under oath accounting for all taxes collected or delinquent on property taxed by the College District during the preceding 12-month period. Annual reports are due on the 60th day following the last day of the fiscal year. *Tax Code 31.10(b)*
4. At least monthly, deposit in a College District's depository(ies) all taxes collected for the College District. The Board may require deposits to be made more frequently. *Tax Code 31.10(c)*

If a College District's taxes are collected by another taxing unit or the appraisal district, the collector shall deposit the taxes in the College District's depository daily, unless a Board, by official action, provides that deposits may be made less often than daily. *Tax Code 31.10(d)*
5. Each year, prepare a current and cumulative delinquent tax roll for the College District. *Tax Code 33.03*
6. At least once each year deliver a delinquent tax notice to each person whose name appears on the delinquent tax rolls. *Tax Code 33.04*

COLLECTOR'S
BOND

A Board may require the tax collector 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

BOARD OFFICERS AND OFFICIALS
SELECTION AND DUTIES OF CHIEF TAX OFFICIALS

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by the Board. The Board may prescribe additional requirements for the bond.

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(b)-(c)

LIMIT ON
CONTRACTING

A 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 an appraisal district in which the College District participates or with a business entity in which a member of the appraisal board has a substantial interest.

For purposes of the above paragraph, an individual has a substantial interest in a business entity if:

1. The combined ownership of the individual and the individual's spouse is at least ten percent of the voting stock or share of the business entity; or
2. The individual or the individual's spouse is a partner, limited partner, or officer of the business entity.

"Business entity" means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, or other entity recognized by law.

Tax Code 6.036(c)-(e)

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

REPORTS BY
COLLEGE DISTRICT

A College District shall publish and/or distribute the following reports:

1. As soon as practicable after the end of each academic year, the College District shall prepare an annual performance report for that academic year, under Education Code 130.0035. [See AFA]
2. Not later than June 1 of each even-numbered year, the College District shall report customer service information to the Legislative Budget Board (LBB) and the governor's Office of Budget and Planning (OBP), under Government Code 2114.002. [See AFA]
3. Not later than November 1 of each year, the chief executive officer of each College District shall provide to the governing board of the College District a report for the preceding fall, spring, and summer semesters that examines the affordability and access of the institution, under Education Code 51.4031. [See AFA]
4. In the form and manner and at the times required by the Coordinating Board, the College District shall report to the Coordinating Board on the enrollment status of students of the College District, under Education Code 130.0036. [See AFA]
5. The College District shall follow applicable institutional and financial assistance information dissemination requirements found at 20 U.S.C. 1092. [See AFA]
6. After the end of each spring semester, the College President shall provide the Board with a report for the preceding fall and spring semesters indicating for each instructor certain course information under Education Code 51.403. [See BFA]
7. The College District shall report monthly to the retirement system set out in Government Code 825.404, in a form it prescribes, the employee salary and other information required under Government Code 825.406. [See CAB, CAM]

8. The investment officer shall prepare a report on the Public Funds Investment Act (PFIA) and deliver it to the Board no later than the 180th day after the last day of each regular session of the legislature, under Government Code 2256.007. [See CAK]
9. Not less than quarterly and within a reasonable time after the end of the period, the investment officer shall prepare and submit to the Board a written report of investment transactions for all funds covered by the PFIA under Education Code 51.0032 and Government Code 2256.023. [See CAK]
10. The College District shall submit its audited annual financial report to the Coordinating Board by January 1 of each year, under 19 Administrative Code 13.62. [See CDA]
11. 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 to show the true condition of all funds as of August 31 of the preceding year and the collections and expenditures for the preceding year and furnish one copy of the financial report to the government officials specified in Education Code 51.005. [See CDA]
12. The Board shall be responsible for the preparation of an annual financial statement under Local Government Code 140.005. [See CDA]
13. Three copies of the annual audit report for the fiscal year ending August 31 shall be filed with the Coordinating Board by January 1 following the close of the fiscal year for which the audit was made, an electronic copy shall be posted to the Coordinating Board's collection server, and required copies shall be sent to other governmental agencies, under the publication *Annual Financial Reporting Requirements for Texas Public Community and Junior Colleges*. [See CDC]
14. Not later than March 1 of each year, each College District police department shall submit a report containing information about traffic stops during the previous calendar year to the Texas Commission on Law Enforcement Officers and Standards and the governing body of each county or municipality served by the department, under Code of Criminal Procedure 2.134. [See CHA]
15. At least once every three years, a College District shall conduct a security audit of the College District's facilities and report the results of the security audit to the Texas School Safety Center, under Education Code 37.108. [See CG]

16. No later than January 1 of each odd-numbered year, the College District shall submit a written report regarding the institution's compliance with the online course information posting to certain state officials under Education Code 51.974 and 19 Administrative Code 4.225 to 4.228. [See EFA]
17. Each College District must review and evaluate its procedures for complying with field of study curricula at intervals specified by the Coordinating Board and shall report the results of that review to the Coordinating Board following the same timetable as the regular reports of core curriculum evaluations under 19 Administrative Code 4.32(f). [See EFAA]
18. Contact hours for career technical/workforce continuing education courses from public two-year colleges must be determined and reported in compliance with Coordinating Board policy as outlined in the Guidelines for Instructional Programs in Workforce Education as approved by the Coordinating Board, the Workforce Education Course Manual, and state law under 19 Administrative Code 9.113, 9.114, and 9.116. [See EFCB]
19. At the end of each semester, the College District shall report to the Coordinating Board certain information for undergraduate students under 19 Administrative Code 4.60. [See EI]
20. The College District shall report to the Coordinating Board the types and amounts of tuition and fees charged to students by semester during the previous academic year under 19 Administrative Code 13.143. [See FBB]
21. 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 Texas Department of State Health Services. 25 TAC 97.71 [See FDAB]
22. Each year the College District shall prepare, publish, and distribute, through appropriate publications or mailings, to all current students and employees, and to any applicant for enrollment or employment upon request, an annual security report as required under 20 U.S.C. 1092(f). [See GAC]
23. The College District must report statistics for the three most recent calendar years concerning the occurrence on campus, in or on noncampus buildings or property, and on public property of certain crimes that are reported to local police agencies or to a campus security authority under 34 CFR 668.46. [See GAC]

REPORTS

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24. The College District shall, in a manner that is timely and will aid in the prevention of similar crimes, report to the campus community on crimes that are considered by the College District to represent a threat to students and employees. [See GAC]
25. Under guidelines established by the Coordinating Board and the State Board of Education pursuant to Education Code 51.403, the College District shall report student performance during the first year enrolled after graduation from high school to the high school or College District last attended. [See GH]

Note: The following is an index of Web site posting requirements that are addressed in the legally reference material of the policy manual. The list is not all-inclusive. The list does not address postings that are required in response to a specific incident, postings required under special circumstances, or postings required under administrative procedures of an agency.

REQUIRED INTERNET
POSTINGS

A College District that maintains an Internet Web site shall post the following:

1. The College District's Compact With Texans under Government Code 2114.006. [See AFA]
2. In a prominent place, an accessible link to the College District's online resumes maintained on Texas Higher Education Coordinating Board's Internet Web site under Education Code 51A.003. [See AFA]
3. The cost of attendance for a first-time entering full-time student in accordance with the uniform standards prescribed by the Commissioner, under Education Code 61.0777 and 19 Administrative Code 21.222. [See AFA]
4. Conflicts disclosure statements and questionnaires, under Local Government Code 176.009. [See BBFA, CFE]
5. Notice of a Board meeting and, if the College District contains all or part of the area within the corporate boundaries of a municipality with a population of 48,000 or more, the agenda for a Board meeting, under Education Code 551.056. [See BD]
6. On the home page the prescribed statement if the College District proposes to increase the amount of taxes to fund maintenance and operation expenditures, under Tax Code 26.05. [See CAI]
7. If the Web site is generally accessible, a link to the state expenditure database under Government Code 2054.126. [See CDA]
8. A College District shall report its energy usage information on a publicly accessible Internet Web site with an interface designed for ease of navigation, if available, under Government Code 2265.001. [See CH]

9. In a prominent location, the code of conduct for the College District's officers, employees, and agents under 20 U.S.C. 1094. [See DBD]
10. The end-of-course student evaluations of faculty according to a plan developed under Education Code 51.974(h) and 19 Administrative Code 4.227(10) and 4.228(e). [See DLA]
11. The International Standard Book Number (ISBN) and retail price information of required and recommended college textbooks and supplemental materials for each course listed in the institution's course schedule used for preregistration and registration purposes as provided by 20 USC 1015b. [See EDA]
12. Information about each undergraduate classroom course offered for credit not later than the seventh day after the first day of classes for the semester or other academic term during which the course is offered as provided by Education Code 51.974 and 19 Administrative Code 4.225 to 4.228. [See EFA]
13. The College District's policy to grant undergraduate course credit to entering freshmen students who have successfully completed the International Baccalaureate Diploma Program, who have achieved required scores on one or more examinations in the Advanced Placement Program or the College-Level Examination Program, or who have successfully completed one or more courses offered through concurrent enrollment in high school and at an institution of higher education with the application materials under Education Code 51.968. [See EGA]
14. Guidelines addressing the practices of the College District regarding the transfer of course credit under Education Code 61.830. [See EGA]

OPTIONAL INTERNET
POSTINGS

A College District that maintains an Internet Web site may broadcast an open meeting over the Internet, under Government Code 551.128. [See BD]

APPROPRIATIONS AND REVENUE SOURCES
AD VALOREM TAXES

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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 roll-back tax rate to the Board and shall:

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

APPROPRIATIONS AND REVENUE SOURCES
AD VALOREM TAXES

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setting a tax rate that exceeds the effective tax rate must be made in the following form: "I move that the property tax rate be increased by the adoption of a tax rate of (specify tax rate), which is effectively a (insert percentage by which the proposed tax rate exceeds the effective tax rate) percent increase in the tax rate."

MAINTENANCE AND
OPERATIONS 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 EFFECTIVELY BE RAISED BY (INSERT PERCENTAGE BY WHICH THE TAX RATE EXCEEDS THE EFFECTIVE MAINTENANCE AND OPERATIONS RATE) PERCENT AND WILL RAISE TAXES FOR MAINTENANCE AND OPERATIONS ON A \$100,000 HOME BY APPROXIMATELY \$(Insert amount)."

INTERNET POSTING

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 EFFECTIVELY BE RAISED BY (INSERT PERCENTAGE BY WHICH THE TAX RATE EXCEEDS THE EFFECTIVE MAINTENANCE AND OPERATIONS RATE) PERCENT AND WILL RAISE TAXES FOR MAINTENANCE AND OPERATIONS ON A \$100,000 HOME BY APPROXIMATELY \$(Insert amount)."

Tax Code 26.05(b)

HIGHER RATE

The 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

APPROPRIATIONS AND REVENUE SOURCES
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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)*

ADOPTION OF TAX
RATE AFTER
HEARING

The meeting to vote on the tax increase may not be earlier than the third day or later than the 14th day after the date of the second public hearing. The meeting must be held 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)*

SUPPLEMENTAL
NOTICE

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.

APPROPRIATIONS AND REVENUE SOURCES
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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]*

APPROPRIATIONS AND REVENUE SOURCES
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| 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. <i>Election Code 4.008</i> |
| 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. <i>28 CFR 51.17 [See BBB]</i> |
| DISCOUNTS | The Board may adopt one or both of the following discount options for early payment of College District taxes. |
| OPTION 1 | <p>If the Board adopts Option 1, the following discounts apply regardless of the date on which the College District mails its tax bills:</p> <ol style="list-style-type: none">1. Three percent if the tax is paid in October or earlier.2. Two percent if the tax is paid in November.3. One percent if the tax is paid in December. <p><i>Tax Code 31.05</i></p> <p>This discount does not apply to taxes that are calculated too late for it to be available. <i>Tax Code 31.04(c)</i></p> |
| OPTION 2 | <p>If the Board adopts Option 2, the following discounts apply only when the College District mails its tax bills after September 30:</p> <ol style="list-style-type: none">1. Three percent if the tax is paid before or during the next full calendar month following the date on which the tax bills were mailed.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 | <p>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.</p> <p><i>Tax Code 31.05</i></p> |
| 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 |

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not apply to taxes that are calculated too late for it to be available.
Tax Code 31.03, .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. This option applies to:

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

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3. Taxes that are imposed on the property 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.

PERSONS 65 AND
OVER

Subject to the requirements contained in Tax Code 31.035, a Board by order or resolution may permit an individual who is at least 65 years of age to perform services for the taxing unit in lieu of paying taxes imposed by a College District on property owned by the individual and occupied as the individual's residence homestead.

Tax Code 31.035

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

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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*

HOMESTEAD
EXEMPTIONS

An individual who is disabled or is 65 or older is entitled to an exemption from taxation by a College District of a portion, the amount of which is fixed as provided by Tax Code 11.13(e), of the appraised value of his or her residence homestead if the exemption is adopted either:

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

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

Tax Code 11.13(d), (f)

APPLICATION FOR
EXEMPTION

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

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| HOMESTEADS RENDERED UNINHABITABLE OR UNUSABLE | If a qualified residential structure for which the owner receives a homestead exemption under Tax Code 11.13 is rendered uninhabitable or unusable by a casualty or by wind or water damage, the owner may continue to receive the exemption for the structure and the land and improvements used in the residential occupancy of the structure while the owner constructs a replacement qualified residential structure on the land in accordance with Tax Code 11.135 and 11.26(n)–(o) and 34 Administrative Code 9.416. <i>Tax Code 11.135, .26(n)–(o); 34 TAC 9.416</i> |
| DISABLED VETERANS | A disabled veteran who receives from the U.S. Department of Veterans' Affairs or its successor 100 percent disability compensation due to a service-connected disability and a rating of 100 percent disabled or of individual unemployability is entitled to an exemption from taxation of the total appraised value of the veteran's residence homestead. <i>Tax Code 11.131</i> |
| ADDITIONAL EXEMPTIONS | The Board may grant additional tax exemptions for historic sites, certain tax-exempt corporations, and charitable organizations, as provided by law. <i>Tax Code 11.184, .24; Tex. Const. Art. VIII, Sec. 1-b</i> |
| 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. <i>Tax Code 23.02(a)</i> |
| BRANCH CAMPUS MAINTENANCE TAX | <p>After presentation of a voter petition and with the prior approval of the 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. <i>Education Code 130.087(a)</i></p> <p>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. <i>Education Code 130.087(b)</i></p> <p>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 College District branch campus maintenance tax to operate, maintain, and support the same College District branch campus. <i>Education Code 130.087(k)</i></p> |

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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 Administrative Code 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 District that shall operate the branch

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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 Administrative Code 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 District 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.

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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 Administrative Code 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-.98

COORDINATING
BOARD APPROVAL

The Coordinating Board must determine that:

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

Education Code 130.087(c); 19 TAC 8.99(a)

CRITERIA

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

1. Demographic and economic characteristics of the jurisdiction seeking to establish the maintenance tax, such as:
 - a. Population trends by age group;
 - b. Economic development trends and projection; and
 - c. Employment trends and projection (i.e., supply-demand data).
2. Potential student clientele, including:
 - a. Educational levels by age group; and
 - b. College-bound data (i.e., trends by age group).

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

Education Code 130.087(c); 19 TAC 8.99(b)

PUBLIC HEARINGS

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

1. Assess public sentiment regarding the levying of a branch campus maintenance tax;
2. Determine whether programs in the proposed jurisdiction would create unnecessary duplication or seriously harm pro-

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grams 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 College Districts or other institutions of higher education in the area and on the state of Texas.

Education Code 130.087(c); 19 TAC 8.99(c)

RECOMMENDATION

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

Coordinating Board action on the request for approval to hold an election to levy a branch campus maintenance tax shall be taken at the next quarterly Coordinating Board meeting. In making its decision, the Coordinating Board shall consider the needs of the College 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.

Education Code 130.087(c); 19 TAC 8.99(d), .100

ELECTION

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

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

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

19 TAC 8.101-.102

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RESUBMISSION OF
APPLICATIONS

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

REINVESTMENT
ZONES / TAX
INCREMENT
FINANCING

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)-(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 311.0091(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), .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. Notwithstanding any termination of the reinvestment zone, 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*

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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)*

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

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-transit. 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

REINVESTMENT
ZONES — TAX
ABATEMENT
ELIGIBILITY TO
PARTICIPATE

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:

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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

NOTICE OF PUBLIC
HEARING ON
DESIGNATION

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)*

NOTICE OF TAX
ABATEMENT
AGREEMENTS

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*

ENTERING TAX
ABATEMENT
AGREEMENTS

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 agreement are governed by the provisions of Tax Code 312.204, 312.205, and 312.211. *Tax Code 312.206(a)*

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| PARTICIPATION | The county appraisal district is responsible for appraising property in the College District for ad valorem tax purposes. <i>Tex. Const., Art. VIII, Sec. 18(b); Tax Code 6.01(a)-(b)</i> |
| APPRAISAL DISTRICT BOARD OF DIRECTORS | A Board shall participate in the election of the board of directors of the appraisal district or districts as provided by law. |
| ELIGIBILITY | <p>To be eligible to serve on the appraisal district board of directors, an individual other than a county assessor-collector serving as a nonvoting director must be a resident of the appraisal district and must have resided in the appraisal district for at least two years immediately preceding the date the individual takes office. An individual who is otherwise eligible to serve on the appraisal district board is not ineligible because of membership on the governing body of a taxing unit.</p> <p>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.</p> <p><i>Tax Code 6.03(a)</i></p> |
| RESTRICTIONS NEPOTISM | 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. |
| DELINQUENT TAXES | <p>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.</p> <p><i>Tax Code 6.035(a)</i></p> |
| CONFLICT OF INTEREST | <p>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:</p> <ol style="list-style-type: none">1. The appraisal district. |

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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 College District 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 College District Board cast any of its votes in the appointment of the appraisal district board in accordance with Tax Code 6.033. *Tax Code 6.033(a)*

TERMS

The taxing units participating in an appraisal district may provide that the terms of the appointed members of the appraisal district board of directors be staggered in accordance with Tax Code 6.034. *Tax Code 6.034(a)*

APPRAISAL OFFICE

The board of directors of an appraisal district may contract with a taxing unit in the appraisal district to perform the duties of the appraisal office for the appraisal district. *Tax Code 6.05(b)*

OWNERSHIP OR
LEASE OF REAL
PROPERTY

The acquisition or conveyance of real property or the construction or renovation of a building or other improvement by an appraisal district must be approved by the governing bodies of three-fourths of the taxing units entitled to vote on the appointment of appraisal district board members.

The appraisal district board of directors by resolution may propose a property transaction or other action for approval of the taxing units. The chief appraiser shall notify the College District Board President by delivering a copy of the appraisal district board's resolution, together with information showing the costs of other available alternatives to the proposal.

On or before the 30th day after the date the College District Board President receives notice of the proposal, the College District Board by resolution may approve or disapprove the proposal. If the College District Board fails to act on or before that 30th day or fails to file its resolution with the chief appraiser on or before the

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tenth day after that 30th day, the proposal is treated as if it were disapproved by the College District Board.

PROCEEDS

The proceeds of a conveyance of appraisal district property shall be credited to each taxing unit that participates in the appraisal district in proportion to the unit's allocation of the appraisal district budget in the year in which the transaction occurs.

Tax Code 6.051(b)-(c)

BUDGET AND
FINANCING

Each year the chief appraiser shall prepare a proposed budget for the operations of the appraisal district for the following tax year as described in Tax Code 6.06(a) and shall submit a copy to the College District before June 15.

PUBLIC POSTING

Each taxing unit entitled to vote on the appointment of appraisal district board members shall maintain a copy of the proposed budget for public inspection at its principal administrative office.

BUDGET ADOPTION

The appraisal district board of directors shall hold a public hearing to consider the budget. The secretary of the appraisal district board shall deliver to the College District Board President not later than the tenth day before the date of the hearing a written notice of the date, time, and place fixed for the hearing. The appraisal district board of directors shall complete its hearings, make any amendments to the proposed budget it desires, and finally approve a budget before September 15.

If governing bodies of a majority of the taxing units entitled to vote on the appointment of appraisal district board members adopt resolutions disapproving a budget and file them with the secretary of the appraisal district board within 30 days after its adoption, the budget does not take effect, and the appraisal district board shall adopt a new budget within 30 days of the disapproval.

AMENDMENTS

The appraisal district board may amend the approved budget at any time, but the secretary of the appraisal district board must deliver a written copy of a proposed amendment to the presiding officer of the governing body of each taxing unit participating in the appraisal district not later than the 30th day before the date the appraisal district board acts on it.

ALLOCATION

Each taxing unit participating in the appraisal district is allocated a portion of the amount of the budget and must pay its allocation as provided by Tax Code 6.06.

Tax Code 6.06(a)-(d)

APPROPRIATIONS AND REVENUE SOURCES
APPRAISAL DISTRICT

CAJ
(LEGAL)

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| CHANGES IN METHOD OF FINANCING | <p>The board of directors of an appraisal district, by resolution adopted and delivered to each taxing unit participating in the appraisal district after June 15 and before August 15, may prescribe a different method of allocating the costs of operating the appraisal district unless the governing body of any taxing unit that participates in the appraisal district adopts a resolution opposing the different method, and files it with the appraisal district board of directors before September 1. If an appraisal district board proposal is rejected, the appraisal district board shall notify, in writing, each taxing unit participating in the appraisal district before September 15.</p> <p>The taxing units participating in an appraisal district may adopt a different method of allocating the costs of operating the appraisal district in accordance with Tax Code 6.061.</p> <p><i>Tax Code 6.061(a)–(b)</i></p> |
| DISAPPROVAL OF APPRAISAL DISTRICT BOARD ACTIONS | <p>If the governing bodies of a majority of the taxing units entitled to vote on the appointment of appraisal district board members adopt resolutions disapproving an action, other than adoption of the budget, by the appraisal district board of directors and file them with the secretary of the appraisal district board within 15 days after the action is taken, the action is revoked effective the day after the day on which the required number of resolutions is filed. <i>Tax Code 6.10</i></p> |
| APPRAISAL REVIEW BOARDS | <p>An appraisal review board is established for each appraisal district, unless the boards of directors of two or more adjoining appraisal districts provide for the operation of a consolidated appraisal review board by interlocal contract. Members of the appraisal review board are appointed by the appraisal district board of directors. <i>Tax Code 6.41(a), .412</i></p> <p>Members of the appraisal review board are subject to the eligibility restrictions described in Tax Code 6.412, including prohibitions on service by College District Board members, officers, and employees, and Tax Code 6.413, including prohibitions on service by individuals who are parties to certain contracts. <i>Tax Code 6.41, .412–.413</i></p> |
| EXCEPTION | <p>In a county with a population of 3.3 million or more or a county with a population of 350,000 or more that is adjacent to a county with a population of 3.3 million or more, the members of the appraisal review board are appointed in accordance with Tax Code 6.41 by the local administrative district judge in the county in which the appraisal district is established. <i>Tax Code 6.41</i></p> |

APPROPRIATIONS AND REVENUE SOURCES
APPRAISAL DISTRICT

CAJ
(LEGAL)

PROHIBITION ON
CONTRACTS

A College District may not enter into a contract with a member of the appraisal review board established for an appraisal district in which the College District participates or with a business entity in which a member of the appraisal review board has a substantial interest as defined in Tax Code 6.413. *Tax Code 6.413*

The accounts of the College District shall be audited in accordance with the approved financial reporting system. *Education Code 61.065*

ANNUAL AUDIT
REPORT

An annual audit report for the fiscal year ending August 31 shall be filed with the Coordinating Board by January 1 following the close of the fiscal year for which the audit was made. Three copies of the audit shall be submitted to the Coordinating Board and required copies to other governmental agencies. The Coordinating Board also requires that an electronic copy be posted to the Coordinating Board's collection server. *Annual Financial Reporting Requirements for Texas Public Community and Junior Colleges*

INFORMATION FROM
STATE AUDITOR

At a reasonable time in advance of an independent audit of a College District, the state auditor shall provide the presiding officer of the Board and the College President with written information relating to the procedures for and scope of the audit. The state auditor shall include in the materials information describing:

1. How the appropriate representatives of the College District may participate in the audit planning process; and
2. How the College District may request information or assistance in preparing for the audit from the state auditor.

Gov't Code 321.0137

PAYROLL PROCEDURES
SALARY DEDUCTIONS

CDDA
(LEGAL)

A College District shall make the following periodic deductions from its employees' salaries or wages or shall reduce its employees' salaries or wages in accordance with state law or salary reduction agreements executed between the College District and its employees:

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| 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. <i>26 U.S.C. 3401–3402</i> |
| 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. <i>26 U.S.C. 3121(u)</i> |
| 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: <ul style="list-style-type: none">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. <p><i>Gov't Code 821.001, 825.403, 825.409; Atty. Gen. Op. H-871 (1976)</i></p> |
| 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. <i>Gov't Code 830.204</i> |
| 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. <i>Family Code Chapter 158</i> 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. <i>Family Code 158.204</i> |

PAYROLL PROCEDURES
SALARY DEDUCTIONS

CDDA
(LEGAL)

STATUS OF
DEDUCTION

12. A salary deduction made by an employee under Subchapter J, Chapter 659 of the Government Code shall be considered compensation under Government Code Chapter 659 and salary and wages and member compensation under Title 8.

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

CHARITABLE
CONTRIBUTIONS

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 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

CHARITABLE
CONTRIBUTIONS TO
INSTITUTION OF
HIGHER EDUCATION

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.

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 51.947

ASSIGNMENTS

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)

DEFERRED
COMPENSATION

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 Chapter 609* [See CKC]

PAYROLL PROCEDURES
SALARY DEDUCTIONS

CDDA
(LEGAL)

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

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.

Civ. Prac. & Rem. Code 63.006

PURCHASING AND ACQUISITION

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(LEGAL)

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| APPLICABLE LAW | <p>The provisions of Education Code Chapter 44, Subchapter B, relating to the purchase of goods and services under contract by a school district apply to the purchase of goods and services under contract by a community College District.</p> <p>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 community College District.</p> |
| EXCEPTION | <p>Education Code Chapter 44, Subchapter B does not apply to a purchase, acquisition, or license of library goods and services for a library operated as a part of a community College District. "Library goods and services" has the meaning assigned by Education Code 130.0101(a). [See EDAA]</p> <p><i>Education Code 130.010, 44.0311</i></p> |
| BOARD AUTHORITY | <p>The Board may adopt rules and procedures for the acquisition of goods and services. <i>Education Code 44.031(d)</i></p> |
| DELEGATION OF AUTHORITY | <p>The Board 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.</p> <p>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.</p> |
| DISASTER EXCEPTION | <p>Notwithstanding any other provision of the Education Code, in the event of a catastrophe, emergency, or natural disaster affecting a College District, the Board may delegate to the College President or designated person the authority to contract for the replacement or repair of College District equipment under Education Code Chapter 44, Subchapter B if emergency replacement or repair is necessary for the health and safety of College District students and staff.</p> <p><i>Education Code 44.0312</i></p> |
| CONTRACT WITH ANOTHER AGENCY | <p>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. <i>Gov't Code 771.003</i></p> |
| INJUNCTION | <p>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. <i>Education Code 44.032(f)</i></p> |

PURCHASING AND ACQUISITION

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PURCHASES VALUED
AT OR ABOVE \$50,000

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

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)

PURCHASING AND ACQUISITION

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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.).

CONTRACT WITH
PERSON INDEBTED
TO COLLEGE
DISTRICT

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

MAJOR CONTRACT
REQUIREMENTS

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. *Gov't Code 2262.004*

NOTICE
PUBLICATION

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

PURCHASING AND ACQUISITION

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(LEGAL)

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)*

ELECTRONIC BIDS OR PROPOSALS

A College District may receive bids or proposals through electronic transmission if the Board adopts rules to ensure the identification, security, and confidentiality of electronic bids or proposals and to ensure that the electronic bids or proposals remain effectively unopened until the proper time.

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

Education Code 44.0313

PROFESSIONAL SERVICES

The purchasing requirements of Education Code 44.031 do not apply to a contract for professional services rendered, including 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, .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

PURCHASING AND ACQUISITION

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

COMPUTERS AND
COMPUTER-RELATED
EQUIPMENT

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)*

PURCHASING
THROUGH DIR

PURCHASING
USING
COMPETITIVE
BIDDING

Each College District that solicits bids or proposals from the public for the purchase and/or lease of computer equipment must do so in accordance with applicable rules adopted by the comptroller pertaining to competitive bidding or competitive sealed proposals.

REQUIRED
CERTIFICATION

A public solicitation for the purchase or lease of computer equipment issued by a College District is required to contain the certification to be completed by bidders, in accordance with 1 Administrative Code 217.30. If the bidder fails to include the certification, the College District shall reject the related bid and not evaluate it.

1 TAC 217.30

SPECIAL
PREFERENCE

All College Districts shall include in all bids for the purchase or lease of computer equipment a special preference for all manufacturers that have a program to recycle the computer equipment of other manufacturers, which program includes collection events and manufacturer initiatives to accept computer equipment labeled with another manufacturer's brand. The preference may take the form of extra evaluation points or may be the tie-breaking factor among equal bids. *1 TAC 217.31*

COMPUTER
EQUIPMENT

"Computer equipment" is defined as a desktop or notebook computer and includes a computer monitor or other display device that does not contain a tuner. *1 TAC 217.1(1)*

NETWORK
HARDWARE AND
SOFTWARE

A contract for the purchase or lease of network hardware or network software entered into by a College District is required to contain certification, as described by 1 Administrative Code 217.32, that the network hardware or software, as applicable, has undergone independent certification testing for known and relevant vulnerabilities in accordance with Government Code 2059.060. *Gov't Code 2059.060; 1 TAC 217.32*

PURCHASING AND ACQUISITION

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(LEGAL)

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; 34 TAC 20.391*

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 Board member, 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 Board member 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 in-

PURCHASING AND ACQUISITION

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eligible 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. *Education Code 44.031; Atty. Gen. Op. DM-347 (1995)*

MULTIYEAR
CONTRACTS

The College District may execute an insurance contract for a period longer than 12 months, if the contract contains either or both of the provisions described at COMMITMENT OF CURRENT REVENUE, below. If the College District executes a multiyear insurance contract, it need not advertise for insurance vendors until the 12-month period during which the College District will be executing a new insurance contract. *Atty. Gen. Op. DM-418 (1996)*

COMPETITIVE
BIDDING

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

REVERSE AUCTION

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)

OUT-OF-STATE
BIDDERS

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–.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.

PURCHASING AND ACQUISITION

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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 comptroller a resolution adopted by the Board requesting that the College District be allowed to participate on a voluntary basis, to the extent the comptroller 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 comptroller reports on actual purchases.
4. Be responsible for the vendor's compliance with all conditions of delivery and quality of the purchased item.

PURCHASING AND ACQUISITION

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(LEGAL)

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

MULTIPLE AWARD
CONTRACT
SCHEDULE

The comptroller shall develop a schedule of multiple award contracts that have been previously awarded using a competitive process by the federal government 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 Chapter 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 Chapter 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.

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

CONTRACT-RELATED
FEE REPORT

A College District that enters into a purchasing contract valued at \$25,000 or more under Education Code 44.031(a)(5) (interlocal contract), under 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.

PURCHASING AND ACQUISITION

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(LEGAL)

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 College District that purchases goods or services under this type of contract is considered to have satisfied any state law requiring competitive purchasing. *Gov't Code 2162.102(d)*

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.

PURCHASING AND ACQUISITION

CF
(LEGAL)

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 and 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

PURCHASING AND ACQUISITION

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(LEGAL)

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

SITE MANAGEMENT

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(LEGAL)

REDUCTION OF
ENERGY
CONSUMPTION

A Board shall establish a goal to reduce a College District's annual electric consumption by five percent each year for six years, beginning September 1, 2007. *Health and Safety Code 388.005*

ENERGY OR WATER
CONSERVATION
MEASURES

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, multiglazed windows or doors, heat absorbing or heat reflective glazed and coated window or door systems, or other window or door system modifications that reduce energy consumption.
3. Automatic energy control systems, including computer software and technical data licenses.
4. Heating, ventilating, or air-conditioning system modifications or replacements that reduce energy or water consumption.
5. Lighting fixtures that increase energy efficiency.
6. Energy recovery systems.
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.

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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.

Education Code 51.927(a)–(d)

PERFORMANCE
BOND

Before entering into an energy savings performance contract, the Board shall require the provider of the energy or water conservation measures to file with the Board a payment and performance bond in accordance with Government Code Chapter 2253. The Board may also require a separate bond to cover the value of the guaranteed savings on the contract. *Education Code 51.927(e)*

CONTRACT TERM

The Board may enter into 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. *Education Code 51.927(f)*

FINANCING

An energy savings performance contract may be financed:

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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.

Education Code 51.927(g)

COST SAVINGS

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 Board, divided by the number of years in the contract term beginning after the final date of installation. The Board shall consider all costs of the energy or water conservation measures, including costs of design, engineering, installation, maintenance, repairs, and debt service. *Education Code 51.927(f), (h)*

CONTRACT
PROCUREMENT

An energy savings performance contract shall be let according to the procedures established for professional services by Government Code 2254.004. Notice of the request for qualifications shall be 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

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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(i)

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 2265.001*

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

RECYCLING
PROGRAM

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.

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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

CERTIFICATE OF
MOLD REMEDIATION

When a 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 during the five years preceding the date the College District sells the property. *Occupations Code 1958.154(b); 25 TAC 295.327(d)*

POOLS
GENERALLY

An owner, manager, operator, or other attendant in charge of a public swimming pool, wading pool, baby pool, hot tub, in-ground spa, spray fountain, or other artificial body of water typically used for recreational swimming, bathing, or play shall comply with pool safety standards necessary to prevent drowning adopted by the executive commissioner of the Health and Human Services Commission. *Health and Safety Code 341.0645; 25 TAC 265.181-.208*

DRAINS

Each public pool and spa shall comply with the drain cover standards found at 15 U.S.C. Section 8003. "Public pool and spa" means a swimming pool or spa that is open to the public generally, whether for a fee or free of charge. *15 U.S.C. 8003*

EQUIPMENT AND SUPPLIES MANAGEMENT
RECORDS MANAGEMENT

CIA
(LEGAL)

DEFINITION

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)

BOARD'S
RESPONSIBILITIES

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.

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6. Cooperate with the State Library and Archives Commission in its conduct of statewide records management surveys.

Loc. Gov't. Code 203.021

CUSTODIANS OF
RECORDS

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

RECORDS
MANAGEMENT
OFFICER

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 recordkeeping 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.

EQUIPMENT AND SUPPLIES MANAGEMENT
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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*

Note: The State Library and Archives Commission records retention schedules are available at www.tsl.state.tx.us/slrms/recordspubs/localretention.html.

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

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| 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. <i>Local Gov't Code 202.002</i> |
| PRESERVATION OF RECORDS | <p>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. <i>Gov't Code 552.004</i></p> <p>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. <i>Gov't Code 551.104(a)</i></p> |
| 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. <i>Loc. Gov't Code 204.002</i> |
| 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. <i>Loc. Gov't Code 205.002</i> |
| 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. <i>18 U.S.C. 1519</i> |

INSURANCE AND ANNUITIES MANAGEMENT
HEALTH AND LIFE INSURANCE

CKD
(LEGAL)

UNIFORM GROUP
INSURANCE
PROGRAM

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.

Health Insurance Portability and Accountability Act of 1996, Pub. Law 104-191, 45 CFR 146.111(a); Insurance Code Chapter 1551.

The College District shall, at the time of employment, notify each of the College District 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 BOARD
MEMBERS

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 Board member 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 Board member 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 Board member'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*

INSURANCE AND ANNUITIES MANAGEMENT
HEALTH AND LIFE INSURANCE

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CONTINUATION
COVERAGE

DURING MILITARY
LEAVE

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:

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

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

DURING FMLA
LEAVE

During any period 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, .210, .213* [See also DECA]

UPON TERMINATION
OR OTHER
QUALIFYING EVENT
(COBRA)

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:

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.
2. To dependents of the covered employee for 36 months after the employee becomes eligible for Medicare benefits.
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.
4. To a dependent child for 36 months after the child ceases to be a dependent under the terms of the plan.

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

PREMIUM

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

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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;

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(LEGAL)

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)

HEALTH
INSURANCE
PORTABILITY AND
ACCOUNTABILITY
ACT (HIPAA)
CERTIFICATE OF
CREDITABLE
COVERAGE

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-3(e); 45 CFR 146.115

ELECTION TO BE
EXEMPTED

The plan sponsor of a nonfederal governmental group health plan may elect to be exempted from any or all of the following provisions of HIPAA:

1. Limitations on preexisting condition exclusion periods;
2. Special enrollment periods for individuals;
3. Prohibitions against discriminating against individual participants and beneficiaries based on health status;

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4. Standards relating to benefits for mothers and newborns;
5. Parity in the application of certain limits to mental health benefits; and
6. Required coverage for reconstructive surgery and certain other services following a mastectomy under section 2706 of the Public Health Service Act.

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|-------------------------------|---|
| FORM OF ELECTION | The election must be in writing and state the name of the plan and the name and address of the plan administrator. The election document must either state that the plan does not include health insurance coverage, or identify which portion of the plan is not funded through insurance. The election must be made in conformity with all the plan sponsor's rules, including any public hearing, if required. The election document must be signed, and must certify that the person signing the election document, including if applicable a third-party plan administrator, is legally authorized to do so by the plan sponsor. |
| TIMING OF ELECTION | <p>The election must be received by the Health Care Financing Administration by the day preceding the beginning date of the plan year. The election applies for a single specified plan year.</p> <p>An election may be extended through subsequent elections.</p> |
| CONTENTS OF NOTICE | <p>If this election is made, the plan shall provide for notice to enrollees on an annual basis and at the time of enrollment under the plan. The notice shall be provided to each participant individually.</p> <p><i>42 U.S.C. 300gg-21; 45 CFR 146.180</i></p> |
| PRIVACY OF HEALTH INFORMATION | <p>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. <i>42 U.S.C. 1320d et seq.</i></p> |
| 'COVERED ENTITY' DEFINED | <p>The College District is a "covered entity" under the Privacy Rule to the extent it is:</p> <ol style="list-style-type: none">1. A health plan;2. A health-care clearinghouse; or3. A health-care provider who transmits any health information in electronic form in connection with a transaction covered by the Privacy Rule. <p><i>45 CFR 160.103</i></p> |

INSURANCE AND ANNUITIES MANAGEMENT
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'PROTECTED
HEALTH
INFORMATION'
DEFINED

"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:

1. Education records covered by the Family Educational Rights and Privacy Act (FERPA), as amended, 20 U.S.C. 1232g.
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]

SPONSORS OF
GROUP HEALTH
PLANS

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)

'PLAN SPONSOR'
DEFINED

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)*

SELF-FUNDED PLANS

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*

PHARMACY BENEFIT
MANAGER SERVICES
CONTRACTS
DISCLOSURE

A College District on request of another state agency shall disclose information relating to the amounts charged by a pharmacy benefit manager for pharmacy benefit manager services provided under a prescription drug program and other requested pricing information related to a contract for pharmacy benefit manager services. The College District shall provide information requested under this sec-

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HEALTH AND LIFE INSURANCE

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(LEGAL)

tion not later than the 30th day after the date the information is requested.

A College District is not required to disclose information it is specifically prohibited from disclosing under a contract with a pharmacy benefit manager executed before September 1, 2009.

A contract entered, amended, or extended on or after September 1, 2009, may not contain a provision that prohibits the College District from disclosing information on the amounts charged by a pharmacy benefit manager for pharmacy benefit manager services provided under a prescription drug program or from disclosing other pricing information related to the contract under this section.

REDISCLASURE

The information received by a state agency under this section may not be disclosed to a person outside of the state agency or its agents.

STATE AGENCY
DEFINED

"State agency" means a Board, commission, department, office, or other agency in the executive, legislative, or judicial branch of state government that is created by the constitution or a statute of this state, including an institution of higher education as defined by Section 61.003, Education Code.

Gov't Code 2158.401-.403

INFORMATION RESOURCES

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INFORMATION
SECURITY PROGRAM

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 District'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 U.S.C. 6801(b)*

OBJECTIVES

The objectives are to:

1. Ensure the security and confidentiality of customer information;
2. Protect against any anticipated threats or hazards to the security or integrity of such information; and
3. Protect against unauthorized access to or use of such information that could result in substantial harm or inconvenience to any customer.

16 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 District'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 District 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 District'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 District's operations or business arrangements, or any other circumstances that the College District knows or has reason to know may have a material impact on the information security program.

16 CFR 314.4

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 District 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 Administrative Code, Title I, chapter 202, subchapter C. *1 TAC 202.70(2)*

SECURITY BREACH
NOTIFICATION
TO STATE
RESIDENTS

A College District that owns or licenses computerized data that includes sensitive personal information shall disclose, in accordance with the notice provisions at Business and Commerce Code 521.053(e), any breach of system security, after discovering or receiving notification of the breach, to any resident of this state whose sensitive personal information was, or is reasonably be-

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lieved to have been, acquired by an unauthorized person. The disclosure shall be made as quickly as possible, except as provided at CRIMINAL INVESTIGATION EXCEPTION, below, or as necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

TO THE OWNER OR
LICENSE HOLDER

A College District that maintains computerized data that includes sensitive personal information not owned by the College District shall notify the owner or license holder, in accordance with Business and Commerce Code 521.053(e), of the information of any breach of system security immediately after discovering the breach, if the sensitive personal information was, or is reasonably believed to have been, acquired by an unauthorized person.

TO A CONSUMER
REPORTING
AGENCY

If a College District is required to notify at one time more than 10,000 persons of a breach of system security, the College District shall also notify each consumer reporting agency, as defined by 15 U.S.C. 1681a, that maintains files on consumers on a nationwide basis, of the timing, distribution, and content of the notices. The College District shall provide the notice without unreasonable delay.

CRIMINAL
INVESTIGATION
EXCEPTION

A College District may delay providing the required notice to state residents or the owner or license holder at the request of a law enforcement agency that determines that the notification will impede a criminal investigation. The notification shall be made as soon as the law enforcement agency determines that the notification will not compromise the investigation.

INFORMATION
SECURITY POLICY

A College District that maintains its own notification procedures as part of an information security policy for the treatment of sensitive personal information that complies with the timing requirements for notice described above complies with Business and Commerce Code 521.053 if the College District notifies affected persons in accordance with that policy.

*Business and Commerce Code 521.053; Gov't Code 2054.1125;
Local Gov't Code 205.010*

DEFINITIONS

“Breach of system security” means unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of sensitive personal information maintained by a person, including data that is encrypted if the person accessing the data has the key required to decrypt the data. Good faith acquisition of sensitive personal information by an employee or agent of the person for the purposes of the person is not a breach of system security unless the person uses or discloses the sensitive personal information in an unauthorized manner. *Business and Commerce Code 521.053(a)*

“Sensitive personal information” means:

1. An individual’s first name or first initial and last name in combination with any one or more of the following items, if the name and the items are not encrypted:
 - a. Social security number;
 - b. Driver’s license number or government-issued identification number; or
 - c. Account number or credit or debit card number in combination with any required security code, access code, or password that would permit access to an individual’s financial account; or
2. Information that identifies an individual and relates to:
 - a. The physical or mental health or condition of the individual;
 - b. The provision of health care to the individual; or
 - c. Payment for the provision of health care to the individual.

“Sensitive personal information” does not include publicly available information that is lawfully made available to the public from the federal government or a state or local government.

Business and Commerce Code 521.002(a)(2), (b)

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. *Gov’t 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 Administrative Code, Title I, chapter 203, subchapter C. *1 TAC 203.43–.46*

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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 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 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 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.

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ALTERNATE
METHODS

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

ACCESSIBILITY
POLICY

The College District shall develop and publish an accessibility policy, by June 30, 2009, which includes the standards and specifications of 1 Administrative Code chapter 213.

ACCESSIBILITY
COORDINATOR

The College District shall appoint an accessibility coordinator to develop, support and maintain the internal accessibility policy.

1 TAC 213.41(a), (d)

INFORMATION
RESOURCES
MANAGER

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*

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
NEPOTISM

DBE
(LEGAL)

DEFINITION In this policy, the term “appoint” includes appointing, confirming the appointment of, and voting to appoint or confirm the appointment of, a person.

NEPOTISM PROHIBITED 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 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.

Gov't Code 573.002,.041; Atty. Gen. Op. JC-184 (2000)

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

COMPENSATION OF PROHIBITED EMPLOYEE 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*

CONSANGUINITY Two persons are related to each other by consanguinity (blood) if one is a descendant of the other or if they share a common ancestor. 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(c)

[See DBE(EXHIBIT)]

HALF-BLOOD RELATIVES There is no distinction under the nepotism statute between half-blood and full-blood relations. Thus, half-blood relationships fall

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
NEPOTISM

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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. The person's spouse;
2. Anyone related by consanguinity to the person's spouse within the first or second degree; and
3. The spouse of anyone related to the person by consanguinity within the first or second degree.

Gov't Code 573.025

EFFECT OF BOARD
MEMBER
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 Board member's resignation is filled by a successor, the Board member 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)

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
NEPOTISM

DBE
(LEGAL)

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|---------------|---|
| ABSTENTION | <p>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. <i>Gov't Code 573.062(b)</i> [See DBE (EXHIBIT)]</p> <p>A "change in status" includes a reassignment within an organization, whether or not a change in salary level accompanies the reassignment. <i>Atty. Gen. Op. JC-193 (2000)</i></p> <p>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. <i>Atty. Gen. Op. DM-46 (1991)</i></p> |
| TRADING | <p>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:</p> <ol style="list-style-type: none"><li data-bbox="560 1024 1443 1094">1. The person is related to another public official within the prohibited degree; and<li data-bbox="560 1115 1443 1247">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. <p><i>Gov't Code 573.044</i></p> |
| FEDERAL FUNDS | <p>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. <i>Atty. Gen. L.A. No. 80 (1974)</i></p> |
| PENALTIES | <p>An individual who violates the nepotism prohibitions shall be removed from his or her position. <i>Tex. Gov't Code 573.081,.082</i></p> <p>An individual who violates Government Code 573.041 (Prohibition on Public Officials), 573.062(b) [see CONTINUOUS EMPLOYMENT and ABSTENTION] or 573.083 [see COMPENSATION OF PROHIBITED EMPLOYEE] commits an offense involving official misconduct. <i>Gov't Code 573.084</i></p> |

HIRING PRACTICES

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FORMER BOARD
MEMBER
EMPLOYMENT

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*

EMPLOYEE
INFORMATION

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.

I-9 FORMS

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)

NEW HIRE
REPORTING

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.

DEADLINE

New hire reports are due:

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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

A College District that knowingly violates the new hire provisions may be liable for a civil penalty, as set forth at Family Code 234.105.

42 U.S.C. 653a (b)–(d); Family Code 234.101–.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.

5 U.S.C. 552a Note; PL 93-579, 7(b), 88 Stat. 1896 (1974)

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 appli-

HIRING PRACTICES

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(LEGAL)

cant 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

EMPLOYMENT
PREFERENCE FOR
FORMER FOSTER
CHILDREN

An individual who was under the permanent managing conservatorship of the Department of Family and Protective Services on the day preceding the individual's 18th birthday and who is 25 years of age or younger is entitled to preference in employment with a College District over other applicants for the same position who does not have a greater qualification.

EXCEPTIONS

This preference does not apply to the position of private secretary or deputy of an official or department, or to an individual holding a strictly confidential relation to the employing officer.

CONFLICT WITH
FEDERAL LAW OR
GRANT

To the extent that this preference conflicts with federal law or a limitation provided by a federal grant to the College District, this preference shall be construed to operate in harmony with federal law or limitation of the federal grant.

GRIEVANCE
PROCESS

An individual entitled to an employment preference under Government Code Chapter 672 who is aggrieved by a decision of the College District relating to hiring the individual, or relating to retaining the individual if the College District reduces its workforce, may ap-

HIRING PRACTICES

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peal the decision by filing a written complaint with the governing body of the College District. The Board of the College District shall respond to such a complaint not later than the 15th business day after the date the Board receives the complaint. The Board may render a different hiring decision than the decision that is the subject of the complaint if the governing body determines that the employment preference under Government Code Chapter 672 was not applied.

Gov't Code Chapter 672

CONSUMER CREDIT
REPORTS

DEFINITIONS

“Adverse action” includes a denial of employment or any other decision for employment purposes that adversely affects any current or prospective employee.

“Consumer report” includes any 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

OBTAINING
REPORTS

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.

ADVERSE ACTION

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)-(3)

DISPOSAL OF
RECORDS

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:

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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.

16 CFR 682.3

COMPENSATION AND BENEFITS
SALARIES

DEA
(LEGAL)

MINIMUM WAGE AND
OVERTIME

Employees not exempt under the Fair Labor Standards Act shall be paid minimum wage and receive compensation for overtime under the conditions specified in the Act. *29 U.S.C. 206, 207*

Nothing in the Fair Labor Standards Act or its implementing regulations prohibits the College District from compelling the use of accrued compensatory time. *Christensen v. Harris County, 529 U.S. 576 (2000)*

EMPLOYEE WITH
MULTIPLE
APPOINTMENTS

A full-time employee of the College District who has appointments to more than one position at the same College District may receive pay for working more than 40 hours in a week if the College District determines that pay in lieu of compensatory time is in the best interests of the College District. *Education Code 51.963*

MERIT SALARY
INCREASES

The College District may grant merit salary increases, including one-time merit payments, to employees. A merit salary increase made under Education Code 51.962 is compensation for purposes of Chapter 659, Government Code, and salary and wages and member compensation for purposes of Title 8, Government Code. The College District may pay a merit salary increase from any funds. Before awarding a merit salary increase, the College District must adopt criteria for the granting of merit salary increases. To be eligible for a merit salary increase, an employee must have been employed by the College District for the six months immediately preceding the effective date of the increase and at least six months must have elapsed since the employee's last merit salary increase.

For employees employed by the College District for more than six months, the requirement that six months elapse between merit salary increases does not apply to a one-time merit payment if the chief administrative officer of the College District determines in writing that the one-time merit payment is made in relation to the employee's performance during a natural disaster or other extraordinary circumstance. *Education Code 51.962*

PAY INCREASES

The College District shall not grant any extra compensation, fee, or allowance to a public officer, agent, servant, or contractor after service has been rendered or a contract entered into and performed in whole or in part. *Tex. Const. Art. III, Sec. 53* [See CE(LEGAL)]

SALARY ADVANCES
AND LOANS

The College District shall not lend its credit or gratuitously grant public money or things of value in aid of any individual, association, or corporation. *Tex. Const. Art. III, Sec. 52; Brazoria County v. Perry, 537 S.W.2d 89 (Tex. Civ. App.—Houston [1st Dist.] 1976, no writ)*

COMPENSATION AND BENEFITS
SALARIES

DEA
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FAIR LABOR
STANDARDS ACT

Unless an exemption applies, the College District shall pay each of its employees not less than minimum wage for all hours worked.

MINIMUM WAGE
AND OVERTIME

29 U.S.C. 206(a)(1)

Unless an exemption applies, the College District shall pay an employee not less than one and one-half times the employee's regular rate of pay for all hours worked in excess of 40 in any workweek.

29 U.S.C. 207(a)(1); 29 CFR part 778

BREAKS FOR
NONEXEMPT
EMPLOYEES

Rest periods of up to 20 minutes must be counted as hours worked. Coffee breaks or time for snacks are rest periods, not meal periods. *29 CFR 785.18*

Bona fide meal periods of 30 minutes or more are not counted as hours worked if the employee is completely relieved from duty. The employee is not relieved from duty if the employee is required to perform any duties, whether active or inactive, while eating. For example, an office employee who is required to eat at his or her desk is working while eating. It is not necessary that an employee be permitted to leave the premises if the employee is otherwise completely freed from duties during the meal period. *29 CFR 785.19*

BREAKS FOR
NURSING
MOTHERS

The College District shall provide a nonexempt employee a reasonable break to express breast milk, each time the employee needs to express breast milk for her nursing child, for one year after the child's birth. The College District shall provide a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, which may be used by an employee to express breast milk.

The College District is not required to compensate the employee receiving reasonable break time for any work time spent for such purpose.

A College District that employs fewer than 50 employees is not subject to these requirements if the requirements would impose an undue hardship by causing the College District significant difficulty or expense when considered in relation to the size, financial resources, nature, or structure of the College District.

29 U.S.C. 207(r)

COMPENSATORY
TIME

ACCRUAL

Nonexempt employees may receive, in lieu of overtime compensation, compensatory time off at a rate of not less than one and one-half hours for each hour of overtime work, pursuant to an agreement or understanding arrived at between the employer and employee before the performance of the work. Such agreement or understanding may be informal, such as when an employee works

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| | <p>overtime knowing that the employer rewards overtime with compensatory time.</p> <p>An employee may accrue not more than 240 hours of compensatory time. If the employee's overtime work included a public safety activity, an emergency response activity, or a seasonal activity, the employee may accrue not more than 480 hours of compensatory time. After the employee has reached these limits, the employee shall be paid overtime compensation for additional overtime work.</p> |
| PAYMENT FOR ACCRUED TIME | <p>Compensation paid to an employee for accrued compensatory time shall be paid at the regular rate earned by the employee at the time of payment. An employee who has accrued compensatory time off shall be paid for any unused compensatory time upon separation from employment at the rates set forth at 29 U.S.C. 207(o)(4).</p> |
| USE | <p>An employee who has requested the use of compensatory time shall be permitted to use such time within a reasonable period after making the request if the use of the compensatory time does not unduly disrupt the operations of the College District.</p> <p>The Fair Labor Standards Act does not prohibit the College District from compelling the use of accrued compensatory time.</p> <p><i>29 U.S.C. 207(o); Christensen v. Harris County, 529 U.S. 576 (2000); Houston Police Officers' Union v. City of Houston, 330 F.3d 298 (5th Cir. 2003)</i></p> |
| EXEMPT EMPLOYEES | <p>The minimum wage and overtime provisions do not apply to any employee employed in a bona fide executive, administrative, or professional capacity. 29 U.S.C. 213(a)(1)</p> |
| ACADEMIC ADMINISTRATORS | <p>The term "employee employed in a bona fide administrative capacity" includes an employee:</p> <ol style="list-style-type: none">1. Who is compensated for services on a salary or fee basis at a rate of not less than \$455 per week exclusive of board, lodging, or other facilities, or on a salary basis that is at least equal to the entrance salary for teachers in the College District by which employed; and2. Whose primary duty is performing administrative functions directly related to academic instruction or training in a College District or department or subdivision thereof. <p>"Performing administrative functions directly related to academic instruction or training" means work related to the academic operations and functions in a College District rather than to administration along the lines of general business operations. Such academic administrative functions include operations directly in the field of</p> |

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education. Jobs relating to areas outside the educational field are not within the definition of academic administration.

Employees engaged in academic administrative functions include:

1. Department heads in institutions of higher education responsible for the administration of the mathematics department, the English department, the foreign language department, and the like;
2. Academic counselors who perform work such as administering school testing programs, assisting students with academic problems and advising students concerning degree requirements; and
3. Other employees with similar responsibilities.

Jobs relating to building management and maintenance, jobs relating to the health of the students, and academic staff such as social workers, psychologists, lunch room managers, or dietitians do not perform academic administrative functions, although such employees may qualify for another exemption.

29 CFR 541.204

SALARY BASIS

To qualify as an exempt executive, administrative, or professional employee, the employee must be compensated on a salary basis, unless the employee is a teacher. Subject to the exceptions listed in the rule, an employee must receive the full salary for any week in which the employee performs any work, without regard to the number of days or hours worked. A College District that makes improper deductions from salary shall lose the exemption if the facts demonstrate that the College District did not intend to pay exempt employees on a salary basis. *29 CFR 541.600, 541.602(a), 541.603*

PARTIAL-DAY
DEDUCTIONS

A College District employee who otherwise meets the salary basis requirements shall not be disqualified from exemption on the basis that the employee is paid according to a pay system established by statute, ordinance, or regulation, or by a policy or practice established pursuant to principles of public accountability, under which the employee accrues personal leave and sick leave and that requires the employee's pay to be reduced or the employee to be placed on leave without pay for absences for personal reasons or because of illness or injury of less than one workday when accrued leave is not used by an employee because:

1. Permission for its use has not been sought or has been sought and denied;

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2. Accrued leave has been exhausted; or
3. The employee chooses to use leave without pay.

Deductions from the pay of a College District employee for absences due to a budget-required furlough shall not disqualify the employee from being paid on a salary basis except in the work-week in which the furlough occurs and for which the employee's pay is accordingly reduced.

29 CFR 541.710

SAFE HARBOR
POLICY

If the College District has a clearly communicated policy that prohibits improper pay deductions and includes a complaint mechanism, reimburses employees for any improper deductions, and makes a good faith commitment to comply in the future, the College District will not lose the deduction unless the College District willfully violates the policy by continuing to make improper deductions after receiving employee complaints.

The best evidence of a clearly communicated policy is a written policy that was distributed to employees before the improper pay deductions by, for example, providing a copy of the policy to employees upon hire, publishing the policy in an employee handbook, or publishing the policy on the College District's intranet.

29 CFR 541.603(d)

FACULTY

The term "employee employed in a bona fide professional capacity" includes any employee with a primary duty of teaching, tutoring, instructing or lecturing in the activity of imparting knowledge and who is employed and engaged in this activity as a teacher in an educational establishment by which the employee is employed. The term "educational establishment" means an institution of higher education or other educational institution. The salary basis requirements do not apply to teaching professionals.

Exempt teachers include: Regular academic teachers; teachers of kindergarten or nursery school pupils; teachers of gifted or disabled children; teachers of skilled and semi-skilled trades and occupations; teachers engaged in automobile driving instruction; aircraft flight instructors; home economics teachers; and vocal or instrumental music instructors. Those faculty members who are engaged as teachers but also spend a considerable amount of their time in extracurricular activities such as coaching athletic teams or acting as moderators or advisors in such areas as drama, speech, debate or journalism are engaged in teaching. Such activities are a recognized part of the schools' responsibility in contributing to the educational development of the student.

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The possession of an elementary or secondary teacher's certificate provides a clear means of identifying the individuals contemplated as being within the scope of the exemption for teaching professionals. Teachers who possess a teaching certificate qualify for the exemption regardless of the terminology (e.g., permanent, conditional, standard, provisional, temporary, emergency, or unlimited) used by the state to refer to different kinds of certificates. However, a teacher who is not certified may be considered for exemption, provided that such individual is employed as a teacher by the employing school or school system.

29 CFR 541.303, .204(b)

WAGE AND HOUR
RECORDS

The College District shall maintain and preserve payroll or other records for nonexempt employees containing the information required by the regulations under the Fair Labor Standards Act. *29 CFR 516.2a*

NOTICE REGARDING
EARNED INCOME TAX
CREDIT

Not later than March 1 of each year, a College District shall provide employees with information regarding general eligibility requirements for the federal earned income tax credit by one of the following means:

1. In person;
2. Electronically at the employee's last known e-mail address;
3. Through a flyer included, in writing or electronically, as a payroll stuffer; or
4. By first class mail to the employee's last known address.

A College District may not satisfy this requirement solely by posting information in the workplace.

In addition, a College District may provide employees with IRS publications and forms, or information prepared by the comptroller, relating to the earned income tax credit.

Labor Code 104.001-.003

Note: This policy summarizes the Family and Medical Leave Act (FMLA) and implementing regulations, including family and medical leave for an employee seeking leave because of a relative's military service. For provisions on leaves in general, see DEC. For provisions addressing leave for an employee's military service, see DECB.

This introductory page outlines the contents of this policy on the Family and Medical Leave Act. See the following sections for statutory provisions on:

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SECTION I: GENERAL PROVISIONS

COVERED EMPLOYER All public agencies are “covered employers” under the FMLA, without regard to the number of employees employed. The term “employer” includes any person who acts directly or indirectly in the interest of a College District to any of the College District's employees. *29 U.S.C. 2611(4), 2618(a); 29 CFR 825.104(a)*

ELIGIBLE EMPLOYEE “Eligible employee” means an employee who:

1. Has been employed by a College District for at least 12 months. The 12 months need not be consecutive;
2. Has been employed by a College District for at least 1,250 hours of service during the 12-months immediately preceding the commencement of leave; and
3. Is employed at a worksite where 50 or more employees are employed by the College District within 75 miles of that worksite.

29 U.S.C. 2611(2); 29 CFR 825.110

[A College District that has no eligible employees must comply with the requirements at GENERAL NOTICE, below.]

QUALIFYING
REASONS FOR LEAVE

A College District shall grant leave to eligible employees:

1. For the birth of a son or daughter, and to care for the newborn child;
2. For placement with the employee of a son or daughter for adoption or foster care. [For the definitions of “adoption” and “foster care,” see 29 CFR 825.122];
3. To care for the employee's spouse, son or daughter, or parent with a serious health condition;
4. Because of a serious health condition that makes the employee unable to perform the functions of the employee's job. [For the definition of “serious health condition,” see 29 CFR 825.113];
5. Because of any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military member on covered active duty (or has been notified of an impending call or order to active duty). [For the definition of “covered military member,” see 29 CFR 825.126(b). For the definition of “covered active duty,” see 29 U.S.C. 2611(14)]; and

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6. To care for a covered servicemember with a serious injury or illness incurred in the line of duty if the employee is the spouse, son, daughter, parent, or next of kin of the servicemember. [For the definitions of "covered servicemember" and "serious injury or illness," see 29 U.S.C. 2611(15), (18)].

29 U.S.C. 2612(a); 29 CFR 825.112

For provisions regarding treatment for substance abuse, see 29 CFR 825.119.

QUALIFYING
EXIGENCY

An eligible employee may take FMLA leave for one or more of the following qualifying exigencies:

1. Short-notice deployment.
2. Military events and related activities.
3. Childcare and College District activities.
4. Financial and legal arrangements.
5. Counseling.
6. Rest and recuperation.
7. Post-deployment activities.
8. Additional activities, provided that the College District and employee agree that the leave shall qualify as an exigency, and agree to both the timing and duration.

29 CFR 826.126

PREGNANCY OR
BIRTH

Both the mother and father are entitled to FMLA leave to be with a healthy newborn child (i.e., bonding time) during the 12-month period beginning on the date of birth. In addition, the mother is entitled to FMLA leave for incapacity due to pregnancy, for prenatal care, or for her own serious health condition following the birth of the child. The mother is entitled to leave for incapacity due to pregnancy even though she does not receive treatment from a health-care provider during the absence, and even if the absence does not last for more than three consecutive calendar days. The husband is entitled to FMLA leave if needed to care for his pregnant spouse who is incapacitated during her prenatal care or following the birth of a child if the spouse has a serious health condition. [For the definition of "needed to care for," see 29 CFR 825.124]. *29 CFR 825.120*

DEFINITIONS

"Next of kin of a covered servicemember" (for purposes of military caregiver leave) means:

NEXT OF KIN

1. The blood relative specifically designated in writing by the covered servicemember as his or her nearest blood relative

for purposes of military caregiver leave under the FMLA. The designated individual shall be deemed to be the covered servicemember's only next of kin; or

2. When no such designation has been made, the nearest blood relative other than the covered servicemember's spouse, parent, son, or daughter, in the following order of priority:
 - a. Blood relatives who have been granted legal custody of the covered servicemember by court decree or statutory provisions,
 - b. Brothers and sisters,
 - c. Grandparents,
 - d. Aunts and uncles, and
 - e. First cousins.

If there are multiple family members with the same level of relationship to the covered servicemember, all such family members shall be considered the covered servicemember's next of kin and may take FMLA leave to provide care to the covered servicemember, either consecutively or simultaneously.

29 CFR 825.127(b)(3)

PARENT

"Parent" (for purposes of family, medical, and qualifying exigency leave) means a biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the employee when the employee was a son or daughter. This term does not include parents "in law." *29 CFR 825.122(b)*

For the definition of "parent of a covered servicemember" for purposes of military caregiver leave, see *29 CFR 825.127(b)(2)*.

SON OR DAUGHTER

"Son or daughter" (for purposes of family and medical leave) means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is either under age 18, or age 18 or older and "incapable of self-care because of a mental or physical disability" at the time that FMLA leave is to commence. *29 CFR 825.122(c)*

For the definition of "son or daughter on active duty or call to active duty status" for purposes of qualifying exigency leave, see *29 CFR 825.126(b)(1)*.

For the definition of "son or daughter of a covered servicemember" for purposes of military caregiver leave, see *29 CFR 825.127(b)(1)*.

SPOUSE “Spouse” means a husband or wife as defined or recognized under state law for purposes of marriage in the state where the employee resides, including common law marriage in states where it is recognized. *29 CFR 825.122(a)*

SECTION II: LEAVE ENTITLEMENT AND USE

AMOUNT OF LEAVE Except in the case of military caregiver leave, an eligible employee's FMLA leave entitlement is limited to a total of 12 workweeks of leave during a 12-month period for any one or more of the qualifying reasons.

A husband and wife who are employed by the same College District may be limited to a combined total of 12 weeks of FMLA leave during any 12-month period if leave is taken for the birth of a son or daughter, the placement of a child for adoption or foster care, or to care for a parent with a serious health condition.

29 U.S.C. 2612(a), (f); 29 CFR 825.120(a)(3), .200, .201

DETERMINING THE 12-MONTH PERIOD Except with respect to military caregiver leave, a College District may choose any one of the following methods for determining the “12-month period” in which the 12 weeks of leave entitlement occurs:

1. The calendar year;
2. Any fixed 12-month “leave year,” such as a fiscal year, or a year starting on an employee's “anniversary” date;
3. The 12-month period measured forward from the date any employee's first FMLA leave begins; or
4. A “rolling” 12-month period measured backward from the date an employee uses any FMLA leave.

29 CFR 825.200(b)

MILITARY CAREGIVER LEAVE In the case of military caregiver leave, an eligible employee's FMLA leave entitlement is limited to a total of 26 workweeks of leave during a “single 12-month period.” The “single 12-month period” is measured forward from the date an employee's first FMLA leave to care for the covered servicemember begins, regardless of the method used by the College District to determine the 12-month period for other FMLA leaves. During the “single 12-month period,” an eligible employee's FMLA leave entitlement is limited to a combined total of 26 workweeks of FMLA leave for any qualifying reason. *29 CFR 825.200(f), (g)*

A husband and wife who are employed by the same College District may be limited to a combined total of 26 weeks of FMLA leave

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during the “single 12-month period” if leave is taken as military caregiver leave, for the birth of a son or daughter, for the placement of a child for adoption or foster care, or to care for a parent with a serious health condition. *29 CFR 825.127(d)*

SUMMER VACATION
AND OTHER
EXTENDED BREAKS

If a College District’s activity temporarily ceases and employees generally are not expected to report for work for one or more weeks (e.g., a College District closing for several weeks for the Christmas/New Year holiday), those days do not count against the employee’s FMLA leave entitlement. Similarly, the period during the summer vacation when the employee would not have been required to report for duty is not counted against the employee’s FMLA leave entitlement. *29 CFR 825.200(h)*

INTERMITTENT OR
REDUCED LEAVE
SCHEDULE

FMLA leave may be taken intermittently or on a reduced leave schedule under certain circumstances. “Intermittent leave” is FMLA leave taken in separate blocks of time due to a single qualifying reason. A “reduced leave schedule” is a leave schedule that reduces an employee’s usual number of working hours per work-week, or hours per workday.

For leave taken because of the employee’s own serious health condition, to care for a parent, son, or daughter with a serious health condition, or military caregiver leave, there must be a medical need for leave and it must be that such medical need can be best accommodated through an intermittent or reduced leave schedule. Leave due to a qualifying exigency may also be taken on an intermittent or reduced schedule basis.

When leave is taken after the birth of a healthy child or placement of a healthy child for adoption or foster care, an employee may take leave intermittently or on a reduced leave schedule only if the College District agrees.

29 U.S.C. 2612(b); 29 CFR 825.202

TRANSFER TO
ALTERNATIVE
POSITION

If an employee requests intermittent or reduced schedule leave that is foreseeable based on planned medical treatment, the College District may require the employee to transfer temporarily to an available alternative position for which the employee is qualified and which better accommodates recurring periods of leave than does the employee’s regular position. *29 U.S.C. 2612(b)(2); 29 CFR 825.204*

CALCULATING
LEAVE USE

When an employee takes leave on an intermittent or reduced schedule, only the amount of leave actually taken may be counted toward the employee’s leave entitlement. A College District must account for intermittent or reduced schedule leave using an increment no greater than the shortest period of time that the College

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| | District uses to account for use of other forms of leave, provided the increment is not greater than one hour. <i>29 CFR 825.205</i> |
| SUBSTITUTION OF PAID LEAVE | Generally, FMLA leave is unpaid leave. However, an employee may choose to substitute accrued paid leave for unpaid FMLA leave. If an employee does not choose to substitute accrued paid leave, the College District may require the employee to do so. The term “substitute” means that the paid leave provided by the College District, and accrued pursuant to established policies of the College District, will run concurrently with the unpaid FMLA leave. An employee’s ability to substitute accrued paid leave is determined by the terms and conditions of the College District’s normal leave policy. <i>29 U.S.C. 2612(d); 29 CFR 825.207(a)</i> |
| COMPENSATORY TIME | If an employee requests and is permitted to use accrued compensatory time to receive pay during FMLA leave, or if a College District requires such use, the compensatory time taken may be counted against the employee’s FMLA leave entitlement. <i>29 CFR 825.207(f)</i> |
| FMLA AND WORKERS’ COMPENSATION | <p>A serious health condition may result from injury to the employee “on or off” the job. If the College District designates the leave as FMLA leave, the leave counts against the employee’s FMLA leave entitlement. Because the workers’ compensation absence is not unpaid, neither the employee nor the College District may require the substitution of paid leave. However, a College District and an employee may agree, where state law permits, to have paid leave supplement workers’ compensation benefits.</p> <p>If the health-care provider treating the employee for the workers’ compensation injury certifies that the employee is able to return to a “light duty job” but is unable to return to the same or equivalent job, the employee may decline the College District’s offer of a “light duty job.” As a result, the employee may lose workers’ compensation payments, but is entitled to remain on unpaid FMLA leave until the employee’s FMLA leave entitlement is exhausted. As of the date workers’ compensation benefits cease, the substitution provision becomes applicable and either the employee may elect or the College District may require the use of accrued paid leave.</p> <p><i>29 U.S.C. 825.207(d)-(e)</i></p> |
| MAINTENANCE OF HEALTH BENEFITS | <p>During any FMLA leave, a College District must maintain the employee’s coverage under any group health plan on the same conditions as coverage would have been provided if the employee had been continuously employed during the entire leave period.</p> <p>An employee may choose not to retain group health plan coverage during FMLA leave. However, when the employee returns from</p> |

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leave, the employee is entitled to be reinstated on the same terms as before taking leave without any qualifying period, physical examination, exclusion of pre-existing conditions, and the like.

29 U.S.C. 2614(c); 29 CFR 825.209

PAYMENT OF
PREMIUMS

During FMLA leave, the employee must continue to pay the employee's share of group health plan premiums. If premiums are raised or lowered, the employee would be required to pay the new premium rates. *29 CFR 825.210*

FAILURE TO PAY
PREMIUMS

Unless a College District has an established policy providing a longer grace period, a College District's obligations to maintain health insurance coverage cease if an employee's premium payment is more than 30 days late. In order to terminate the employee's coverage, the College District must provide written notice to the employee that the payment has not been received. Such notice must be mailed to the employee at least 15 days before coverage is to cease, advising that coverage will be dropped on a specified date at least 15 days after the date of the letter unless the payment has been received by that date. Coverage for the employee may be terminated at the end of the 30-day grace period, if the required 15-day notice has been provided.

Upon the employee's return from FMLA leave, the College District must still restore the employee to coverage/benefits equivalent to those the employee would have had if leave had not been taken and the premium payment(s) had not been missed. The employee may not be required to meet any qualification requirements imposed by the plan, including any new preexisting condition waiting period, to wait for an open season, or to pass a medical examination to obtain reinstatement of coverage.

29 CFR 825.212

RECOVERY OF
BENEFIT COST

If an employee fails to return to work after FMLA leave has been exhausted or expires, a College District may recover from the employee its share of health plan premiums during the employee's unpaid FMLA leave, unless the employee's failure to return is due to one of the reasons set forth in the regulations. A College District may not recover its share of health insurance premiums for any period of FMLA leave covered by paid leave. *29 CFR 825.213*

RIGHT TO
REINSTATEMENT

On return from FMLA leave, an employee is entitled to be returned to the same position the employee held when leave began, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. An employee is entitled to reinstatement even if the employee has been replaced or his or her position has been restructured to accommodate the employee's ab-

sence. However, an employee has no greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the FMLA leave period. *29 CFR 825.214, .216(a)*

MOONLIGHTING
DURING FMLA
LEAVE

If a College District has a uniformly applied policy governing outside or supplemental employment, the policy may continue to apply to an employee while on FMLA leave. A College District that does not have such a policy may not deny FMLA benefits on the basis of outside or supplemental employment unless the FMLA leave was fraudulently obtained. *29 U.S.C. 216(e); 29 CFR 825.216(e)*

PAY INCREASES
AND BONUSES

An employee is entitled to any unconditional pay increases that may have occurred during the FMLA leave period, such as cost of living increases. Pay increases conditioned upon seniority, length of service, or work performed must be granted in accordance with the College District's policy or practice with respect to other employees on an equivalent leave status for a reason that does not qualify as FMLA leave.

Equivalent pay includes any bonus or payment, whether it is discretionary or non-discretionary. However, if a bonus or other payment is based on the achievement of a specified goal such as hours worked, products sold, or perfect attendance, and the employee has not met the goal due to FMLA leave, then the payment may be denied, unless otherwise paid to employees on an equivalent leave status for a reason that does not qualify as FMLA leave. For example, if an employee who used paid vacation leave for a non-FMLA purpose would receive the payment, then the employee who used paid vacation leave for an FMLA-protected purpose also must receive the payment.

29 CFR 825.215(c)

KEY EMPLOYEES

A College District may deny job restoration to a key employee if such denial is necessary to prevent substantial and grievous economic injury to the operations of the College District. *29 U.S.C. 2614(b); 29 CFR 825.217-.219*

SECTION III: NOTICES AND MEDICAL CERTIFICATION

EMPLOYER NOTICES
GENERAL NOTICE

Every covered employer must post on its premises a notice explaining the FMLA's provisions and providing information concerning the procedures for filing complaints with the Department of Labor's Wage and Hour Division. The notice must be posted prominently where it can be readily seen by employees and applicants for employment. Covered employers must post this general notice even if no employees are eligible for FMLA leave.

If a College District has any eligible employees, it shall also:

1. Include the notice in employee handbooks or other written guidance to employees concerning employee benefits or leave rights, if such written materials exist; or
2. Distribute a copy of the general notice to each new employee upon hiring.

Electronic posting is sufficient if it meets the other requirements of this section.

If a College District's workforce is comprised of a significant portion of workers who are not literate in English, the College District shall provide the general notice in a language in which the employees are literate.

29 CFR 825.300(a)

ELIGIBILITY NOTICE

When an employee requests FMLA leave, or when a College District acquires knowledge that an employee's leave may be for an FMLA-qualifying reason, the College District must notify the employee of the employee's eligibility to take FMLA leave. If the employee is not eligible for FMLA leave, the notice must state at least one reason why the employee is not eligible.

The College District must provide the eligibility notice within five business days, absent extenuating circumstances. Notification of eligibility may be oral or in writing. The College District shall translate the notice in any situation in which it is required to translate the general notice.

29 CFR 825.300(b)

RIGHTS AND
RESPONSIBILITIES
NOTICE

Each time a College District provides an eligibility notice to an employee, the College District shall also provide a written rights and responsibilities notice. The rights and responsibilities notice must include the information required by the FMLA regulations at 29 CFR 825.300(c)(1). The notice may be distributed electronically if it meets the other requirements of this section. The College District shall translate the notice in any situation in which it is required to translate the general notice. *29 CFR 825.300(c)*

DESIGNATION
NOTICE

When a College District has enough information to determine whether leave is being taken for an FMLA-qualifying reason, the College District must notify the employee whether the leave will be designated as FMLA leave. If the College District determines that the leave will not be designated as FMLA-qualifying, the College District must notify the employee of that determination. Absent extenuating circumstances, a College District must provide the designation notice within five business days.

A College District may use DOL form WH-382 to provide such notification to employees. If the leave is not designated as FMLA leave because it does not meet the requirements of the Act, the notice to the employees that the leave is not designated as FMLA leave may be in the form of a simple written statement.

The designation notice must include the information required by the FMLA regulations at 29 CFR 825.300(d)(1) (substitution of paid leave), (d)(3) (fitness for duty certification), and (d)(6) (amount of leave charged against FMLA entitlement). For further provisions on designation of leave, see 29 CFR 825.301.

29 CFR 825.300(d)

RETROACTIVE
DESIGNATION

A College District may retroactively designate leave as FMLA leave, with appropriate notice to the employee, if the College District's failure to timely designate leave does not cause harm or injury to the employee. In addition, a College District and an employee may agree that leave will be retroactively designated as FMLA leave. *29 CFR 825.301(d)*

EMPLOYEE NOTICE

An employee giving notice of the need for FMLA leave must state a qualifying reason for the leave and otherwise satisfy the requirements for notice of foreseeable and unforeseeable leave, below. The employee does not need to expressly assert rights under the Act or even mention the FMLA. *29 CFR 825.301(b)*

FORESEEABLE
LEAVE

An employee must provide at least 30 days' advance notice before FMLA leave is to begin if the need for leave is foreseeable based upon an expected birth, placement for adoption or foster care, or planned medical treatment of the employee, a family member, or a covered servicemember. If 30 days' notice is not practicable, the employee must give notice as soon as practicable. For leave due to a qualifying exigency, the employee must provide notice as soon as practicable regardless of how far in advance the leave is foreseeable.

When planning medical treatment, the employee must consult with the College District and make a reasonable effort to schedule the treatment so as not to disrupt unduly the College District's operations, subject to the approval of the health-care provider.

29 CFR 825.302

UNFORESEEABLE
LEAVE

When the approximate timing of leave is not foreseeable, an employee must provide notice to the College District as soon as practicable under the facts and circumstances of the particular case. It generally should be practicable for the employee to provide notice of leave that is unforeseeable within the time prescribed by the

LEAVES AND ABSENCES
FAMILY AND MEDICAL LEAVE

DECA
(LEGAL)

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| | <p>College District's usual and customary notice requirements applicable to such leave. <i>29 CFR 825.303(a)</i></p> |
| COMPLIANCE WITH COLLEGE DISTRICT REQUIREMENTS | <p>A College District may require an employee to comply with its usual and customary notice and procedural requirements for requesting leave, absent unusual circumstances. If an employee does not comply with usual notice and procedural requirements, and no unusual circumstances justify the failure to comply, FMLA leave may be delayed or denied. <i>29 CFR 825.302(d)–.303(c)</i></p> |
| CERTIFICATION OF LEAVE | <p>A College District may require that an employee's FMLA leave be supported by certification, as described below. The College District must give notice of a requirement for certification each time certification is required. At the time the College District requests certification, the College District must advise the employee of the consequences of failure to provide adequate certification. <i>29 CFR 825.305(a)</i></p> |
| TIMING | <p>In most cases, the College District should request certification at the time the employee gives notice of the need for leave or within five business days thereafter or, in the case of unforeseen leave, within five business days after the leave commences. The College District may request certification at a later date if the College District later has reason to question the appropriateness of the leave or its duration. The employee must provide the requested certification to the College District within 15 calendar days after the College District's request, unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts. <i>29 CFR 825.305(b)</i></p> |
| INCOMPLETE OR INSUFFICIENT CERTIFICATION | <p>The College District shall advise an employee if it finds a certification incomplete or insufficient and shall state in writing what additional information is necessary to make the certification complete and sufficient. The College District must provide the employee with seven calendar days (unless not practicable under the particular circumstances despite the employee's diligent, good faith efforts) to cure any such deficiency.</p> <p>A certification is “incomplete” if one or more of the applicable entries have not been completed. A certification is “insufficient” if it is complete, but the information provided is vague, ambiguous, or non-responsive. A certification that is not returned to the College District is not considered incomplete or insufficient, but constitutes a failure to provide certification.</p> <p><i>29 CFR 825.305(c)</i></p> |

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MEDICAL
CERTIFICATION OF
SERIOUS HEALTH
CONDITION

When leave is taken because of an employee's own serious health condition, or the serious health condition of a family member, a College District may require the employee to obtain medical certification from a health-care provider. A College District may use DOL optional form WH-380E when the employee needs leave due to the employee's own serious health condition and optional form WH-380F when the employee needs leave to care for a family member with a serious health condition. A College District may not require information beyond that specified in the FMLA regulations.

An employee may choose to comply with the certification requirement by providing the College District with an authorization, release, or waiver allowing the College District to communicate directly with the health-care provider.

For the definition of "health-care provider," see 29 CFR 825.125.

29 CFR 825.306

AUTHENTICATION
AND CLARIFICATION

If an employee submits a complete and sufficient certification signed by the health-care provider, a College District may not request additional information from the health-care provider. However, the College District may contact the health-care provider for purposes of clarification and authentication of the certification after the College District has given the employee an opportunity to cure any deficiencies, as set forth above. To make such contact, the College District must use a health-care provider, a human resources professional, a leave administrator, or a management official. Under no circumstances may the employee's direct supervisor contact the employee's health-care provider.

"Authentication" means providing the health-care provider with a copy of the certification and requesting verification that the information on the form was completed and/or authorized by the health-care provider who signed the document; no additional medical information may be requested.

"Clarification" means contacting the health-care provider to understand the handwriting on the certification or to understand the meaning of a response. A College District may not ask the health-care provider for additional information beyond that required by the certification form. The requirements of the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule must be satisfied when individually identifiable health information of an employee is shared with a College District by a HIPAA-covered health-care provider.

29 CFR 825.307(a)

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| SECOND AND THIRD OPINIONS | <p>If the College District has reason to doubt the validity of a medical certification, the College District may require the employee to obtain a second opinion at the College District's expense. If the opinions of the employee's and the College District's designated health-care providers differ, the College District may require the employee to obtain certification from a third health-care provider, again at the College District's expense. <i>29 CFR 825.307(b), (c)</i></p> |
| FOREIGN MEDICAL CERTIFICATION | <p>If the employee or a family member is visiting another country, or a family member resides in another country, and a serious health condition develops, the College District shall accept medical certification as well as second and third opinions from a health-care provider who practices in that country. If the certification is in a language other than English, the employee must provide the College District with a written translation of the certification upon request. <i>29 CFR 825.307(f)</i></p> |
| RECERTIFICATION | <p>A College District may request recertification no more often than every 30 days and only in connection with an absence by the employee, except as set forth in the FMLA regulations. The College District must allow at least 15 calendar days for the employee to provide recertification.</p> <p>As part of the recertification for leave taken because of a serious health condition, the College District may provide the health-care provider with a record of the employee's absence pattern and ask the health-care provider if the serious health condition and need for leave is consistent with such a pattern.</p> <p><i>29 CFR 825.308</i></p> |
| CERTIFICATION—QUALIFYING EXIGENCY LEAVE | <p>The first time an employee requests leave because of a qualifying exigency, a College District may require the employee to provide a copy of the covered military member's active duty orders or other documentation issued by the military which indicates that the covered military member is on active duty or call to active duty status in support of a contingency operation, and the dates of the covered military member's active duty service.</p> <p>The College District may also require that the leave be supported by a certification that addresses the information at <i>29 CFR 825.309(b)</i>. The College District may use DOL optional form WH-384, or another form containing the same basic information, for this certification. The College District may not require information beyond that specified in the regulations.</p> <p><i>29 CFR 825.309</i></p> |

LEAVES AND ABSENCES
FAMILY AND MEDICAL LEAVE

DECA
(LEGAL)

CERTIFICATION—
MILITARY
CAREGIVER LEAVE

When an employee takes military caregiver leave, a College District may require the employee to obtain a certification completed by an authorized health-care provider of the covered servicemember. In addition, the College District may request that the employee and/or covered servicemember address in the certification the information at 29 CFR 825.310(c). The College District may also require the employee to provide confirmation of a covered family relationship to the seriously injured or ill servicemember.

A College District may use DOL optional form WH-385, or another form containing the same basic information, for this certification. The College District may not require information beyond that specified in the regulations. A College District must accept as sufficient certification “invitational travel orders” (“ITOs”) or “invitational travel authorizations” (“ITAs”) issued to any family member to join an injured or ill servicemember at his or her bedside.

A College District may seek authentication and/or clarification of the certification under the procedures described above. Second and third opinions, and recertifications, are not permitted for leave to care for a covered servicemember.

29 CFR 825.310

INTENT TO RETURN
TO WORK

A College District may require an employee on FMLA leave to report periodically on the employee's status and intent to return to work. The College District's policy regarding such reports may not be discriminatory and must take into account all of the relevant facts and circumstances related to the individual employee's leave situation. *29 CFR 825.311(a)*

FITNESS FOR DUTY
CERTIFICATION

As a condition of restoring an employee who took FMLA leave due to the employee's own serious health condition, a College District may have a uniformly applied policy or practice that requires all similarly situated employees (i.e., same occupation, same serious health condition) who take leave for such conditions to obtain and present certification from the employee's health-care provider that the employee is able to resume work. A College District may require that the certification specifically address the employee's ability to perform the essential functions of the employee's job. *29 CFR 825.312*

FAILURE TO
PROVIDE
CERTIFICATION

If the employee fails to provide the College District with a complete and sufficient certification, despite the opportunity to cure, or fails to provide any certification, the College District may deny the taking of FMLA leave. This provision applies in any case where a College District requests a certification, including any clarifications necessary to determine if certifications are authentic and sufficient. *29 CFR 825.305*

For failure to provide timely certification of foreseeable leave, see 29 CFR 825.313(a). For failure to provide timely certification of unforeseeable leave, see 29 CFR 825.313(b). For failure to provide timely recertification, see 29 CFR 825.313(c). For failure to provide timely fitness-for-duty certification, see 29 CFR 825.313(d).

SECTION IV: MISCELLANEOUS PROVISIONS

RECORDS

A College District shall make, keep, and preserve records pertaining to its obligations under the FMLA in accordance with the recordkeeping requirements of the Fair Labor Standards Act (FLSA) and the FMLA regulations. A College District shall keep these records for no less than three years and make them available for inspection, copying, and transcription by representatives of the DOL upon request.

If the College District is preserving records electronically, the College District must comply with 29 CFR 825.500(b). A College District that has eligible employees must maintain records with the data set forth at 29 CFR 825.500(c). A College District that has no eligible employees must maintain just the data at 29 CFR 825.500(c)(1). For College Districts in a joint employment situation, see 29 CFR 825.500(e).

Records and documents relating to certifications, recertifications, or medical histories of employees or employees' family members, created for purposes of FMLA, shall be maintained as confidential medical records in separate files/records from the usual personnel files. If the Americans with Disabilities Act (ADA) is also applicable, such records shall be maintained in conformance with ADA confidentiality requirements [see 29 CFR 1630.14(c)(1)], except as set forth in this section of the regulations.

29 CFR 825.500

PROHIBITION AGAINST DISCRIMINATION AND RETALIATION

The FMLA prohibits interference with an employee's rights under the law, and with legal proceedings or inquiries relating to an employee's rights. *29 U.S.C. 2615; 29 CFR 825.220*

LEAVES AND ABSENCES
MILITARY LEAVE

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Note: This policy addresses leave for an employee's military service. For provisions on leaves in general, see DEC. For provisions regarding the Family and Medical Leave Act (FMLA), including family and medical leave for an employee seeking leave because of a relative's military service, see DECA.

FEDERAL MILITARY
LEAVE
REEMPLOYMENT

Any person who is absent from a position of employment by reason of voluntary or involuntary service in the uniformed services shall be entitled to certain reemployment rights and benefits under the Uniformed Services Employment and Reemployment 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.

For purposes of federal military leave, "uniformed services" means 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.

A person who is reemployed under USERRA is entitled to the seniority and other rights and benefits determined by seniority that the person had on the date of the commencement of uniformed service, plus the additional seniority rights, and benefits that such person would have attained if the person had remained continuously employed.

EXCEPTION

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

LEAVES AND ABSENCES
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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 Team 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. Such leave shall not exceed 15 work-days 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 (USERRA) 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

LEAVES AND ABSENCES
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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)*

PERSONNEL-MANAGEMENT RELATIONS
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UNITED STATES
CONSTITUTION

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]

TEXAS CONSTITUTION

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 Cmty (College) District*, 678 S.W.2d 94 (Tex. App.—El Paso 1984, writ ref'd n.r.e.)

FEDERAL LAWS
SECTION 504

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),.11*

AMERICANS WITH
DISABILITIES ACT

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,.140*

TITLE IX

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 Bd of Educ. v. Bell*, 456 U.S. 512 (1982)

PERSONNEL-MANAGEMENT RELATIONS
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STATE LAWS

WAGES, HOURS,
CONDITIONS OF
WORK

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. *Atty. 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.)

REPRESENTATIVE

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)

OPEN MEETING ACT

A Board is not required to conduct an open meeting to hear a complaint or charge against an employee. However, a 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]

CLOSED MEETING

A Board may conduct a closed meeting on an employee complaint to the extent required or provided by law. *Gov't Code 551.082* [See BDA]

WHISTLEBLOWER
COMPLAINTS

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 554.006* [See DG]

PERSONNEL-MANAGEMENT RELATIONS
EMPLOYEE COMPLAINTS

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| PURPOSE | The purpose of this policy is to provide a timely and orderly process for the resolution of employee complaints. The Board intends that, whenever feasible, complaints be resolved at the lowest possible administrative level. |
| DEFINITION | An individual employee's wages, hours, or conditions of work may be the subject of a complaint. The definition of complaint shall also include specific allegations of unlawful discrimination on the basis of the employee's exercise of constitutional rights. [See also DOA(LOCAL)] The complaint must establish the individual harm suffered. |
| EXCEPTIONS | <p>This policy shall not apply to:</p> <ol style="list-style-type: none">1. Complaints alleging discrimination, including violations of Title IX (gender), Title VII (sex, race, color, religion, national origin), ADEA (age), or Section 504 (disability). [See DOA]2. Complaints alleging certain forms of harassment, including harassment by a supervisor and violations of Title VII. [See DOA]3. Complaints concerning retaliation relating to discrimination and harassment. [See DOA]4. Complaints concerning a commissioned peace officer who is an employee of the College District. [See CHA]5. Complaints concerning an employment preference for former foster children. [See DC]6. Complaints arising from the dismissal of term contract employees. [See DMAA]7. Complaints concerning the nonrenewal of term contract employees. [See DMAB] |
| CONSOLIDATION | When the College President or designee determines that two or more individual complaints are sufficiently similar in nature and remedy sought to permit their resolution through one proceeding, he or she may consolidate the complaints. |
| WHISTLEBLOWER COMPLAINTS | <p>An employee who alleges adverse employment action in retaliation for reporting a violation of law to an appropriate authority shall initiate a grievance under this policy within the time specified by law. [See DG(LEGAL)]</p> <p>The complaint shall first be filed in accordance with LEVEL TWO, below. Time lines for the employee and the College District set out in this policy may be shortened to allow the Board to make a final decision within 30 days of the initiation of the complaint.</p> |

PERSONNEL-MANAGEMENT RELATIONS
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| FREEDOM FROM REPRISALS | No reprisals or retaliation of any kind shall be taken at any level against an employee for bringing a complaint. Complaints shall not be referred to in an employee's personnel file unless so requested by the employee. |
| REPRESENTATION | The employee filing a complaint or any employee who is the subject of a complaint may be represented at his or her own expense by a fellow employee, attorney, or other person. The College District may be assisted in processing complaints as it deems appropriate. |
| GENERAL PROVISIONS | All complaints arising out of an event or related series of events must be addressed in one complaint. An employee is precluded from bringing separate or serial complaints concerning events about which the employee has previously complained. Costs of any complaint shall be paid by the party incurring them. |
| TIME LIMITS | <p>In resolving complaints, time is of the essence. All time limits shall be strictly complied with, unless extended by mutual consent. "Days" shall mean College District business days. In calculating time lines under this policy, the day a document is filed is "day zero," and all deadlines shall be determined by counting the following day as "day one."</p> <p>If a complaint or appeal notice is not timely filed, the complaint may be dismissed, on written notice to the employee, at any point during the complaint process. The employee may appeal the dismissal by seeking review in writing within ten days, starting at the level at which the complaint was dismissed. Such appeal shall be limited to the issue of timeliness only and the merits of the original complaint shall not be considered.</p> |
| FILING | Complaints shall be presented in writing and may be filed by hand-delivery, fax, or U.S. Mail. Hand-delivered filings shall be timely filed if received by the appropriate administrator or designee by the close of business on the deadline. Fax filings shall be timely filed if they are received on or before the deadline, as indicated by the date/time shown on the fax copy. Mail filings shall be timely filed if they are postmarked by U.S. Mail on the deadline and received by the appropriate administrator or designated representative no more than three days after the deadline. |
| RESPONSE | "Response" shall mean a written communication to the employee at each level in which a response is required. Responses may be hand-delivered, faxed, or sent by U.S. Mail to the employee's mailing address of record. Faxed responses shall be timely if they are received on or before the deadline, as indicated by the date/time shown on the fax copy. Mailed responses shall be timely if they |

PERSONNEL-MANAGEMENT RELATIONS
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are postmarked by U.S. Mail on the deadline and delivered to the employee's address of record.

COMPLAINT FORM

Complaints and appeal notices shall be submitted in writing on a form provided by the College District. Copies of any documents that support the complaint should be attached to the complaint form or be presented at the Level One conference. After the Level One conference, no new documents may be submitted by the employee unless the employee did not know the documents existed before the Level One conference.

A complaint form that is incomplete in any material aspect may be dismissed, but may be refiled with all the requested information if refiled within the designated time for filing the original complaint.

PRESENTATION

An employee may be provided with an administrative review conference, as appropriate, as outlined in the Level One, Level Two, Level Three, Level Four, and Level Five sections below. The employee may also be provided a presentation of the complaint to the Board as specified in the Level Five section, unless the Board grants a hearing.

In some instances, it will be appropriate to skip a level or levels of the complaint process if the nature of the complaint or the remedy requested is not appropriate for the initial level or levels. Administrative determinations regarding the appropriate level at which to hold a complaint conference will be made promptly upon receipt of a timely written complaint.

HEARING

If an employee alleges in writing specific facts that, if true, would constitute a violation of the employee's common law, statutory, or constitutional rights, an investigation of such allegations shall be conducted by the appropriate administrator after receipt of the complaint. The results of an investigation may be considered at any level of the complaint process. If the employee does not accept the College President's resolution at Level Four and requests a Board hearing, the College President shall schedule a hearing as specified in the Level Five section below.

LEVEL ONE

An employee shall file a complaint on the proper form with the lowest level administrator who has the authority to address the complaint within ten days of the date the employee first knew, or with reasonable diligence should have known, of the decision or action giving rise to the complaint. In most circumstances, the Level One complaint shall be filed with the employee's immediate supervisor.

If the complaint is not filed with the appropriate administrator, the receiving administrator must note the date and time the complaint

PERSONNEL-MANAGEMENT RELATIONS
EMPLOYEE COMPLAINTS

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form was received and immediately forward the complaint to the appropriate administrator.

The appropriate administrator shall hold a conference with the employee within ten days after receipt of the written complaint.

The administrator shall have ten days following the conference to provide the employee with a written response. In the event an investigation is necessary, the administrator shall have 15 days following the conference to provide the employee with a written response.

LEVEL TWO

If the outcome of the complaint conference at Level One is not to the employee's satisfaction, the employee may appeal to the dean of the employee's immediate supervisor within ten days from receipt of the Level One response. The appeal notice must be filed in writing on a form provided by the College District.

The appropriate dean shall hold a conference with the employee within ten days after receipt of the appeal notice. At the conference, only the issues and documents presented at Level One and identified in the Level Two appeal notice, as well as the Level One response and any related investigation and/or documents shall be considered. The appropriate dean shall have ten days following the conference to provide the employee with a written response.

LEVEL THREE

If the outcome of the complaint conference at Level Two is not to the employee's satisfaction, the employee may appeal to a grievance committee within ten days. The appeal notice must be filed in writing on a form provided by the College District. The grievance committee shall hold a conference with the employee within ten days from receipt of the Level Two appeal notice. At the conference, only the issues and documents considered at Level Two shall be considered. The grievance committee shall have ten days following the conference to provide the employee with a written response.

The grievance committee shall consist of three faculty members and/or professional staff and two administrators appointed by the College President.

LEVEL FOUR

If the outcome of the complaint conference at Level Three is not to the employee's satisfaction, the employee may appeal to the College President within ten days from receipt of the Level Three response. The appeal notice must be filed in writing on a form provided by the College District. The College President or designee shall hold a conference with the employee within ten days from receipt of the Level Three appeal notice. At the conference, only the issues and documents considered at Level Three shall be consi-

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dered. The College President or designee shall have ten days following the conference to provide the employee with a written response.

LEVEL FIVE
PRESENTATION

If the outcome at Level Four is not to the employee's satisfaction, the employee may submit a written request to place the matter on the agenda of a future Board meeting. The request must be in writing and must be filed within ten working days after receipt of the Level Four response. The College President shall inform the employee of the date, time, and place of the meeting [see BD].

The presiding officer may set reasonable time limits and procedural guidelines for the complaint presentations. The Board shall listen to the complaint and any responsive presentation from the administration. The Board shall consider only those issues and documents presented at the preceding levels and identified in the appeal notice. The Board is not required to respond or take any action on the matter, unless at its sole discretion, the Board determines some response is warranted.

The Board may give notice of any decision orally or in writing at any time up to and including the next regularly scheduled Board meeting. If for any reason the Board fails to reach a decision, the lack of a response by the Board upholds the administrative decision at Level Four.

HEARING

A "hearing" may be more extensive than a complaint presentation; however, nothing in this policy shall be construed to confer "due process" or "due course of law" rights to an employee who is provided with a hearing. An employee who is granted a hearing shall be afforded that hearing either with the Board in a meeting that includes the hearing as an item in the posted agenda or with the Board's designee. If the Board conducts the hearing, it shall make and communicate its decision at any time up to and including the next regularly scheduled Board meeting.

If the Board's designee conducts the hearing, he or she shall make a recommendation to the Board at the first regular meeting following the hearing that affords adequate time to prepare a written recommendation. The employee shall be provided a copy of the recommendation before the meeting and shall be given an opportunity at the meeting to respond to the recommendation either orally or in writing. The Board shall then make and communicate its decision at any time up to and including the next regularly scheduled Board meeting.

CLOSED MEETING

If the complaint involves the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of the employee, it will be heard in a closed meeting unless the employee requests it

PERSONNEL-MANAGEMENT RELATIONS
EMPLOYEE COMPLAINTS

DGBA
(LOCAL)

to be public. If the complaint involves complaints or charges about another employee, it will be heard in a closed meeting unless the employee complained about requests it to be heard in public.

EMPLOYEE STANDARDS OF CONDUCT

DH
(LOCAL)

All College District employees shall perform their duties in accordance with state and federal law, College District policy, and ethical standards.

All College District personnel shall recognize and respect the rights of students, other employees, and members of the community and shall work cooperatively with others to serve the best interests of the College District.

Employees wishing to express concern, complaints, or criticism shall do so through appropriate channels. [See DGBA]

VIOLATIONS

Employees shall comply with the standards of conduct set out in this policy and with any other policies, regulations, and guidelines that impose duties, requirements, or standards attendant to their status as College District employees. Violation of any policies, regulations, or guidelines may result in disciplinary action, including termination of employment. [See DDC and DM series]

ELECTRONIC MEDIA

Electronic media includes all forms of social media, such as text messaging, instant messaging, electronic mail (e-mail), Web logs (blogs), electronic forums (chat rooms), video-sharing Web sites, editorial comments posted on the Internet, and social network sites. Electronic media also includes all forms of telecommunication, such as landlines, cell phones, and Web-based applications.

RECORD
RETENTION

An employee shall comply with the College District's requirements for records retention and destruction to the extent those requirements apply to electronic media. [See CIA]

PERSONAL USE

Employees shall be held to the same professional standards in their public use of electronic media as they are for any other public conduct. If an employee's use of electronic media violates state or federal law or College District policy, or interferes with the employee's ability to effectively perform his or her job duties, the employee is subject to disciplinary action, up to and including termination of employment.

SAFETY
REQUIREMENTS

All employees shall adhere to College District safety rules and regulations and shall report unsafe conditions or practices to the appropriate supervisor.

ALCOHOL AND DRUGS

A copy of this policy, the purpose of which is to eliminate drug abuse from the workplace, shall be provided each employee at the beginning of each year or upon employment.

Employees shall not manufacture, distribute, dispense, possess, use, or be under the influence of any of the following substances during working hours while at the College District or at College District-related activities during or outside of usual working hours:

EMPLOYEE STANDARDS OF CONDUCT

DH
(LOCAL)

1. Any controlled substance or dangerous drug as defined by law, including but not limited to marijuana, any narcotic drug, hallucinogen, stimulant, depressant, amphetamine, or barbiturate.
2. Alcohol or any alcoholic beverage.
3. Any abusable glue, aerosol paint, or any other chemical substance for inhalation.
4. Any other intoxicant, or mood-changing, mind-altering, or behavior-altering drugs.

An employee need not be legally intoxicated to be considered “under the influence” of a controlled substance.

EXCEPTIONS

An employee who manufactures, possesses, or dispenses a substance listed above as part of the employee’s job responsibilities, or who uses a drug authorized by a licensed physician prescribed for the employee’s personal use shall not be considered to have violated this policy.

NOTICE

Each employee shall be given a copy of the College District’s notice regarding a drug-free workplace. [See DO(EXHIBIT)]

ARRESTS,
INDICTMENTS,
CONVICTIONS, AND
OTHER
ADJUDICATIONS

An employee shall notify his or her immediate supervisor within three calendar days of any arrest, indictment, conviction, no contest or guilty plea, or other adjudication of the employee for any felony or any offense involving moral turpitude.

MORAL TURPITUDE

Moral turpitude includes but is not limited to:

1. Dishonesty, fraud, deceit, theft, misrepresentation;
2. Deliberate violence;
3. Base, vile, or depraved acts that are intended to arouse or gratify the sexual desire of the actor;
4. Felony possession, transfer, sale, distribution, or conspiracy to possess, transfer, sell, or distribute any controlled substance defined in Chapter 481 of the Health and Safety Code;
5. Acts constituting public intoxication, operating a motor vehicle while under the influence of alcohol, or disorderly conduct, if any two or more acts are committed within any 12-month period; or
6. Acts constituting abuse under the Texas Family Code.

EMPLOYEE STANDARDS OF CONDUCT
SEARCHES AND ALCOHOL/DRUG TESTING

DHB
(LEGAL)

SEARCHES—
GENERAL RULE

Citizens, including College District employees, have a right to be free from unreasonable searches and seizures. *U.S. Const. Amendment IV; 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
2. The search is reasonably related in scope to the circumstances that justified the interference in the first place.

O'Connor v. Ortega, 480 U.S. 709 (1987); *New Jersey v. T.L.O.*, 469 U.S. 325 (1985)

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.

O'Connor v. Ortega, 480 U.S. 709 (1987)

DRUG / ALCOHOL
TESTING

Blood, urine, and breath tests of public employees to determine drug use are searches under the Fourth Amendment of the U.S. Constitution. *Skinner v. Railway Labor Executives Ass'n*, 489 U.S. 602 (1989)

RANDOM DRUG
TESTING

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. *Skinner v. Railway Labor Executives Ass'n*, 489 U.S. 602 (1989); *Nat'l Treasury Employees Union v. Von Raab*, 489 U.S. 656 (1989)

SAFETY-
SENSITIVE
POSITIONS

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. *Aubrey v. School Board of LaFayette Parish*, 148 F.3d 559 (5th Cir. 1998)

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.

EMPLOYEE STANDARDS OF CONDUCT
SEARCHES AND ALCOHOL/DRUG TESTING

DHB
(LEGAL)

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, .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

EMPLOYEE STANDARDS OF CONDUCT
SEARCHES AND ALCOHOL/DRUG TESTING

DHB
(LEGAL)

include detailed discussion of at least the items listed at 49 CFR 382.601. *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; 49 CFR 40.3

TERM CONTRACTS
RESIGNATION

DMAC
(LOCAL)

GENERAL
REQUIREMENTS

Each resignation by an employee serving under a term contract shall be submitted in writing to the College President or designee. The employee shall give reasonable notice and shall include in the letter a statement of the reasons for resigning. A prepaid certified or registered letter of resignation shall be considered submitted upon mailing.

END OF CONTRACT
TERM

Any employee serving under a term contract may resign his or her position and leave the employment of the College District effective at the end of contract term without penalty, provided the employee submits a letter of resignation, in accordance with administrative regulations and the provisions at GENERAL REQUIREMENTS.

The College President or designee shall be authorized to accept a term contract employee's resignation effective at the end of the contract term.

PRIOR TO END OF THE
CONTRACT TERM

An employee serving under a term contract wishing to resign prior to the end of the contract term must submit a letter of resignation in accordance with the provisions at GENERAL REQUIREMENTS, above. The consent of the Board or its designee is required for resignations effective prior to the end of the contract term.

BOARD REPORT

At the next Board meeting, the College President shall provide to the Board a list of the employees who have resigned since the last Board meeting.

WITHDRAWAL OF
RESIGNATION

Once submitted and accepted, the resignation of an employee serving under a term contract may not be withdrawn without the consent of the Board.

EMPLOYEE WELFARE

DO
(LEGAL)

HAZARD
COMMUNICATION

The College District shall perform the following duties in compliance with the Hazard Communication Act:

NOTICE

1. Post and maintain the notice promulgated by the Texas Department of State Health Services (TDSHS) in the workplace. *Health and Safety Code 502.017(a)*

EDUCATION AND
TRAINING

2. Provide an education and training program for employees using or handling hazardous chemicals. "Employee" means any person who may be or may have been exposed to hazardous chemicals in the person's workplace under normal operating conditions or foreseeable emergencies. Workers such as office workers or accountants who encounter hazardous chemicals only in nonroutine, isolated instances are not employees for purposes of these requirements. *Health and Safety Code 502.003(10), .009*

3. Maintain the written hazard communication program and a record of each training session to employees, including the date, a roster of the employees who attend, the subjects covered in the training session, and the names of the instructors. Records shall be maintained for at least five years. *Health and Safety Code 502.009(g)*

WORKPLACE
CHEMICAL LIST

4. Compile and maintain a work-place chemical list that includes required information for each hazardous chemical normally present in the workplace or temporary workplace in excess of 55 gallons or 500 pounds, or as determined by the TDSHS for certain highly toxic or dangerous hazardous chemicals. The list shall be readily available to employees and their representatives. *Health and Safety Code 502.005(a), (c)*

5. Update the list as necessary, but at least by December 31 each year, and maintain at least 30 years. Each workplace chemical list shall be dated and signed by the person responsible for compiling the information. *Health and Safety Code 502.005(b), (d)*

LABELING

6. As required by law, label new or existing stocks of hazardous chemicals with the identity of the chemical and appropriate hazard warnings, if such stocks are not already appropriately labeled. *Health and Safety Code 502.007*

MATERIAL SAFETY
DATA SHEETS

7. Maintain a legible copy of the most current manufacturer's material safety data sheets (MSDS) for each hazardous chemical; request such sheets from the manufacturer if not already provided or otherwise obtain a current MSDS; make such sheets readily available to employees or their representatives on request. *Health and Safety Code 502.006*

EMPLOYEE WELFARE

DO
(LEGAL)

PROTECTIVE
EQUIPMENT

8. Provide employees with appropriate personal protective equipment. *Health and Safety Code 502.017(b)*

SOME POLICY TITLES ARE INCLUDED FOR FUTURE EXPANSION

SECTION E: INSTRUCTION

| | |
|------|---|
| EA | SCHOOL YEAR AND CALENDAR |
| EB | BRANCH CAMPUSES AND DISTANCE LEARNING |
| EBA | Branch Campuses |
| EBB | Distance Learning |
| EBC | Charter Schools |
| EBD | Off-Campus and Self-Supporting Courses and Programs |
| EC | INSTRUCTIONAL ARRANGEMENTS |
| ECA | Instructional Departments |
| ECB | Class Size |
| ECC | Course Load and Schedules |
| ECD | Credit by Examination |
| ECE | Correspondence Courses |
| ECF | Instructional Contracts With Outside Agencies |
| ED | INSTRUCTIONAL RESOURCES |
| EDA | Instructional Materials |
| EDAA | Libraries and Laboratories |
| EDB | Instructional Services |
| EDC | Community Instructional Resources |
| EDD | Copyrighted Materials |
| EE | CURRICULUM DEVELOPMENT |
| EF | CURRICULUM DESIGN |
| EFA | Instructional Programs and Courses |
| EFAA | Academic Courses |
| EFAB | Technical and Vocational Courses |
| EFB | Degrees and Degree Plans |
| EFC | Special Programs |
| EFCA | Disabled Students |
| EFCB | Adult and Continuing Education |
| EFCC | Disadvantaged Students |
| EFD | Extended Instructional Programs |
| EFDA | Summer School |
| EFDB | Honors Program |
| EG | ACADEMIC ACHIEVEMENT |
| EGA | Grading and Credit |
| EGB | Examinations |
| EGC | Class Rankings |
| EGD | Graduation |

SOME POLICY TITLES ARE INCLUDED FOR FUTURE EXPANSION

SECTION E: INSTRUCTION

| | |
|------|--------------------------------------|
| EH | GUIDANCE PROGRAMS AND SERVICES |
| EHA | Placement Office |
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BRANCH CAMPUSES AND DISTANCE LEARNING
DISTANCE LEARNING

EBB
(LEGAL)

No off-campus courses for credit may be offered by the College District without specific prior approval of the Coordinating Board. However, the College District may offer a distance-learning course approved by the Coordinating Board with no in-state geographic restrictions if the course is within the approved curriculum of the College District. *Education Code 61.051(j)*

DEFINITIONS

DISTANCE
EDUCATION

Distance education is the formal education process that occurs when students and instructors are not in the same physical setting for the majority (more than 50 percent) of instruction. *19 TAC 4.257(8)*

DISTANCE
EDUCATION
COURSE

A distance education course refers to a course in which a majority (more than 50 percent) of the instruction occurs when the student(s) and instructor(s) are not in the same place. Two categories of distance education courses are defined as follows:

1. Fully Distance Education Course: A course that may have mandatory face-to-face sessions totaling no more than 15 percent of the instructional time. Examples of face-to-face sessions include orientation, laboratory, exam review, or an in-person test.
2. Hybrid/Blended Course: A course in which a majority (more than 50 percent but less than 85 percent) of the planned instruction occurs when the students and instructor(s) are not in the same place.

19 TAC 4.257(9)

SELF-SUPPORTING
COURSES AND
PROGRAMS

Self-supporting courses and programs are academic credit courses and programs (formerly defined as extension courses or programs) whose semester credit hours are not submitted for formula funding. [See EBD] *19 TAC 4.257(24)*

APPLICABILITY OF
SUBCHAPTER P

The provisions of 19 Administrative Code Chapter 4, Subchapter P (addressing approval of distance education courses and programs) apply to academic credit courses, degree and certificate programs, and self-supporting courses and programs provided by College Districts and formula-funded workforce continuing education provided by College Districts. These provisions do not apply to non-formula-funded continuing education provided by a College District. *19 TAC 4.258*

GENERAL STANDARDS
AND CRITERIA FOR
DISTANCE EDUCATION

With respect to distance education, College Districts shall:

1. Comply with the standards and criteria of the Commission on Colleges of the Southern Association of Colleges and Schools.

BRANCH CAMPUSES AND DISTANCE LEARNING
DISTANCE LEARNING

EBB
(LEGAL)

2. Adhere to criteria outlined in Principles of Good Practice for Degree and Certificate Programs and Courses Offered through Distance Education.
3. Provide students academic support services appropriate for distance education, such as advising, career counseling, library, and other learning resources.
4. Report enrollments, courses, and graduates associated with distance education offerings as required by the Commissioner.

If a non-Texas resident student enrolls in regular, on-campus courses for at least one-half of the normal full-time course load as determined by the College District, the College District may report that student's fully distance education or hybrid/blended courses for formula-funding enrollments.

19 TAC 4.260

STANDARDS AND
CRITERIA FOR
DISTANCE EDUCATION
PROGRAMS

The following standards and criteria apply to programs offered under the provisions of 19 Administrative Code, Chapter 4, Subchapter P:

1. Each program shall be within the role and mission of the College District responsible for offering the instruction and shall be on the inventory of approved programs.
2. Prior approval by the Coordinating Board may be required before a College District may offer programs in certain subject area disciplines or under other conditions specified by the Coordinating Board or the Commissioner.
3. A College District offering a degree or certificate program shall comply with the standards and criteria of any specialized accrediting agency or professional certification board.
4. Each degree program offered by distance education shall be approved by a College District's governing board or the board's institutional designee. Certification of approval shall be submitted to the Coordinating Board upon request.
5. A College District shall require that students (except for students in out-of-country programs) enrolled in a distance education degree program satisfy the same requirements for admission to the College District and the program as required of regular on-campus students. Students in degree programs to be offered collaboratively shall meet the admission standards of their home institution. Out-of-country students shall meet equivalent standards for admission into programs and shall

be assessed for academic guidance purposes in a manner determined by the admitting institution.

19 TAC 4.261

STANDARDS AND
CRITERIA FOR
DISTANCE EDUCATION
COURSES

The following standards and criteria apply to courses offered under the provisions of 19 Administrative Code, Chapter 4, Subchapter P:

1. Each course shall be within the role and mission of the College District responsible for offering the instruction and shall be on its inventory of approved courses.
2. All courses shall meet the quality standards applicable to on-campus courses.
3. A College District shall report to the Coordinating Board, in accordance with Coordinating Board policy and procedures, all distance education courses and programs.
4. Students shall satisfy the same requirement for enrollment in an academic credit course as required of on-campus students, except that out-of-country students shall meet equivalent standards for enrollment in an academic credit course and shall be assessed for academic guidance purposes in a manner determined by the admitting institution.
5. Prior Coordinating Board approval may be required before a College District may offer programs in certain subject area disciplines or under other conditions specified by the Coordinating Board or the Commissioner.

19 TAC 4.262

STANDARDS AND
CRITERIA FOR
DISTANCE EDUCATION
FACULTY

The following standards and criteria apply to faculty teaching in programs offered under the provisions of 19 Administrative Code, Chapter 4, Subchapter P:

1. Faculty shall be selected and evaluated by equivalent standards, review, and approval procedures used by the College District to select and evaluate faculty responsible for on-campus courses.
2. A College District shall provide training and support to enhance the added skills required of the faculty teaching courses through electronic means.
3. The supervising, monitoring, and evaluating processes for faculty shall be equivalent to those for on-campus courses.

19 TAC 4.263

DISTANCE-LEARNING
MASTER PLAN

The College District, in cooperation with the Coordinating Board, shall develop a master plan for the development of distance learning and other applications of instructional electronic technology by the College District. The plan shall include recommendations for:

1. The coordination and integration of distance learning and related telecommunications activities among institutions of higher education and other public or private entities to achieve optimum efficiency and effectiveness in providing necessary services, including identification of the costs and any cost savings to be achieved by the use of distance learning and related activities such as teleconferencing or sharing resources by telecommunications;
2. The development and acquisition of distance-learning infrastructure and equipment, including its functions and capabilities, within and among institutions of higher education consistent with the missions of those institutions and the recipients of their services;
3. The establishment of uniform or compatible standards and technologies for distance learning;
4. The training of faculty and staff in the use and operation of distance-learning facilities;
5. Appropriate applications of distance learning, including the identification of the needs of the student populations to be served;
6. Policies relating to the funding for implementation and administering of distance learning, including interinstitutional funds transfers among institutions providing and receiving distance-learning services and formula-funding allocations, and recommendations for the appropriate fees for services offered through distance learning;
7. Revising regulatory policy relating to public utilities to facilitate distance learning; and
8. Any statutory or regulatory changes desirable to promote distance learning or to implement the master plan.

The plan may include any related recommendation considered appropriate, including recommendations for coordination of distance learning with other telecommunications activities and services conducted by government agencies or private entities.

Education Code 61.0771(a), (b)

BRANCH CAMPUSES AND DISTANCE LEARNING
DISTANCE LEARNING

EBB
(LEGAL)

ADVISORY
COMMITTEE

To assist in the development of the plan, the Coordinating Board shall create an advisory committee consisting of experts in distance learning, including school administrators and faculty and lay persons. The committee shall include a representative of each university system and each public senior college or university under a separate governing board, and representatives of public junior colleges, public health science centers, centers created under Chapter 106, Health and Safety Code, medical schools, public technical institutes, and independent institutions of higher education. The advisory committee shall include at least three faculty members who teach a distance-learning course. The appointment of an employee of an institution of higher education to the committee must be approved by the College President or Chancellor of that institution.

The advisory committee may request the cooperation or participation of state agencies, public broadcasting stations, representatives of the local and long-distance telecommunications industries, representatives of federally qualified health centers, and representatives providing distance-learning equipment or services, including computer hardware and software, in preparing the master plan.

Education Code 61.0771(c), (d)

INSTITUTIONAL PLAN

Prior to offering any distance education courses or programs for the first time, a College District shall submit an Institutional Plan for Distance Education to the Coordinating Board for approval. The Commissioner shall provide guidelines for development of the report and a schedule for any periodic submission of updated reports.

College District academic and administrative policies shall reflect a commitment to maintain the quality of distance-education, off-campus, and on-campus extension courses and programs in accordance with the provisions of 19 Administrative Code Chapter 4, Subchapter P. An Institutional Report shall conform to Coordinating Board guidelines and criteria of the Commission on Colleges of the Southern Association of Colleges and Schools in effect at the time of the Report's approval. These criteria shall include provisions relating to:

1. Institutional issues
2. Educational programs
3. Faculty
4. Student support services
5. Distance-education facilities and support

19 TAC 4.259

BRANCH CAMPUSES AND DISTANCE LEARNING
DISTANCE LEARNING

EBB
(LEGAL)

FORMULA FUNDING

College Districts shall report distance education courses submitted for formula funding in accordance with the Coordinating Board's uniform reporting system and the provision of Subchapter P.

College Districts may submit for formula funding academic credit courses delivered by distance education to any student located in Texas or to Texas residents located out-of-state or out-of-country.

College Districts shall not submit for formula funding distance education courses taken by non-resident students who are located out-of-state or out-of-country, courses in out-of-state or out-of-country programs taken by any students, or self-supporting courses.

For courses not submitted for formula funding, College Districts shall charge fees that are equal or greater than Texas resident tuition and applicable fees and that are sufficient to cover the total cost of instruction and overhead, including administrative costs, benefits, computers and equipment, and other related costs.

FEE REPORTS

Institutions shall report fees received for self-supporting and out-of-state/country courses in accordance with general institutional accounting practices.

19 TAC 4.264

BRANCH CAMPUSES AND DISTANCE LEARNING
OFF-CAMPUS AND SELF-SUPPORTING COURSES AND PROGRAMS

EBD
(LEGAL)

DEFINITIONS

OFF-CAMPUS
COURSE

No off-campus courses for credit may be offered by the College District without specific prior approval of the Coordinating Board. The Coordinating Board may not prohibit a public junior College District from offering a course for credit outside the boundaries of the junior College District when such course has met the requirements for approval as adopted by the Coordinating Board. *Education Code 61.051(j)*

An off-campus course means a course in which a majority (more than 50 percent) of the instruction occurs when the students and instructor(s) are in the same physical location and off-campus locations are outside the service area. *19 TAC 4.272(16)*

OFF-CAMPUS
DEGREE OR
CERTIFICATE
PROGRAM

An off-campus degree or certificate program is a program in which a student may complete a majority (more than 50 percent) of the credit hours required for the program through off-campus courses. *19 TAC 4.272(17)*

OFF-CAMPUS
INSTRUCTION

Off-campus instruction is the formal educational process in which a majority (more than 50 percent) of the instruction occurs when the students and instructor(s) are in the same physical location and off-campus locations are sites outside of the service area. *19 TAC 4.272(18)*

SELF-SUPPORTING
COURSES AND
PROGRAMS

Self-supporting courses and programs are academic credit courses and programs (formerly defined as extension courses or programs) whose semester credit hours are not submitted for formula funding. *19 TAC 4.270(25)*

APPLICABILITY OF
SUBCHAPTER Q

The provisions of 19 Administrative Code Chapter 4, Subchapter Q apply to academic credit courses, degree and certificate programs, and formula-funded workforce continuing education provided by a College District outside the boundaries of its service area through off-campus instruction, and self-supporting courses and programs that are offered through off-campus instruction. These provisions do not apply to continuing education, except for formula-funded workforce continuing education, provided by public two-year colleges.

19 TAC 4.273

GENERAL STANDARDS
AND CRITERIA FOR
OFF-CAMPUS AND
SELF-SUPPORTING
PROGRAMS AND
COURSES

With respect to off-campus and self-supporting programs and courses, a College District shall:

1. Comply with the standards and criteria of the Commission on Colleges of the Southern Association of Colleges and Schools.

BRANCH CAMPUSES AND DISTANCE LEARNING
OFF-CAMPUS AND SELF-SUPPORTING COURSES AND PROGRAMS

EBD
(LEGAL)

2. If the College District is a parent institution, notify all potentially affected area institutions in accordance with Coordinating Board policy and procedures.
3. Report enrollments, courses, and graduates associated with self-supporting offerings as required by the Commissioner.
4. Report fees received for self-supporting and out-of-state/country courses in accordance with general institutional accounting practices.
5. Provide students academic support services appropriate for off-campus instruction such as academic advising, career counseling, library, and other learning resources.
6. Ensure that off-campus instruction sites are of sufficient quality for the delivery methods and courses offered.

19 TAC 4.274

STANDARDS AND
CRITERIA FOR OFF-
CAMPUS AND SELF-
SUPPORTING
PROGRAMS

The following standards and criteria apply to programs offered under the provisions of 19 Administrative Code, Chapter 4, Subchapter Q:

1. Each program shall be within the role and mission of the College District responsible for offering the instruction and shall be on the inventory of approved programs.
2. Prior approval by the Coordinating Board may be required before a College District may offer programs in certain subject area disciplines or under other conditions specified by the Coordinating Board or the Commissioner.
3. A College District offering an off-campus degree or certificate program shall comply with the standards and criteria of any specialized accrediting agency or professional certification board.
4. Each degree program offered off-campus shall be approved by a College District's governing board or the board's institutional designee. Certification of approval shall be submitted to the Coordinating Board upon request.
5. A College District shall require that students (except for students in out-of-country programs) enrolled in a distance education degree program satisfy the same requirements for admission to the College District and the program as required of regular on-campus students. Students in degree programs to be offered collaboratively shall meet the admission standards of their home institution. Out-of-country students shall meet equivalent standards for admission into programs.

19 TAC 4.275

BRANCH CAMPUSES AND DISTANCE LEARNING
OFF-CAMPUS AND SELF-SUPPORTING COURSES AND PROGRAMS

EBD
(LEGAL)

STANDARDS AND
CRITERIA FOR OFF-
CAMPUS AND SELF-
SUPPORTING
FACULTY

The following standards and criteria apply to faculty teaching in programs offered under the provisions of 19 Administrative Code, Chapter 4, Subchapter Q:

1. Faculty shall be selected and evaluated by equivalent standards, review, and approval procedures used by the College District to select and evaluate faculty responsible for on-campus courses.
2. College Districts shall provide training and support to enhance the added skills required of the faculty teaching off-campus or self-supporting courses.
3. The supervising, monitoring, and evaluating processes for faculty shall be equivalent to those for on-campus courses.

19 TAC 4.277

OFFERINGS OUTSIDE
OF SERVICE AREA
DUAL CREDIT

A College District may enter into an agreement to offer only a dual credit course with a high school located in the service area of another public community college only if the other public community college is unable to provide the requested course to the satisfaction of the school district and the school district has explicitly invited the institution to do so.

A College District proposing to offer a dual credit course at a high school outside of the College District's service area shall notify the Regional Council in whose service area the high school is located. The College District must provide a letter from the school district stating that the local community college is not offering the proposed dual credit course to the satisfaction of the school district and that the school district has invited the other community college to offer the course. *19 TAC 4.278(e)-(f)*

LOWER-DIVISION
COURSES

A College District shall submit for the appropriate Regional Council's review all off-campus lower-division courses proposed for delivery to sites outside their service areas. *19 TAC 4.278(g)*

NOTICE OF
COURSE OFFERING

A College District shall provide notice to the higher education Regional Councils when planning to offer requested off-campus dual credit courses in the Council's service area. *19 TAC 4.278(j)*

FORMULA FUNDING

College Districts shall report off-campus courses submitted for formula funding in accordance with the Coordinating Board's uniform reporting system and the provision of this subchapter.

College Districts shall not submit for formula-funding courses in out-of-state or out-of-country programs, nor shall College Districts submit self-supporting courses for formula funding.

BRANCH CAMPUSES AND DISTANCE LEARNING
OFF-CAMPUS AND SELF-SUPPORTING COURSES AND PROGRAMS

EBD
(LEGAL)

College Districts shall not submit non-state-funded, lower-division credit courses to Regional Councils.

College Districts shall not jeopardize or diminish the status of formula-funded, on-campus courses and programs in order to offer self-supporting courses. Self-supporting courses shall not be a substitute for offering a sufficient number of formula-funded on-campus courses.

For courses not submitted for formula funding, College Districts shall charge fees that are equal to or greater than Texas resident tuition and applicable fees and that are sufficient to cover the total cost of instruction and overhead, including administrative costs, benefits, computers and equipment, and other related costs.

FEE REPORTS

Institutions shall report fees received for self-supporting and out-of-state/country courses in accordance with general institutional accounting practices.

19 TAC 4.279

INSTRUCTIONAL RESOURCES
INSTRUCTIONAL MATERIALS

EDA
(LEGAL)

TEXTBOOK
AVAILABILITY

The Texas Higher Education Coordinating Board shall prescribe procedures by which each College District shall provide to each student enrolled at the institution written notice regarding the availability of required or recommended textbooks through College District-affiliated bookstores and through retailers other than College District-affiliated bookstores. The procedures must require the College District to provide the notice:

1. To each student of the College District during the week preceding each fall and spring semester;
2. To each student enrolled at the College District in a semester or summer term during the first three weeks of the semester or the first week of the summer term, as applicable; and
3. To students or prospective students of the College District attending an orientation conducted by or for the College District.

The notice shall be provided in a hard-copy or electronic format in a manner that ensures that the notice is reasonably likely to come to the attention of a student receiving the notice. The notice must contain the following: "A student of this institution is not under any obligation to purchase a textbook from a university-affiliated bookstore. The same textbook may also be available from an independent retailer, including an online retailer."

A "university-affiliated bookstore" means a bookstore that sells textbooks for courses offered by an institution of higher education, regardless of whether the bookstore is located on the campus of the College District and is operated by or with the approval of the College District through ownership, a management agreement, a lease or rental agreement, or otherwise.

The Coordinating Board shall adopt rules to administer this section.

Education Code 51.9705

TEXTBOOK
INFORMATION

PROVISION OF ISBN
COLLEGE
TEXTBOOK
INFORMATION IN
COURSE
SCHEDULES

To the maximum extent practicable, a College District shall:

1. Disclose, on the College District's Internet course schedule the International Standard Book Number (ISBN) and retail price information of required and recommended college textbooks and supplemental materials for each course listed in the institution's course schedule used for preregistration and registration purposes. If the ISBN is not available for such college textbook or supplemental material, then the College District shall include in the Internet course schedule the author, title, publisher, and copyright date for such college textbook or supplemental material. If the College District determines that the disclosure of the information described in this

INSTRUCTIONAL RESOURCES
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subsection is not practicable for a college textbook or supplemental material, then the institution shall so indicate by placing the designation "To Be Determined" in lieu of the information required under this subsection; and

2. If applicable, include on the institution's written course schedule a notice that textbook information is available on the College District's Internet course schedule, and the Internet address for such schedule.

AVAILABILITY OF
INFORMATION FOR
COLLEGE
BOOKSTORES

A College District shall make available to a college bookstore that is operated by, or in a contractual relationship or otherwise affiliated with the College District, as soon as practicable upon the request of such college bookstore, the most accurate information available regarding:

1. The College District's course schedule for the subsequent academic period; and
2. For each course or class offered by the College District, for the subsequent academic period, the ISBN for each college textbook or supplemental material required or recommended for such course or class as described above, the number of students enrolled in such course or class, and the maximum student enrollment for such course or class.

ADDITIONAL
INFORMATION

A College District is encouraged to disseminate to students information regarding:

1. Available institutional programs for renting textbooks or for purchasing used textbooks;
2. Available institutional guaranteed textbook buy-back programs;
3. Available institutional alternative content delivery programs; or
4. Other available institutional cost-saving strategies.

20 USC 1015b(d)-(f)

INSTRUCTIONAL PROGRAMS AND COURSES
ACADEMIC COURSES

EFAA
(LEGAL)

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|-------------------------------|--|
| CORE CURRICULUM DEFINITION | “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. <i>Education Code 61.821(1)</i> |
| RECOMMENDATION | 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. <i>Education Code 61.822(a)</i> |
| ADOPTION | 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. <i>Education Code 61.822(b)</i> |
| COMPONENT AREAS | <p>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. <i>19 TAC 4.28(b)</i></p> <p>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. <i>19 TAC 4.28(g)</i></p> |

INSTRUCTIONAL PROGRAMS AND COURSES
ACADEMIC COURSES

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(LEGAL)

CHART I

Colleges must select 36 semester credit hours of the core curriculum according to the parameters described below:

| Component Area | Required Semester Credit Hours |
|--|--------------------------------|
| Communication (English rhetoric/composition) | 6 |
| Mathematics (the first college-level math course a student completes, including but not limited to introductory statistics, logic, college algebra, or any more advanced math course for which the student is qualified upon enrollment) | 3 |
| Natural Sciences | 6 |
| Humanities & Visual and Performing Arts, which must include: | 6 |
| Visual/Performing Arts | (3) |
| Other (literature, philosophy, modern or classical language/literature and cultural studies*) | (3) |
| Social and Behavioral Sciences, which must include: | 15 |
| U.S. History (legislatively mandated) | (6) |
| Political Science (legislatively mandated) | (6) |
| Social/Behavioral Science | (3) |
| Total Minimum Requirements | 36 |

* 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:

| Component Area | Possible Additional Semester Credit Hours (6 Total) |
|---|---|
| Communication (composition, speech, modern language /communication skills*) | Up to 6 |
| Mathematics (the second college-level math course a student completes, including but not limited to finite math, statistics, calculus, or courses listed in Chart I) | Up to 3 |
| Natural Sciences | Up to 3 |
| Humanities (literature, philosophy, modern or classical language /literature and cultural studies**) & Visual and Performing Arts | Up to 3 |
| Social and Behavioral Sciences | Up to 3 |
| Institutionally Designated Option (may include additional semester credit hours in the categories listed above, computer literacy, health/wellness, kinesiology, capstone or interdisciplinary courses, etc.) | Up to 6 |
| 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)]

INSTRUCTIONAL PROGRAMS AND COURSES
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| SUBSTITUTIONS AND WAIVERS | <p>No institution or institutional representative may approve course substitutions or waivers of the institution's core curriculum requirements for any currently enrolled student, except that a College District may, on a case-by-case basis, approve an accommodation of a specific core curriculum component area requirement for a student with a medically documented learning disability.</p> <p><i>19 TAC 4.28(j)-(k)</i></p> <p>For transfer students, see EGA(LEGAL). For learning disabled students, see EFCA(LEGAL).</p> |
| TRANSCRIPTS | <p>Each institution must note core courses on the transcript of students as recommended by the Texas Association of Registrars and Admissions Officers. <i>19 TAC 4.28(h)</i></p> |
| CORE CURRICULA LARGER THAN 42 SEMESTER CREDIT HOURS | <p>The College District 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 Administrative Code 4.28(b), relating to the Core Curriculum excluding additional credit in the Institutionally Designated Option, and are approved by the Board.</p> <p>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 Administrative Code 4.28(b). The Coordinating Board may approve a core curriculum under this section if:</p> <ol style="list-style-type: none"><li data-bbox="560 1270 1226 1312">1. It has been previously approved by the Board;<li data-bbox="560 1333 1443 1470">2. The College District 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<li data-bbox="560 1480 1443 1585">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." |
| EVALUATION OF CORE CURRICULA | <p><i>19 TAC 4.29</i></p> <p>Each college shall review and evaluate the college's core curriculum every ten years on the schedule that accords with the institution's accreditation reaffirmation self-study report to the Southern Association of Colleges and Schools or its successor, and report the results of that evaluation to the Coordinating Board. The evaluation should include:</p> |

INSTRUCTIONAL PROGRAMS AND COURSES
ACADEMIC COURSES

EFAA
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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 District'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 District'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 District's core curriculum;
3. A description of the processes and procedures used to evaluate the College District'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 District.

Education Code 61.824; 19 TAC 4.30

FIELD OF STUDY
CURRICULUM

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

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(LEGAL)

“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)

EVALUATION OF FIELD
OF STUDY CURRICULA

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)

GOVERNMENT OR
POLITICAL SCIENCE

The College District 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 District shall not grant a degree or an academic certificate to any person unless the person has credit for such a course. The College District 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 District 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 District’s advanced standing examinations. The College District 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 Reserve Officers’ Training Corp (ROTC) unit. *Education Code 51.301*

AMERICAN OR TEXAS
HISTORY

The College District 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 District 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 District 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 District’s advanced standing examinations. The College District may grant as much as three semester hours of credit or its equivalent toward satisfaction of this

INSTRUCTIONAL PROGRAMS AND COURSES
ACADEMIC COURSES

EFAA
(LEGAL)

requirement for work completed by a student in the program of an approved senior ROTC unit. *Education Code 51.302*

COUNSELING AND
SOCIAL WORK

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)

MEXICAN-AMERICAN
STUDIES

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*

DEGREE PROGRAMS An academic associate degree may be called an associate of arts (AA), an associate of science (AS), or an associate of arts in teaching (AAT) degree.

1. The associate of arts (AA) is the default title for an academic associate degree program if the College District offers only one type of academic degree program.
2. If a College District offers both associate of arts (AA) and associate of science (AS) degrees, the degree programs may be differentiated in one of two ways, including:
 - a. The AA program may have additional requirements in the liberal arts and/or the AS program may have additional requirements in disciplines such as science, mathematics, or computer science; or
 - b. The AA program may serve as a foundation for the bachelor of arts (BA) degree and the AS program for the bachelor of science (BS) degree.
 - c. Each academic associate degree must provide a clearly-articulated curriculum that can be associated with a discipline or field of study leading to a baccalaureate degree, and must be identified as such in the College District's program inventory.
3. The AAT is a specialized academic associate degree program designed to transfer in its entirety to a baccalaureate program that leads to initial Texas teacher certification. This title should only be used for an associate degree program that consists of a Board-approved AAT curriculum.

Academic associate degree programs must consist of a minimum of 60 SCH (semester credit hours) and a maximum of 66 SCH.

Except as provided below, academic associate degree programs must incorporate the College District's approved core curriculum as prescribed by 19 Administrative Code 4.28, relating to Core Curriculum, and 19 Administrative Code 4.29, relating to Core Curricula Larger than 42 SCH.

1. A College District may offer a specialized academic associate degree that incorporates a Coordinating Board-approved field of study curriculum as prescribed by 19 Administrative Code 4.32, relating to Field of Study Curricula, and a portion of the College District's approved core curriculum if the coursework for both would total more than 66 SCH; or

2. A College District may offer a specialized academic associate degree that incorporates a Board-approved statewide articulated transfer curriculum and a portion of the College District's approved core curriculum if the coursework for both would total more than 66 SCH.
3. A College District that has a signed articulation agreement with a General Academic Teaching Institution to transfer a specified curriculum may offer a specialized AA or AS, but not AAT, degree program that incorporates that curriculum.

19 TAC 9.183

NEW ACADEMIC
ASSOCIATE DEGREE
PROGRAMS

Approval of new academic associate degree programs is automatic if all of the conditions set out in 19 Administrative Code 9.184 are met. *19 TAC 9.184*

ACADEMIC
CERTIFICATE

College Districts are encouraged to develop undergraduate academic certificate programs of less than degree length. Undergraduate academic certificates may be awarded upon the completion of:

1. The Coordinating Board-approved core curriculum of the College District;
2. A Coordinating Board-approved field of study curriculum; or
3. A Coordinating Board-approved statewide articulated transfer curriculum of less than degree length.

Undergraduate academic certificates that meet one of the criteria above require Coordinating Board notification and are automatically approved.

19 TAC 4.36, 9.185

DEGREE-SEEKING
STUDENTS

A student who is concurrently enrolled at more than one institution of higher education may be classified as a degree-seeking student at only one institution.

If a student maintains continuous enrollment from a spring semester to the subsequent fall semester at an institution at which the student has declared to be seeking a degree, the student remains a degree-seeking student at that institution regardless of the student's enrollment during the intervening summer sessions at another institution.

19 TAC 4.28(d)

COMPENSATORY
COURSES

Courses designated as compensatory in the Lower-Division Academic Course Guide Manual may not be used to satisfy degree requirements. Such courses may be used as corequisites or pre-requisites for degree courses as determined by the College District. *19 TAC 9.76, 9.1(22)*

LOW-PRODUCING
DEGREE PROGRAMS

The Coordinating Board shall review periodically the role and mission statements, the table of programs, and all degree and certificate programs offered by the College District to assure that they meet the present and future needs of the state and the counties in which they are located. The Coordinating Board's review shall be performed at least every four years and shall involve the College District's Board chairperson. The Coordinating Board shall also order the initiation, consolidation, or elimination of degree or certificate programs where that action is in the best interest of the College District or the general requirements of the State of Texas, the counties in which they are located, or when that action offers hope of achieving excellence by a concentration of available resources. No new department, school, degree program, or certificate program may be added at any College District except with specific prior approval of the Coordinating Board. *Education Code 61.051(e)*

DEFINITION

A low-producing degree program is a degree program that does not meet the minimum standard for degrees awarded in the program. For associate degree programs, the minimum standard is an average of five degrees awarded per academic year, to total not fewer than 25 degrees awarded for any five-year period.
19 TAC 4.287(4)(A)

CONSEQUENCES

Low-producing degree programs must be phased out or consolidated with another program or other programs or granted a temporary exemption. *19 TAC 4.290*

TEMPORARY
EXEMPTIONS

To request a temporary exemption, the College District must provide a narrative that explains the causes of low production and justification for continuing the degree program. Justification should incorporate issues of need, quality, cost, and Closing the Gaps initiatives. In addition, the College District shall provide an action plan and data for the low-producing degree program in accordance with 19 Administrative Code 4.291(3)-(4). *19 TAC 4.291*

SPECIAL PROGRAMS
DISABLED STUDENTS

EFCA
(LEGAL)

No qualified disabled student shall, on the basis of the disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any academic, research, occupational training, housing, health insurance, counseling, financial aid, physical education, athletics, recreation, transportation, or any other extracurricular or post-secondary educational program or activity, in accordance with the Rehabilitation Act. *34 CFR 104.43(a)*

ADMISSIONS AND
RECRUITMENT

Qualified disabled persons may not, on the basis of disability, be denied admission or be subjected to discrimination in admission or recruitment by the College District. *34 CFR 104.42(a)*

ACADEMIC
ADJUSTMENTS

The College District shall make modifications to its academic requirements that are necessary to ensure that such requirements do not discriminate or have the effect of discriminating, on the basis of disability, against a qualified disabled applicant or student. Academic requirements that the College District can demonstrate are essential to the program of instruction being pursued by the student or to any directly related licensing requirement will not be regarded as discriminatory within the meaning of this policy. Modifications may include changes in the length of time permitted for the completion of degree requirements, substitution of specific courses required for the completion of degree requirements, and adaptation of the manner in which specific courses are conducted. *34 CFR 104.44(a)*

A College District may, on a case-by-case basis, approve an accommodation of a specific core curriculum component area requirement for a student with a medically documented learning disability, including but not limited to dyslexia, dysgraphia, or Asperger's Syndrome.

Accommodation shall not include a waiver or exemption of any core curriculum requirement.

A College District may approve for core curriculum applicability a course the College District offers but that is not approved as part of the core curriculum, if the College District demonstrates that the course has been approved to fulfill the same specific core curriculum component area requirement at five or more other Texas public colleges or universities. The Texas Common Course Numbering System course number may be used as evidence of the suitability of the course under this subsection.

19 TAC 4.28(k)

SPECIAL PROGRAMS
DISABLED STUDENTS

EFCA
(LEGAL)

HOUSING

If the College District provides housing to its nondisabled students, the College District shall provide comparable, convenient, and accessible housing to its disabled students at the same cost as to other students. *34 CFR 104.45(a)*

FINANCIAL AND
EMPLOYMENT
ASSISTANCE

In providing financial assistance to qualified disabled persons, the College District may not:

1. On the basis of disability, provide less assistance than is provided to nondisabled persons, limit eligibility for assistance, or otherwise discriminate; or
2. Assist any entity or person that provides assistance to any of the College District's students in a manner that discriminates against qualified disabled persons on the basis of disability.

34 CFR 104.46(a)(1)

The College District may administer or assist in the administration of scholarships, fellowships, or other forms of financial assistance established under wills, trusts, bequests, or similar legal instruments that require awards to be made on the basis of factors that discriminate or have the effect of discriminating on the basis of disability only if the overall effect of the award of scholarships, fellowships, and other forms of financial assistance is not discriminatory on the basis of disability. *34 CFR 104.46(a)(2)*

COUNSELING,
GUIDANCE, AND
PLACEMENT
SERVICES

The College District shall provide personal academic or vocational counseling, guidance, or placement services to its students without discrimination on the basis of disability. The College District shall ensure that qualified disabled students are not counseled toward more restrictive career objectives than are nondisabled students with similar interests and ability. This requirement does not preclude a recipient from providing factual information about licensing and certification requirements that may present obstacles to handicapped persons in their pursuit of particular careers. *34 CFR 104.47(b)*

ACADEMIC ACHIEVEMENT
GRADING AND CREDIT

EGA
(LEGAL)

COURSE CREDIT FOR
ENTERING FRESHMAN
STUDENTS

Each institution of higher education that offers freshmen-level courses shall adopt and implement a policy to grant undergraduate course credit to entering freshmen students who have successfully completed the International Baccalaureate Diploma Program, who have achieved required scores on one or more examinations in the Advanced Placement Program or the College-Level Examination Program, or who have successfully completed one or more courses offered through concurrent enrollment in high school and at an institution of higher education.

The College District's policy shall conform to Education Code 51.968(c). The College District shall report its policy to the Coordinating Board and shall include a copy of the policy with the College District's undergraduate student application materials, including application materials available on the College District's Internet Web site.

On request of an applicant for admission as an entering freshman, the College District, based on information provided by the applicant, shall determine and notify the applicant regarding:

1. The amount and type of any course credit that would be granted to the applicant under the policy; and
2. Any other academic requirement that the applicant would satisfy under the policy.

Except as otherwise provided by this subsection, the College District shall grant at least 24 semester credit hours or equivalent course credit in appropriate subject areas to an entering freshman student for successful completion of the International Baccalaureate Diploma Program. The College District may grant fewer than 24 SCH (semester credit hours) if the student received a score of less than four on an examination administered as part of the diploma program. The College District may grant fewer credit hours only with respect to courses that are substantially related to the subject of that examination.

Education Code 51.968

COURSE CREDIT FOR
MILITARY TRAINING

An institution of higher education shall consider, in determining whether to award course credit toward a degree offered by the institution for the student's completion of certain military training:

1. Any official military record presented to the institution by the student that describes the substance of the training completed by the student and verifies the student's successful completion of that training; and

ACADEMIC ACHIEVEMENT
GRADING AND CREDIT

EGA
(LEGAL)

2. Whether the substance of that training satisfies the purpose of the course for which the student seeks credit as described in the institution's course catalog.

This section applies to a student who is admitted to the institution, including a student who has been readmitted to the institution under Education Code 51.9242. [See FBA(LEGAL)]

Education Code 51.3041

COURSE CREDIT FOR
MILITARY SERVICE

A College District shall award to an undergraduate student who is admitted to the College District, including a student who is readmitted under Education Code 51.9242, course credit for all physical education courses required by the College District for an undergraduate degree and for additional semester credit hours, not to exceed 12, that may be applied to satisfy any elective course requirements for the student's degree program for courses outside the student's major or minor if the student graduated from a public or private high school accredited by a generally recognized accrediting organization or from a high school operated by the United States Department of Defense and is an honorably discharged former member of the Armed Forces of the United States who completed at least two years of service in the Armed Forces or was discharged because of a disability.

This section does not prohibit a College District from awarding additional course credit for a student's military service as the institution considers appropriate.

A College District may adopt rules requiring reasonable proof from a student of the fact and duration of the student's military service and of the student's military discharge status.

Education Code 51.3042

TRANSFER OF
LOWER-DIVISION
COURSE CREDIT

The College District shall adopt a policy to enhance the transfer of students based on the recommendations of the permanent advisory committee established by Section 51.3521 of the Education Code. *Education Code 51.352(f)* [See GI]

In its course catalogs and on its Web site, the College District shall publish guidelines addressing the practices of the College District regarding the transfer of course credit. In the guidelines, the College District must identify a course by using the common course numbering system approved by the Coordinating Board. *Education Code 61.830*

All successfully completed lower-division academic courses that are identified by the Texas Common Course Numbering System and published in the Lower Division Academic Course Guide

Manual shall be fully transferable among public institutions and shall be substituted for the equivalent course at the receiving institution. Except in the case of courses belonging to a Board-approved Field of Study Curriculum, applicability of transferred courses to requirements for specific degree programs is determined by the receiving institution. Each institution of higher education shall identify in its undergraduate catalog each lower-division course that is substantially equivalent to an academic course listed in the current edition of the Lower Division Academic Course Guide Manual. *19 TAC 4.24, 4.25(a)*

Responsibilities for universities regarding requirements and limitations on transfer of lower-division courses, penalties for noncompliance with transfer rules, and resolution of transfer disputes are found in the 19 Administrative Code 4.25, 4.26, and 4.27.

The College District shall notify students who intend to transfer to baccalaureate degree programs of possible limitations on lower-division coursework that may be applied toward a baccalaureate degree program at a general academic teaching institution in accordance with the requirements in 19 Administrative Code 9.77. *19 TAC 9.77*

TRANSFER OF CORE
CURRICULUM

If a student successfully completes the 42-hour core curriculum at an institution of higher education, that block of courses may be transferred to any other institution of higher education and must be substituted for the receiving institution's core curriculum. A student shall receive academic credit for each of the courses transferred and may not be required to take additional core curriculum courses at the receiving institution unless the Coordinating Board has approved a larger core curriculum at the institution. *Education Code 61.822(c)*

A student who transfers from one institution of higher education to another without completing the core curriculum of the sending institution shall receive academic credit from the receiving institution for each of the courses that the student has successfully completed in the core curriculum of the sending institution. Following receipt of credit for these courses, the student may be required to satisfy further course requirements in the core curriculum of the receiving institution. *Education Code 61.822(d)*

Each student must meet the minimum number of semester credit hours in each component area; however, an institution receiving a student in transfer is not required to accept component core course semester credit hours beyond the maximum specified in a core component area. *19 TAC 4.28(f)*

ACADEMIC ACHIEVEMENT
GRADING AND CREDIT

EGA
(LEGAL)

For a student who transfers to a public institution from a college or university that is not a Texas public institution of higher education, courses the student completed prior to admission should be evaluated to determine whether they apply to one of the College District's core curriculum component areas. Only those courses the institution has accepted for transfer that can demonstrate fulfillment of the exemplary educational objectives for the appropriate component area or areas should be applied to the institution's core curriculum. *19 TAC 4.28(j)*

TRANSFER OF FIELD
OF STUDY
CURRICULUM

If a student successfully completes a field of study curriculum developed by the Coordinating Board, that block of courses may be transferred to a general academic teaching institution and must be substituted for that institution's lower division requirements for the degree program for the field of study into which the student transfers, and the student shall receive full academic credit toward the degree program for the block of courses transferred.

A student who transfers from one institution of higher education to another without completing the field of study curriculum of the sending institution shall receive academic credit from the receiving institution for each of the courses that the student has successfully completed in the field of study curriculum of the sending institution. Following receipt of credit for these courses, the student may be required to satisfy further course requirements in the field of study curriculum of the receiving institution.

Education Code 61.823(b), (c); 19 TAC 4.32

GRADUATION
REQUIREMENTS FOR
TRANSFER STUDENTS

Institutions of higher education shall permit a transfer student from another Texas public institution of higher education to choose a catalog for the purpose of specifying graduation requirements, based upon the dates of attendance at the receiving and transferring institutions, in the same manner that a nontransfer student may choose a catalog. *19 TAC 4.25(g)*

TRANSFER DISPUTE
RESOLUTION

The Coordinating Board by rule shall adopt procedures to be followed by:

1. Institutions of higher education in resolving disputes concerning the transfer of lower-division course credit; and
2. The Commissioner of Higher Education or the Commissioner's designee in making a final determination concerning transfer of the course credit if the transfer is in dispute.

Each institution of higher education shall publish in its course catalogs the procedures adopted by the Coordinating Board.

If an institution of higher education does not accept course credit earned by a student at another institution of higher education, that institution shall give written notice to the student and the other institution that the transfer of the course credit is denied. A student who receives notice may dispute the denial of credit by contacting a designated official at either the sending or the receiving institution. The two institutions and the student shall attempt to resolve the transfer of the course credit in accordance with Coordinating Board rules. If the transfer dispute is not resolved to the satisfaction of the student or the institution at which the credit was earned within 45 days after the date the student received written notice of the denial, the institution that denies the transfer of the course credit shall notify the Commissioner of Higher Education of its denial and the reasons for the denial.

The Commissioner of Higher Education or the Commissioner's designee shall make the final determination about a dispute concerning the transfer of course credit and give written notice of the determination to the involved student and institutions.

Education Code 61.826; 19 TAC 4.27

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:

1. Refund the tuition and fees paid by the student for the semester in which a student withdraws;
2. Grant a student, who is eligible under the College District'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 demonstrated sufficient mastery of the course material. [See FBB]

Education Code 54.006(f)

ROTC COURSES
COUNTED FOR
ENROLLMENT STATUS

To the extent it will not adversely affect the accreditation status of an institution of higher education with the appropriate accrediting agency, the governing board of the College District shall count courses in which a student enrolls for the purposes of a Reserve Officers' Training Corp (ROTC) program, including courses for which the student does not receive course credit toward the student's degree, in determining whether the student is enrolled as a full-time student.

Education Code 51.9112(c)

ADMISSIONS AND ATTENDANCE
ADMISSIONS REQUIREMENTS

FBA
(LEGAL)

| | |
|---|---|
| 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. <i>Education Code 61.086, 19 TAC 4.240-.245</i> |
| 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. <i>Education Code 51.762, 19 TAC 4.11(a)-(b)</i> |
| RIGHT TO AN ACADEMIC FRESH START | <p>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.</p> <p>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.</p> <p>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.</p> <p><i>Education Code 51.931</i></p> |
| STUDENTS WITH NONTRADITIONAL SECONDARY EDUCATION | <p>“Nontraditional secondary education” means a course of study at the secondary school level in a nonaccredited private school setting, including a homeschool.</p> <p>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.</p> <p>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:</p> <ol style="list-style-type: none">1. Obtain or submit evidence that the person has obtained a general education development certificate, certificate of high |

school equivalency, or other credentials equivalent to a public high school degree; or

2. Take an examination or comply with any other application or admission requirement not generally applicable to other applicants for undergraduate admission to the institution.

Education Code 51.9241

IMMUNIZATIONS

The College District may require persons applying for admission to be immunized against diphtheria, rubeola, rubella, mumps, tetanus, and poliomyelitis.

The Texas Department of State Health Services (TDSHS) immunization requirements apply to all students enrolled in (non-veterinary) health-related courses that will involve direct patient contact with potential exposure to blood or bodily fluids in educational, medical or dental care facilities, and to students enrolled in schools of veterinary medicine whose coursework involves direct contact with animals or animal remains.

The College District shall comply with any modifications or deletions in this requirement that may be made by TDSHS. [See FDAB]

NOTICE

The College District, in conjunction with TDSHS, should provide individual notice to each student applying for admission regarding:

1. The consequences of not being current on immunization for certain diseases;
2. The age groups most vulnerable to these vaccine-preventable diseases; and
3. Local providers of immunization services.

Education Code 51.933; 25 TAC 97.64(a), (d)

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
SEVIS SYSTEM

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)*

READMISSION AFTER
MILITARY SERVICE

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

ADMISSIONS AND ATTENDANCE
RESIDENCY

FBC
(LEGAL)

RESIDENTS AND
NONRESIDENTS

Texas residency shall be determined according to statute and Coordinating Board rules. *Education Code 54.052; 19 TAC 21.21*

RESIDENCE
DETERMINATION
OFFICIAL

The College District shall designate an individual who is employed by the College District as a Residence Determination Official and who shall be knowledgeable of the requirements set out in 19 Administrative Code Chapter 21, Subchapter B and the applicable statutes. *19 TAC 21.30*

DEFINITIONS

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 21.22(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 21.22(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(3); 19 TAC 21.22(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 21.24(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 21.24(f)*

ADMISSIONS AND ATTENDANCE
RESIDENCY

FBC
(LEGAL)

4. "Established a domicile in Texas" means a person has met the conditions shown in 19 Administrative Code 21.24(d). *19 TAC 21.22(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 Administrative Code 21.24(e). *19 TAC 21.22(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(5); 19 TAC 21.22(18)*
7. "Regular semester" means a fall or spring semester, typically consisting of 16 weeks. *19 TAC 21.22(22)*
8. "Residence" means a person's home or other dwelling place. *Education Code 54.0501(6); 19 TAC 21.22(23)*
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 21.22(26)*

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 21.24(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 21.24(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 21.24(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 21.24(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 21.25(a)(1)(B), (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 21.24(c)

Non-U.S. citizens may establish a domicile in this state, as allowed by law. *19 TAC 21.24(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 21.25(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 residence at the previous institution, no additional documentation is required. *19 TAC 21.26(a)*

EXCEPTIONS

BREAK IN
ENROLLMENT

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 Administrative Code 21.25 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 21.26(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 21.27*

ERRORS IN
CLASSIFICATION

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 21.28* [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 21.28(d)*

HEALTH REQUIREMENTS AND SERVICES
IMMUNIZATIONS

FDAB
(LEGAL)

College Districts may require immunizations against diphtheria, rubeola, rubella, mumps, tetanus, and poliomyelitis.

The Texas Department of State Health Services (TDSHS) immunization requirements apply to all students enrolled in (non-veterinary) health-related courses that will involve direct patient contact with potential exposure to blood or bodily fluids in educational, medical, or dental care facilities and to students enrolled in schools of veterinary medicine whose coursework involves direct contact with animals or animal remains.

The College District shall comply with any modifications or deletions in this requirement that may be made by TDSHS.

Education Code 51.933; 25 TAC 97.64(a), (d)

EXCEPTIONS

Immunization is not required for admission to the College District:

1. If the student submits to the admitting official:

MEDICAL REASONS

- a. 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

- b. 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 TDSHS 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 state health services.

HEALTH REQUIREMENTS AND SERVICES
IMMUNIZATIONS

FDAB
(LEGAL)

or

MILITARY DUTY

2. 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)-(e); 25 TAC 97.62

PROVISIONAL
ENROLLMENT

Notwithstanding the other requirements in 19 Administrative Code 97.64, a student may be provisionally enrolled in the health-related courses if the student has received at least one dose of each specified vaccine prior to enrollment and goes on to complete each vaccination series on schedule in accordance with the Centers for Disease Control and Prevention's Recommended Adult Immunization Schedule as approved by the Advisory Committee on Immunization Practices (ACIP), American College of Obstetricians and Gynecologists (ACOG), the American Academy of Family Physicians (AAFP), and the American College of Physicians. However, the provisionally enrolled student may not participate in coursework activities involving the contact described in 19 Administrative Code 97.64(a) and/or 19 Administrative Code 97.64(d) until the full vaccination series has been administered.

FAILURE TO
PROPERLY
DOCUMENT
IMMUNIZATION

Students who claim to have had the complete series of a required vaccination, but have not properly documented them, cannot participate in coursework activities involving the contact described in 25 Administrative Code 97.64(a) and/or 25 Administrative Code 97.64(d) until such time as proper documentation has been submitted and accepted.

IMMUNITY

The immunization requirements in 25 Administrative Code 97.64(b) and 25 Administrative Code 97.64(d) [see REQUIRED IMMUNIZATIONS OF CERTAIN STUDENTS, below] are not applicable to individuals who can properly demonstrate proof of serological confirmation of immunity. Vaccines for which this may be potentially demonstrated, and acceptable methods for demonstration, are found in 25 Administrative Code 97.65 (relating to Exceptions to Immunization Requirements (Verification of Immunity/History of Illness)). Such a student cannot participate in coursework activities involving the contact described in 25 Administrative Code 97.64(a) until such time as proper documentation has been submitted and accepted.

25 TAC 97.64(c)

TDSHS may by rule prohibit a student from attending school during the provisional enrollment period. *Att'y Gen. Op. GA-178 (2004)*

HEALTH REQUIREMENTS AND SERVICES
IMMUNIZATIONS

FDAB
(LEGAL)

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 is acceptable.

An official 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

Students must have all the following vaccinations before they may engage in the course activities described in 25 Administrative Code 97.64(a):

STUDENTS IN
HEALTH-RELATED
COURSES

1. One dose of a tetanus-diphtheria toxoid (Td) is required within the last ten years. The booster dose may be in the form of a tetanus-diphtheria-pertussis containing vaccine (Tdap).

TETANUS-
DIPHTHERIA,
MEASLES,
MUMPS, AND
RUBELLA
VACCINES

2. Students born on or after January 1, 1957, must show, prior to patient contact, acceptable evidence of vaccination of two doses of a measles-containing vaccine administered since January 1, 1968, preferably MMR vaccine.

Students born on or after January 1, 1957, must show, prior to patient contact, acceptable evidence of vaccination of one dose of a mumps vaccine.

Students must show, prior to patient contact, acceptable evidence of one dose of rubella vaccine.

HEPATITIS B
VACCINE

3. Students are required to receive a complete series of hepatitis B vaccine prior to the start of direct patient care or show serologic confirmation of immunity to hepatitis B virus. This requirement only applies to students enrolled in a course of study that involves potential exposure to human or animal blood or bodily fluids.

HEALTH REQUIREMENTS AND SERVICES
IMMUNIZATIONS

FDAB
(LEGAL)

| | |
|---|---|
| VARICELLA VACCINE | 4. Each student is required to have received one dose of varicella (chickenpox) vaccine on or after the student's first birthday or, if the first dose was administered on or after the student's 13th birthday, two doses of varicella (chickenpox) vaccine are required. A written statement from a parent, legal guardian, managing conservator, school nurse, or physician attesting to a child's positive history of varicella disease (chickenpox) or varicella immunity is acceptable in lieu of a vaccine record for that disease. [See the form on TDSHS's Web site at http://www.dshs.state.tx.us/immunize/docs/c-9.pdf] |
| VETERINARY STUDENTS | Students enrolled in schools of veterinary medicine whose coursework involves potential exposure to human or animal blood or bodily fluids shall receive: |
| RABIES VACCINE | 1. A complete primary series of rabies vaccine prior to such contact. Serum antibody levels must be checked every two years, with a booster dose of rabies vaccine administered if the titer is inadequate according to current Centers for Disease Control and Prevention guidance. |
| HEPATITIS B VACCINE | 2. A complete series of hepatitis B vaccine prior to such contact. This requirement only applies to students enrolled in a course of study that involves potential exposure to human or animal blood or bodily fluids. <i>Education Code 51.933; 25 TAC 97.64</i> |
| ADDITIONAL REQUIREMENTS | Under Health and Safety Code Chapter 81, Subchapter E, additional vaccinations may be required by TDSHS and/or the local health authority in specific situations under the mechanism of a control order containing control measures. <i>25 TAC 97.72</i> |
| STUDENTS LIVING IN ON-CAMPUS HOUSING | This section applies only to a first-time student of an institution of higher education or private or independent institution of higher education, including a transfer student, who resides in, or has applied for on-campus housing and has been approved to reside in, an on-campus dormitory or other on-campus student housing facility at the College District. A student to whom this section applies or a parent or guardian of the student must provide to the College District a certificate signed by a health practitioner evidencing that the student has been vaccinated against bacterial meningitis. |
| EXCEPTION | A student to whom this section applies or a parent or guardian of the student is not required to comply with immunization requirement if the student or a parent or guardian of the student submits to the College District: |

HEALTH REQUIREMENTS AND SERVICES
IMMUNIZATIONS

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1. An affidavit or a certificate signed by a physician who is duly registered and licensed to practice medicine in the United States in which it is stated that, in the physician's opinion, the vaccination required would be injurious to the health and well-being of the student; or
2. An affidavit signed by the student stating that the student declines the vaccination for bacterial meningitis for reasons of conscience, including a religious belief. A conscientious exemption form from the TDSHS must be used. The exemption does not apply during a disaster or public health emergency, terrorist attack, hostile military or paramilitary action, or extraordinary law enforcement emergency declared by an appropriate official or authority from the TDSHS and in effect for the location of the College District the student attends.

DESIGNATION OF
OFFICIAL

Each College District that has on-campus housing for students must designate an office and administrative official to receive from the student evidence of having been vaccinated against bacterial meningitis.

PRESENTATION OF
EVIDENCE

Evidence of the student having received the vaccination from an appropriate health practitioner must be received by the designated administrative official. The student must have received the vaccination at least ten days prior to the student taking up residence in on-campus housing.

Acceptable evidence of vaccination includes:

1. The month, day, and year the vaccination was administered;
2. The signature or stamp of the physician or his/her designee, or public health personnel;
3. An official immunization record generated from a state or local health authority; or
4. An official record received from school officials, including a record from another state.

This information shall be maintained in accordance with Family Educational Rights and Privacy Act Regulations, and with the Health Insurance Portability and Accountability Act.

"HEALTH
PRACTITIONER"

"Health practitioner" means any person authorized by law to administer an immunization.

Education Code 51.9192; 19 TAC 21.612-.614

WORK STUDY STUDENTS

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LIST OF WORK-STUDY
EMPLOYMENT
OPPORTUNITIES

The College District shall:

1. Establish and maintain an online list of work-study employment opportunities, sorted by department as appropriate, available to students on the College District campus. Information should be made available no later than April 1, 2010.
2. Ensure that the list is easily accessible to the public through a clearly identifiable link that appears in a prominent place on the financial aid page of the College District's Internet Web site.

Education Code 56.080; 19 TAC 4.229

STUDENT RECORDS

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This introductory page outlines the contents of the student records policy. See the following sections for statutory provisions on:

| | | |
|-------------|---|---------------|
| SECTION I | Education Records Definition of 'education records' Privacy rules | pages 2 – 3 |
| SECTION II | Access, Disclosure, and Amendment Access to education records: parent, student, and other persons Subpoenaed and sex offender records Request procedure Destruction of requested records De-identified records, authenticating requestors' identities Transfer by third parties to other persons Record of access to student records Right to amend records Fees for copies Annual notification of rights | pages 3 – 14 |
| SECTION III | Directory Information Definition and disclosure of directory information Electronic student records system | pages 14 – 15 |

SECTION I: EDUCATION RECORDS

'EDUCATION
RECORDS' DEFINED

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 made by College District personnel that are kept in the sole possession of the maker, and are used only as a personal memory aid, and are not accessible or revealed to anyone other than a temporary substitute for the maker of the record.
2. 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.
3. Records relating to an individual who is employed by an educational agency or institution, that are made and maintained in the normal course of business, relate exclusively to the individual in that individual's capacity as an employee, and are not available for use for any other purpose.
4. Records on a student who is 18 years of age or older, or who is attending an institution of postsecondary education, that are:
 - a. Made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional capacity or assisting in a paraprofessional capacity;
 - b. Made, maintained, or used only in connection with treatment of the student; and
 - c. Disclosed only to individuals providing the treatment. For the purpose of this definition, "treatment" does not include remedial educational activities or activities that are part of the program of instruction at the agency or institution.
5. Records that are created or received by the College District after an individual is no longer a student in the College District

and that are not directly related to the individual's attendance as a student.

6. Grades on peer-graded papers before they are collected and recorded by a teacher.

20 U.S.C. 1232g(a)(4); 34 CFR 99.3

PRIVACY RULE FOR
NON-'EDUCATION
RECORDS'

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]

SECTION II: ACCESS, DISCLOSURE, AND AMENDMENT

ACCESS TO
EDUCATION RECORDS
DEFINITIONS

"Attendance" includes, but is not limited to:

1. Attendance in person or by paper correspondence, videoconference, satellite, Internet, or other electronic information and telecommunications technologies for students who are not physically present in the classroom; and
2. The period during which a person is working under a work-study program.

"Disclosure" means to permit access to or the release, transfer, or other communication of personally identifiable information contained in education records by any means, including oral, written, or electronic means, to any party except the party identified as the party that provided or created the record.

"Parent" includes a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or guardian.

"Personally identifiable information" includes, but is not limited to:

1. The student's name;
2. The name of the student's parent or other family members;
3. The address of the student or student's family;
4. A personal identifier, such as the student's biometric record, as defined by 34 CFR 99.3; social security number; or student number;
5. Other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name;
6. Other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal

STUDENT RECORDS

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knowledge of the relevant circumstances, to identify the student with reasonable certainty; or

7. Information requested by a person who the College District reasonably believes knows the identity of the student to whom the education record relates.

34 CFR 99.3

ACCESS BY
PARENTS

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. *34 CFR 99.10, 99.31(a)(8)*

ACCESS BY
STUDENT

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.

Nothing in this section prevents the College District from disclosing education records, or personally identifiable information from education records, to a parent without prior written consent of an eligible student if the disclosure meets the conditions in 34 CFR 99.31(a), including if the student is a dependent for tax purposes or in the case of a health or safety emergency.

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)*

ACCESS BY OTHER
PERSONS

Personally identifiable information in education records shall not be released without the written consent of the student, except to the following:

SCHOOL OFFICIALS

1. School officials, including faculty, who have legitimate educational interests.

A contractor, consultant, volunteer, or other party to whom a College District has outsourced institutional services or functions may be considered a school official under this paragraph provided that the outside party:

- a. Performs an institutional service or function for which the College District would otherwise use employees;
- b. Is under the direct control of the College District with respect to the use and maintenance of education records; and

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- c. Is subject to the requirements of 34 CFR 99.33(a) governing the use and redisclosure of personally identifiable information from education records.

A College District must use reasonable methods to ensure that school officials obtain access to only those education records in which they have legitimate educational interests. A College District that does not use physical or technological access controls must ensure that its administrative policy for controlling access to education records is effective and that it remains in compliance with the legitimate educational interest requirement.

34 CFR 99.31, .36

OFFICIALS OF
OTHER SCHOOLS

- 2. Officials of other schools or school systems in which the student seeks or intends to enroll, or where the student is already enrolled so long as the disclosure is for purposes related to the student's enrollment or transfer, 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 shall give the student an opportunity for a hearing to challenge the content of the record. *34 CFR 9931, .34*

AUTHORIZED
GOVERNMENTAL
REPRESENTATIVES

- 3. Authorized representatives of the officials or agencies headed by 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.

FINANCIAL AID

- 4. Personnel involved with a student's application for, or receipt of, financial aid.

JUVENILE JUSTICE
OFFICIALS

- 5. State and local officials to whom such information is specifically required to be reported or disclosed by state statute adopted:

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- a. Prior to November 19, 1974, if the allowed reporting or disclosure concerns the juvenile justice system and its ability to effectively serve the student whose records are released, or
- b. After November 19, 1974, if:
 - (1) The allowed reporting or disclosure concerns the juvenile justice system and its ability to effectively serve, prior to adjudication, the student whose records are released; and
 - (2) The officials and authorities to whom such information is disclosed certify in writing to the College District that the information will not be disclosed to any other party except as provided under state law without the prior written consent of the parent of the student.

ORGANIZATIONS
CONDUCTING
STUDIES

6. Organizations conducting studies for or on behalf of a College District for the purpose of developing, validating, or administering 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 who have legitimate interests in the information. Such information must be destroyed when no longer needed for the original purposes of the studies.

The College District must enter into a written agreement with the organization that:

- a. Specifies the purpose, scope, and duration of the study or studies and the information to be disclosed;
- b. Requires the organization to use personally identifiable information from education records only to meet the purpose or purposes of the study as stated in the written agreement;
- c. Requires the organization to conduct the study in a manner that does not permit personal identification of parents and students, as defined in this part, by anyone other than representatives of the organization with legitimate interests; and
- d. Requires the organization to destroy or return to the College District all personally identifiable information when the information is no longer needed for the purposes for which the study was conducted and specifies the time

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period in which the information must be returned or destroyed.

A College District is not required to initiate a study or agree with or endorse the conclusions or results of the study.

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|-----------------------------|---|
| ACCREDITING ORGANIZATIONS | 7. Accrediting organizations that require the information for purposes of accreditation. |
| COURTS | 8. 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. |
| HEALTH AND SAFETY EMERGENCY | 9. Appropriate persons, including the student's parents, who, in an emergency, must have such information in order to protect the health or safety of the student or other person. In making a determination, a College District may take into account the totality of the circumstances pertaining to a threat to the health or safety of a student or other individuals. If the College District determines that there is an articulable and significant threat to the health or safety of a student or other individuals, it may disclose information from education records to any person whose knowledge of the information is necessary to protect the health or safety of the student or other individuals. If, based on the information available at the time of the determination, there is a rational basis for the determination, the United States Department of Education will not substitute its judgment for that of the College District in evaluating the circumstances and making its determination. |
| DIRECTORY INFORMATION | 10. Any person requesting directory information, as defined in this policy, after the College District has given public notice of that definition. |
| ALLEGED VICTIM | 11. 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 pro- |

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ceeding, regardless of whether the College District concluded a violation was committed.

ASSOCIATED WITH
DISCIPLINARY
PROCEEDING

12. 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.

VIOLATION OF
FEDERAL, STATE,
OR LOCAL LAW

13. 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 99.31, .35,.36,.37,.39

SUBPOENAED
RECORDS

A College District shall release student records to an entity or persons designated in a subpoena. A 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 or the order is an ex parte court order obtained by the United States Attorney General (or designee not lower than an Assistant Attorney General) concerning investigations or prosecutions of an offense listed in 18 U.S.C. 2332b(g)(5)(B) or an act of domestic or international terrorism as

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defined in 18 U.S.C. 2331, 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(a)(9)*

SEX OFFENDERS

A College District may disclose personally identifiable information without consent if the disclosure concerns sex offenders and other individuals required to register under section 170101 of the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. 14071, and the information was provided to the College District under 42 U.S.C. 14071 and applicable federal guidelines. *34 CFR 99.31(a)(16)*

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.

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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

REQUEST
PROCEDURE

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(b)-(c)*

DESTRUCTION OF
RECORDS

The College District shall not destroy any education records if there is an outstanding request to inspect and review the records.
34 CFR 99.10(e)

DE-IDENTIFIED
RECORDS

A College District, or a party that has received education records or information from education records, may release the records or information without the consent after the removal of all personally identifiable information provided that the College District or other party has made a reasonable determination that a student's identity is not personally identifiable, whether through single or multiple releases, and taking into account other reasonably available information.

EDUCATION
RESEARCH

A College District, or a party that has received education records or information from education records, may release de-identified student level data from education records for the purpose of education research by attaching a code to each record that may allow the recipient to match information received from the same source, provided that:

1. A College District or other party that releases de-identified data under this section does not disclose any information about how it generates and assigns a record code, or that would allow a recipient to identify a student based on a record code;
2. The record code is used for no purpose other than identifying a de-identified record for purposes of education research and cannot be used to ascertain personally identifiable information about a student; and
3. The record code is not based on a student's social security number or other personal information.

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AUTHENTICATING
REQUESTORS'
IDENTITIES

A College District must use reasonable methods to identify and authenticate the identity of parents, students, school officials, and any other parties to whom the College District discloses personally identifiable information from education records.

34 CFR 99.31(b)–(c)

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), to disclosures made to parents under Section 99.31(a)(15), or to disclosures concerning sex offenders under Section 99.31(16). The prohibition also does not apply to information that the College District is required to disclose under the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act), 20 U.S.C. 1092(f), to the accuser and accused regarding the outcome of any campus disciplinary proceeding brought alleging a sexual offense. *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(a), unless the disclosure is made under Sections 99.31(a)(8), (9), (11), (12), (14), (15), and (16), and to information that the College District is required to disclose under the Clery Act to the accuser and accused regarding the outcome of any campus disciplinary proceeding brought alleging a sexual offense. *34 CFR 99.33 (d)*

A College District may disclose personally identifiable information with the understanding that the party receiving the information may make further disclosures of the information on behalf of the College District if:

1. The disclosures meet the requirements of 34 CFR 99.31; and
2. The College District has complied with the requirements of 34 CFR 99.32(b) regarding the record of disclosure; or a state or local educational authority or federal official or agency requesting information through a subpoena or ex parte order has complied with the requirements of 34 CFR 99.32(b)(2).

34 CFR 99.33(b)

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RECORD OF ACCESS
TO STUDENT RECORD

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 as well as the names of state and local educational authorities and federal officials and agencies listed in 34 CFR 99.31(a)(3) that may make further disclosures of personally identifiable information from the student's education records without consent. A College District must obtain a copy of the record of further disclosures maintained by the named authorities, officials, and agencies under 34 CFR 99.32 (b)(2) and make it available in response to a parent's request to review the record.

A College District must record the following information when it discloses personally identifiable information from education records under the health or safety emergency exception [see HEALTH AND SAFETY EMERGENCY, above]:

1. The articulable and significant threat to the health or safety of a student or other individuals that formed the basis for the disclosure; and
2. The parties to whom the College District disclosed the information.

34 CFR 99.32

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, or a party seeking or receiving records in accordance with a subpoena or ex parte order. *34 CFR 99.32(d)*

RIGHT TO AMEND
RECORDS

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.

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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

FEES FOR COPIES

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*

ANNUAL
NOTIFICATION
OF RIGHTS

The College District shall give students in attendance annual notification of their rights under the Family Educational Rights and Privacy Act of 1974.

The notice must inform students that they have the right to:

1. Inspect and review his or her education records;
2. Seek amendment of the his or her education records that the student believes to be inaccurate, misleading, or otherwise in violation of his or her privacy rights;
3. Consent to disclosures of personally identifiable information contained in the his or her education records, except to the extent that the Act and 34 CFR 99.31 authorize disclosure without consent; and
4. File with the United States Department of Education a complaint under 34 CFR 99.63 and 99.64 concerning alleged failures by the College District to comply with the requirements of the Act and 34 CFR part 99.

The notice must include all of the following:

1. The procedure for exercising the right to inspect and review education records.
2. The procedure for requesting amendment of records under 34 CFR 99.20.
3. If the College District has a policy of disclosing education records under 34 CFR 99.31(a)(1), a specification of criteria

for determining who constitutes a school official and what constitutes a legitimate educational interest.

A College District may provide this notice by any means that are reasonably likely to inform the students of their rights.

A College District shall effectively notify students who are disabled. [See FJ(EXHIBIT)] *20 U.S.C. 1232g(e); 34 CFR 99.7*

SECTION III: DIRECTORY INFORMATION

DIRECTORY
INFORMATION
DEFINITION

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. Directory information" does not include a student's:

1. Social security number; or
2. Student identification number, unless the student identification number, user identification number, or other unique personal identifier used by the student for purposes of accessing or communicating in electronic systems cannot be used to gain access to education records except when used in conjunction with one or more factors that authenticate the user's identity, such as a personal identification number, password, or other factor known or possessed only by the authorized user.

DISCLOSURE OF
DIRECTORY
INFORMATION

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.

IN CLASS

4. A student may not use the right of refusal to opt out of directory information disclosures to prevent a College District from

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disclosing or requiring a student to disclose the student's name, identifier, or institutional e-mail address in a class in which the student is enrolled.

FORMER
STUDENTS

5. A College District may disclose directory information about former students without satisfying the public notice conditions above. However, the College District must continue to honor any valid request to opt out of the disclosure of directory information made while a student was in attendance unless the student rescinds the opt-out request.

CONFIRMATION
OF IDENTITY OR
RECORDS

6. A College District may not disclose or confirm directory information without meeting the written consent requirements in 34 CFR 99.30 if a student's social security number or other non-directory information is used alone or combined with other data elements to identify or help identify the student or the student's records.

34 CFR 99.3, .37

ELECTRONIC
STUDENT RECORDS
SYSTEM

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

PUBLIC INFORMATION PROGRAM
ACCESS TO INFORMATION

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(LEGAL)

PUBLIC INFORMATION “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*

INFORMATION THAT
MUST BE DISCLOSED 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.

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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

EMPLOYEE / BOARD
MEMBER

Each College District employee, other than a peace officer or security officer, 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. A written request made after the 14 days does not apply to an open records request made before the option was exercised.

Gov't Code 552.024; Tex. Att'y Gen. ORD-530 (1989)

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PEACE OFFICERS /
SECURITY
OFFICERS

EMPLOYED BY
THE COLLEGE
DISTRICT

College District-held information relating to the home address, home telephone number, or social security number of employees who are peace officers or security officers commissioned by the Board of Private Investigators and Private Security Agencies, or any information that reveals whether the officers have family members, is excepted from disclosure regardless of whether the officers choose to restrict public access to the information under Government Code 552.024. *Gov't Code 552.117*

ALL OFFICERS

College District-held information relating to the home address, home telephone number, social security number, or any information that reveals whether an officer has family members, of any peace officer, security officer, or other person listed at Government Code 552.1175 is confidential by law if the officer chooses to restrict public access and notifies the College District on a form provided by the College District, accompanied by evidence of the officer's status. *Gov't Code 552.1175*

NOTICE TO
REQUESTOR

If an employee or Board member has opted to restrict public access to his or her personal information, the College District may redact the personal information from any information the College District discloses without the necessity of requesting a decision from the attorney general. A College District may also redact information that must be withheld under Government Code 552.1175 without requesting an attorney general decision.

If a College District redacts information under either of these provisions, the College District shall provide the following information to the requestor on a form prescribed by the attorney general:

1. A description of the redacted or withheld information;
2. A citation to Government Code 552.024 or 552.1175, as applicable; and
3. Instructions regarding how to request a decision from the attorney general regarding whether the redacted information is excepted from required disclosure.

Gov't Code 552.024(c-2), 552.1175(h)

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:

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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;
4. Provided to the College District on a letterhead, coversheet, printed document, or other document made available to the public; or
5. Provided to a College District for the purpose of receiving orders or decisions from a governmental body, or for the purpose of providing public comment on or receiving notices related to an application for a license. A "license" under this section includes a state agency permit, certificate, approval, registration, or similar form of permission required by law.

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, 2001.003(2)

PARTICIPANT IN
ADDRESS
CONFIDENTIALITY
PROGRAM

Information relating to a participant in the Address Confidentiality Program for Victims of Family Violence, Sexual Assault, 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*

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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

COMPLIANCE
INVESTIGATIONS

The following are confidential, unless the individual consents to disclosure:

1. Information that directly or indirectly reveals the identity of an individual who made a report to the compliance program office of an institution of higher education, sought guidance from the office, or participated in an investigation conducted under the compliance program; and
2. Information that directly or indirectly reveals the identity of an individual as a person who is alleged to have or may have planned, initiated, or participated in activities that are the subject of a report made to the compliance program office if, after completing an investigation, the office determines the report to be unsubstantiated or without merit.

Information produced in a compliance program investigation, the release of which would interfere with an ongoing compliance investigation, is excepted from disclosure.

EXCEPTION

Information made confidential or excepted from public disclosure by this section may be made available to a law enforcement agency or prosecutor for official purposes of the agency or prosecutor upon proper request made in compliance with applicable law and procedure.

Education Code 51.971(c)-(f) [See AF]

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SAFETY AND
SECURITY AUDIT

Except as provided by Subsection (c-2), any document or information collected, developed, or produced during a safety and security audit conducted under Subsection (b) is not subject to disclosure [see CG].

MULTIHAZARD
EMERGENCY
OPERATIONS PLAN
EXCEPTION

A document relating to a College District 's multihazard emergency operations plan [see CGC] is subject to disclosure if the document enables a person to:

1. Verify that the College District has established a plan and determine the agencies involved in the development of the plan and the agencies coordinating with the College District to respond to an emergency, including the Texas Department of State Health Services, local emergency services agencies, law enforcement agencies, health departments, and fire departments;
2. Verify that the College District's plan was reviewed within the last 12 months and determine the specific review dates;
3. Verify that the plan addresses the four phases of emergency management under Education Code 37.108(a);
4. Verify that College District employees have been trained to respond to an emergency and determine the types of training, the number of employees trained, and the person conducting the training;
5. Verify that each campus in the College District has conducted mandatory emergency drills and exercises in accordance with the plan and determine the frequency of the drills;
6. Verify that the College District has completed a safety and security audit under Education Code 37.108(b) and determine the date the audit was conducted, the person conducting the audit, and the date the College District presented the results of the audit to the Board; and
7. Verify that the College District has addressed any recommendations by the Board for improvement of the plan and determine the College District's progress within the last 12 months.

Education Code 37.108(c-1)-(c-2)

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 maintained in files of professional employees; however, the degree obtained and the curriculum on the transcripts shall be subject to disclosure. *Gov't Code 552.102*
3. Information in the custody of the College District that relates to an employee or officer of the College District if, under the specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm. *Gov't Code 552.151*
4. 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*
5. 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*
6. 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*
7. Drafts and working papers involved in the preparation of proposed legislation. *Gov't Code 552.106*
8. 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*

9. 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

10. 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*
11. A trade secret obtained from a person and privileged or confidential by statute or judicial decision. *Gov't Code 552.110(a)*
12. 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)*
13. 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) (concluding that the deliberative process privilege, incorporated into the exception found at Government Code 552.111, exempts communications related to a governmental agency's policymaking)*
14. 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*
15. 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]
16. 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

17. 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

18. Test items developed by a state-funded educational institution. *Gov't Code 552.122*
19. 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)*
20. 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

21. 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 be-

fore 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*

22. 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

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.

Gov't Code 552.131(a)

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.

Gov't Code 552.131(b)–(c)

26. Information that relates to computer network security, to network security information that is restricted under Government Code 2059.055, or to the design, operation, or defense of a computer network. The following information is confidential:
 - a. A computer network vulnerability report; and
 - b. Any other assessment of the extent to which data processing operations, a computer, a computer program, network, system, system interface, 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 containing sensitive or critical information is vulnerable to alteration, damage, erasure or inappropriate use.

A College District may disclose the information to a bidder if the College District determines that providing the information is necessary for the bidder to provide an accurate bid. Such a disclosure is not a voluntary disclosure for purposes of Government Code 552.007 (requiring disclosure to any person).

Gov't Code 552.139

MILITARY DISCHARGE
RECORDS

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. *Gov't Code 552.140*

SOCIAL SECURITY
NUMBERS

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

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from any information the College District discloses to the public without the necessity of requesting a decision from the attorney general. *Gov't Code 552.147*

INVESTMENT
INFORMATION

29. Certain College District investment information, as specified by Government Code 552.143, is not public information and is excepted from disclosure. *Gov't Code 552.143*

PUBLIC INFORMATION PROGRAM
REQUESTS FOR INFORMATION

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This introductory page outlines the contents of the public information policy. See the following sections for statutory provisions on:

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**SECTION I: OFFICER FOR PUBLIC INFORMATION AND RE-
QUIRED NOTICES**

OFFICER FOR PUBLIC
INFORMATION

The College President shall be the College District's officer for public information. Each department head shall be an agent of the officer for purposes of complying with the public information laws.

DUTIES

The officer is responsible for the release of public information as required by the Public Information Act (PIA), Government Code Chapter 552. 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 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 as a result of an update, correction, or change of status of the person to whom the information pertains.

Gov't Code 552.201(a)–.204

SIGN

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 College District, and the procedures for inspecting or obtaining a copy of public information under the PIA. The officer shall display the sign at one or more places in the College District's administrative offices 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

SECTION II: ACCESS TO PUBLIC INFORMATION

ACCESS TO PUBLIC
INFORMATION

PROCEDURAL
RULES

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 the PIA. *Gov't Code 552.230*

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| | <p>It shall be the policy of a College District to provide a suitable copy of public information within a reasonable time after the date on which the copy is requested. <i>Gov't Code 552.228</i></p> |
| TREATMENT OF REQUESTS | <p>The officer for public information or agent shall not make an inquiry of a requestor, except to establish proper identification or to ask the requestor to narrow or clarify the request. The officer for public information or agent shall treat all requests for information uniformly without regard to the position or occupation of the requestor, the person on whose behalf the request is made, or the status of the individual as a member of the media. The officer for public information or agent shall give the requestor all reasonable comfort and facility for the full exercise of the right granted by the PIA. <i>Gov't Code 552.222(a)–(b), 552.223–.224</i></p> |
| LOCATION OF ACCESS | <p>An officer for public information complies with a request for public information by:</p> <ol style="list-style-type: none">1. Providing the information for inspection or duplication in a College District's offices [see TIME FOR EXAMINATION, below]; or2. Sending copies of the information by first class mail, if the requestor requests that copies be provided and pays the postage and any other applicable charges that the requestor has accrued under Subchapter F of the PIA [see COSTS AND CHARGES, below]. <p>The PIA does not authorize a requestor to remove an original copy of a public record from the office of a College District. <i>Gov't Code 552.221(b), 552.226</i></p> |
| TIME FOR RESPONSE | <p>An officer for public information shall promptly produce public information for inspection, duplication, or both, on application by any person. "Promptly" means as soon as possible under the circumstances, that is, within a reasonable time, without delay. A College District may not automatically withhold for ten business days public information not excepted from disclosure.</p> <p>If an officer for public information cannot produce the public information for inspection or duplication within ten business days after the date the information is requested, the officer shall certify that fact in writing to the requestor and set a date and hour within a reasonable time when the information will be available for inspection or duplication.</p> <p>If the requested information is unavailable because it is in storage or active use, an officer for public information shall certify this fact in writing to the requestor and set a date and hour within a reason-</p> |

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able time when the information will be available for inspection or duplication.

Gov't Code 552.221; Tex. Atty. Gen. ORD-664 (2000)

REQUESTS TO
NARROW OR CLARIFY

If a large amount of information has been requested, the College District may discuss with the requestor how the scope of the request might be narrowed, but the College District may not inquire into the purpose for which the information will be used. If what information is requested is unclear to the College District, the College District may ask the requestor to clarify the request.

If the request included the requestor's physical or mailing address, the College District must send the request for discussion or clarification to that address by certified mail. The written request for discussion or clarification must include a statement as to the consequences of failure by the requestor to timely respond. If the College District does not receive a written response by the 61st day after the College District sends the written request, the underlying request for public information is considered to have been withdrawn by the requestor.

Gov't Code 552.222(b), (d)-(f)

TIME FOR
EXAMINATION

A requestor shall complete the examination of the information not later than the tenth business day after the date the custodian of the information makes it available. If the requestor does not complete the examination within ten business days and does not file a request for additional time, the requestor is considered to have withdrawn the request.

The officer shall extend the initial examination period by an additional ten business days if, within the initial period, the requestor files with the officer a written request for additional time. The officer shall extend an additional examination period by another ten business days if, within the first additional period, the requestor files with the officer a written request for more additional 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 College District. The period of interruption is not considered to be a part of the time during which the person may examine the information.

Gov't Code 552.225

ELECTRONIC DATA

If public information exists in an electronic or magnetic medium, the requestor may request a copy in an electronic medium, such as on diskette or on magnetic tape. A College District shall provide a copy in the requested medium:

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1. If the College District has the technological ability to produce the information in the requested medium;
2. If the College District is not required to purchase any software or hardware to accommodate the request; and
3. Providing the copy will not violate any copyright agreement between the College District and a third party.

If a College District 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 a copy in another medium that is acceptable to the requestor. A College District is not required to copy information onto a diskette or other material provided by the requestor but may use College District supplies.

Gov't Code 552.228

REQUESTS
REQUIRING
PROGRAMMING OR
MANIPULATION

The College District shall provide the requestor a written statement described below, if the College District determines:

1. That responding to a request for information will require programming or manipulation of data; and
2. That:
 - a. Compliance with the request is not feasible or will result in substantial interference with operations; or
 - b. The information could be made available in the requested form only at a cost that covers the programming and manipulation of data.

The written statement shall include:

1. A statement that the information is not available in the requested form;
2. A description of the form in which the information is available;
3. A description of any contract or services that would be required to provide the information in the requested form;
4. A statement of the estimated cost of providing the information in the requested form, as determined in accordance with the rules established by the attorney general [see GAB(EXHIBIT)]; and
5. A statement of the anticipated time required to provide the information in the requested form.

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| RESPONSE TIME WHEN PROGRAMMING OR MANIPULATION IS REQUIRED | The College District shall provide the written statement to the requestor within 20 days after the date the College District receives the request. The College District has an additional ten days to provide the statement if the College District gives written notice to the requestor, within 20 days after receiving the request, that additional time is needed. |
| FURTHER ACTION | <p>After providing the written statement described above, the College District 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 states in writing that the requestor:</p> <ol style="list-style-type: none">1. Wants the information in the requested form according to the time and cost parameters set out in the written statement or according to other terms to which the requestor and the College District agree; or2. Wants the information in the form in which it is available. <p>If a requestor does not make a timely written statement, the requestor is considered to have withdrawn the request for information.</p> |
| PROCESSING OF REQUESTS | <p>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. A College District shall maintain a readily accessible file containing all written statements issued concerning requests for information that require programming or manipulation of data.</p> <p><i>Gov't Code 552.231</i></p> |
| REPETITIOUS OR REDUNDANT REQUESTS | <p>If a College District 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, the College District may:</p> <ol style="list-style-type: none">1. Respond to the request for information as set forth below, at PROCEDURES; or <p>Furnish the information or make the information available to the requestor again in accordance with the request.</p> <ol style="list-style-type: none">2. If the College District selects this option, the College District is not required to comply with the procedures described below. <p><i>Gov't Code 552.232(a)</i></p> <p>These provisions do not apply to information not previously furnished to a requestor. A College District shall treat a request for information for which copies have not been previously furnished or</p> |

made available to the requestor, including information that was not furnished or made available because the information was redacted or because the information did not exist at the time of an earlier request, in the same manner as any other request for public information. *Gov't Code 552.232(d)*

PROCEDURES

The College District 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. The certification must include:

1. A description of the information for which copies have been previously furnished or made available to the requestor;
2. The date the College District received the requestor's original request for that information;
3. The date the College District previously furnished copies or made available copies of the information to the requestor;
4. A certification that no subsequent additions, deletions, or corrections have been made to that information; and
5. The name, title, and signature of the officer for public information or agent making the certification.

Gov't Code 552.232

SECTION III: ATTORNEY GENERAL DECISIONS

ATTORNEY GENERAL
DECISIONS

If the College District receives a written request for information that the College District considers to be within one of the exceptions to required disclosure and that the College District wishes to withhold from public disclosure, the College District shall request a decision from the attorney general about whether the information is within the exception [see SUBMISSION TO ATTORNEY GENERAL, below]. For these purposes, the term "written request" includes a request sent by electronic mail or facsimile transmission to the officer or designee.

TIME FOR REQUEST

A College District must submit the request to the attorney general not later than the tenth business day after receiving the written request. If a College District does not timely request a decision from the attorney general and comply with the requirements at STATEMENT TO REQUESTOR, below, the information is presumed to be subject to public disclosure and must be released unless there is a compelling reason to withhold it.

Gov't Code 552.301(a)–(c), 552.302

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A College District may only request an attorney general decision if the College District reasonably believes that the requested information is excepted from required disclosure. *Tex. Atty. Gen. ORD-665 (2000)*

PREVIOUS
DETERMINATIONS
SAME
INFORMATION

Except as set forth at Government Code section 552.301(g), a College District may not request 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 not within one of the exceptions. This exception applies to specific information that is again requested from a College District after the attorney general has previously issued a decision regarding the precise information or records at issue. The law, facts, and circumstances that formed the basis of the prior ruling must not have since changed. *Gov't Code 552.301(f); Tex. Atty Gen. ORD-673 (2001)*

CATEGORIES OF
INFORMATION

A College District may rely on a previous determination by the attorney general regarding a specific, clearly delineated category of information if:

1. The previous decision is applicable to the College District or type of governmental body from which the information is requested;
2. The previous decision concludes that the category of information is or is not excepted from public disclosure;
3. The elements of law, fact, and circumstances are met to support the previous decision's conclusion that the requested records and information at issue are or are not excepted from public disclosure; and
4. The previous decision explicitly provides that the governmental body or bodies to which the decision applies may withhold the information without the necessity of seeking a decision from the attorney general.

Tex. Atty Gen. ORD-673 (2001)

A College District that relies on any previous determination to withhold information from disclosure should notify the requestor in writing of the decision or ruling upon which it is relying.

A College District may withhold from public disclosure the categories of personnel records listed at Texas Attorney General Open Records Decision 684 (2010).

Tex. Atty Gen. ORD-684 (2010)

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A district may withhold from public disclosure personally identifiable, non-directory information in "education records" as defined in the Family Education Rights and Privacy Act of 1974 (FERPA), 20 U.S.C. 1232g [see FL]. *Tex. Att'y Gen. ORD-634 (1995)*

STATEMENT TO
REQUESTOR

If a College District requests an attorney general decision, it shall 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; and
2. A copy of the College District's written communication to the attorney general asking for the decision. If a 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.

Gov't Code 552.301(d)

SUBMISSION TO
ATTORNEY
GENERAL

When a College District requests an attorney general decision, it shall, within a reasonable time but not later than the 15th business day after 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; and
4. A copy of the specific information requested, or representative samples of the information if a voluminous amount of information was requested. The College District shall label the copies or representative samples to indicate which exceptions apply to which parts of the copy.

The College District shall send a copy of the comments to the requestor not later than the 15th business day after the College District receives the written request. If the written comments disclose or contain the substance of the information requested, the copy of the comments provided to the requestor shall be redacted.

Gov't Code 552.301(e)-(e-1)

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Unless the information is confidential by law, the College District 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. *Gov't Code 552.303(a)*

ADDITIONAL
INFORMATION

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. The College District 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 College District does not comply with the attorney general's request, 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 552.303(c)-(e)*

PRIVACY OR
PROPERTY
INTERESTS

If information is requested and a person's privacy or property interests may be involved, including a case under Government Code 552.101 (information confidential by law), 552.104 (information related to competitive bidding), 552.110 (trade secrets), and 552.114 (student records), a College District may decline to release the information for the purpose of requesting a decision from the attorney general. A person whose interests may be involved, or any other person, may submit in writing to the attorney general the person's reasons why the information should be withheld or released. A College District may, but is not required to, submit its reasons why the information should be withheld or released. *Gov't Code 552.305(a)-(c)*

NOTICE TO
OWNER OF
PROPRIETARY
INFORMATION

If release of a person's proprietary information may be subject to exception under Government Code 552.101 (information confidential by law), 552.110 (trade secrets), 552.113 (geological or geophysical information), or 552.131 (economic development information), a College District that requests an attorney general decision shall make a good faith attempt to provide written notice to that person of its request. The notice must:

1. Be sent within a reasonable time not later than the tenth business day after the College District receives the request for information; and
2. Include:
 - a. A copy of any written request a College District received for the information; and
 - b. 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(d)

SECTION IV: CHARGES REGARDING PUBLIC INFORMATION REQUESTS

COSTS AND CHARGES The charge for providing a copy of public information shall be an amount that reasonably includes all costs related to reproducing the information, including costs of materials, labor, and overhead. The charges shall not be excessive and shall not exceed the actual cost of producing the information or for making public information that exists in a paper record available.

Charges for providing a copy of public information are considered to accrue at the time the College District advises the requestor that the copy is available on payment of the applicable charges.

50 PAGES OR LESS If a request is for 50 or fewer pages of paper records, the charge for providing the copy of the information shall be limited to the charge for each page of the paper record that is photocopied, unless the pages to be photocopied are located in two or more separate buildings that are not physically connected with each other or a remote storage facility. The charge for providing a copy may not include costs of materials, labor, or overhead.

STATEMENT OF LABOR COSTS If the charge for providing a copy of public information includes costs of labor, the requestor may require the officer for public information or 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 agent, and the officer or agent's name must be typed or legibly printed below the signature. A charge may not be imposed for providing the written statement to the requestor.

Gov't Code 552.261, 552.262(a)

ATTORNEY GENERAL'S RULES A 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. [See GAB(EXHIBIT)]

A College District may determine its own charges for providing copies of public information and its own charge, deposit, or bond for making public information that exists in a paper record available for

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inspection. However, a College District may not charge an amount that is greater than 25 percent more than the amount established by the attorney general, unless the College District requests an exemption. *Gov't Code 552.262(a); 1 TAC 70.1(b)*

EXEMPTIONS

A College District may request that it be exempt from part or all of the rules adopted by the attorney general for determining charges. The request must be made in writing to the attorney general and must state the reason for the exemption. If a College District receives notice from the attorney general that an exemption has been granted, the College District may amend its charges according to the attorney general's determination. *Gov't Code 552.262(c)*

COPIES FOR
PARENTS

A College District may charge a reasonable fee in accordance with the above requirements for copies of materials provided to parents pursuant to Education Code Chapter 26. *Education Code 26.012*

STATEMENT OF
ESTIMATED
CHARGES

If a request for a copy of public information will result in the imposition of a charge that exceeds \$40, a 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. A College District must inform the requestor of the responsibilities imposed on the requestor by Government Code 552.2615 and the rights granted by that section and give the requestor the information needed to respond as detailed in Government Code 552.2615(a).

If, after a 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 a 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;

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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 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 a 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 requestor agrees to receive the statement by those means.

The time deadlines for providing or responding to the required statement of estimated charges do not affect the application of a time deadline imposed on a 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 agent may require a deposit or bond for payment of anticipated costs for the preparation of a copy of public information if:

1. The officer or agent has provided the requestor with the written itemized statement required by Government Code 552.2615 [see STATEMENT OF ESTIMATED CHARGES, above]; and
2. The charge for providing the copy 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 or agent may not require a deposit or bond as a down payment for copies of public information that the requestor may request in the future.

Gov't Code 552.263(a), (b)

For the purposes of charging for providing copies of public information or for requesting an attorney general's opinion, a request for a copy of public information is considered to have been received by the College District on the date the College District receives the deposit or bond. *Gov't Code 552.263(e)*

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(f)*

UNPAID AMOUNTS The officer for public information or agent may require a deposit or bond for payment of unpaid amounts the requestor owes a 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 agent may not seek payment of those unpaid amounts through any other means. *Gov't Code 552.263(c)*

DOCUMENTATION OF UNPAID AMOUNTS A 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. The documentation is subject to required public disclosure. *Gov't Code 552.263(d)*

WAIVERS A College District shall provide a copy of public information without charge or at a reduced charge if the College District determines that waiver or reduction of the charge is in the public interest because providing the information primarily benefits the public.

If the cost to a College District of processing the collection of a charge for providing a copy of public information will exceed the amount of the charge, the College District may waive the charge.

Gov't Code 552.267

GOVERNMENT PUBLICATION The cost provisions described above do not apply to a publication that is compiled and printed by or for a College District for public dissemination. If the cost of the publication is not determined by state law, a College District may determine the charge for providing the publication, or the College District may provide the publication free of charge, if state law does not require a certain charge. *Gov't Code 552.270*

SECTION V: INSPECTION OF PUBLIC INFORMATION

INSPECTION OF PUBLIC INFORMATION If the requestor does not request a copy of public information, a College District may not impose a charge for making available for inspection any public information that exists in a paper record, except as set forth below. *Gov't Code 552.271(a)*

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CONFIDENTIAL
INFORMATION

If a page contains confidential information that must be edited from the record before the information can be made available for inspection, a 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(b)*

PAYMENT, DEPOSIT,
OR BOND

The officer for public information or agent may require a requestor to pay, or to make a deposit or post a bond for the payment of, anticipated personnel costs for making available for inspection public information that exists in paper records if:

1. The information specifically requested by the requestor is older than five years or completely fills, or when assembled will completely fill, six or more archival boxes; and
2. The officer for public information or agent estimates that more than five hours will be required to make the information available for inspection.

Gov't Code 552.271(c)

CERTAIN SMALL
COLLEGE
DISTRICTS

If a College District has fewer than 16 full-time employees, the payment, deposit, or bond may be required only if:

1. The information specifically requested by the requestor is older than three years or completely fills, or when assembled will completely fill, three or more archival boxes; and
2. The officer for public information or agent estimates that more than two hours will be required to make the information available for inspection.

Gov't Code 552.271(d)

ELECTRONIC
RECORDS

If a College District receives a request to inspect information that exists in an electronic medium and that is not available directly online to the requestor, the College District may not impose a charge 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, a College District 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 a College District, and the public has direct access to that computer through a computer network or other means, the electronic form of the information may be electronically copied from that computer without charge if accessing the information does not require processing, programming, or manipulation on

the College District's computer before the information is copied. If such information does require processing, programming, or manipulation before it can be copied, a College District may impose charges.

If a College District creates or keeps information in an electronic form, the College District 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

SECTION VI: MISCELLANEOUS PROVISIONS

LARGE OR FREQUENT
REQUESTS

PERSONNEL TIME

A College District may establish a reasonable limit on the amount of time that College District 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 a College District's fiscal year.

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 an individual who, for a substantial portion of the individual's livelihood or for substantial financial gain, gathers, compiles, prepares, collects, photographs, records, writes, edits, reports, investigates, processes, or publishes news or information for and is seeking the information for:

1. A radio or television broadcast station that holds a broadcast license for an assigned frequency issued by the Federal Communications Commission;
2. A newspaper that is qualified under Government Code 2051.044 to publish legal notices or is a free newspaper of general circulation and that is published at least once a week and available and of interest to the general public in connection with the dissemination of news;

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3. A newspaper of general circulation that is published on the Internet by a news medium engaged in the business of disseminating news or information to the general public; or
4. A magazine that is published at least once a week or on the Internet by a news medium engaged in the business of disseminating news or information to the general public.

This section also does not apply if the requestor is an elected official of the United States, this state, or a political subdivision of this state or 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.

WRITTEN
STATEMENT OF
PERSONNEL TIME

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 in the statement.

WRITTEN ESTIMATE
OF CHARGES

If the cumulative amount of personnel time spent complying with requests for public information from the same requestor equals or exceeds the established time limit, a 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. The College District shall provide the written estimate 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.

ADDITIONAL TIME

If a College District provides the requestor with written notice that additional time is required to prepare the written estimate, the College District must provide 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.

ACCEPTANCE OF
CHARGES

A 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:

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1. The actual costs incurred in complying with the request, including the cost of materials, personnel time, and overhead; or
2. The amount stated in the written estimate.

If the requestor fails or refuses to submit a written statement, the requestor is considered to have withdrawn the request.

WAIVED OR
REDUCED
CHARGES

This section does not prohibit a College District from providing a copy of public information without charge or at a reduced rate, 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

FILING SUIT TO
WITHHOLD
INFORMATION

A College District may file suit seeking to withhold information if the College District receives a determination from the attorney general that information must be disclosed to a requestor. The suit must be filed in Travis County district court against the attorney general and must seek declaratory relief from compliance with the attorney general's decision.

The College District must bring the suit not later than the 30th calendar day after the College District receives the attorney general's decision. If the College District wishes to preserve an affirmative defense for its officer for public information, as provided by Government Code 552.353(b)(3), the College District must file suit not later than the tenth calendar day after receipt of the attorney general's decision.

Gov't Code 552.324, 552.353(b)(3)

PARENT'S REQUEST
FOR INFORMATION

A College District that receives a request from a parent for public information relating to the parent's child shall comply with the PIA.

A College District that seeks to withhold information from a parent who has requested public information relating to the parent's child under the PIA, and that files suit to challenge a decision by the attorney general, must bring the suit not later than the 30th calendar day after the date the College District receives the decision of the attorney general, unless an earlier deadline is established by the PIA.

A court shall grant such a suit precedence over other pending matters to ensure prompt resolution. Notwithstanding any other law, a College District may not appeal the decision of the court. This prohibition does not affect the right of a parent to appeal the decision. If a College District does not bring suit within the period estab-

lished, the College District shall comply with the decision of the attorney general.

Education Code 26.0085

RELATIONS WITH SCHOOLS AND DISTRICTS

GH
(LEGAL)

FACILITIES

DUAL USAGE
EDUCATIONAL
COMPLEX

The Board of the 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 participating 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 College District; or another institution of higher education with a campus or other educational facility located in the same state uniform service region as adopted by the Coordinating Board.

The College District shall coordinate and supervise the operation of the complex. The use and the costs associated with the establishment and operation of the complex shall be shared by the College District and the other participating entities under the terms of the cooperative agreement.

Education Code 130.0103

DESIGN OR
CONSTRUCTION OF
AN INSTRUCTIONAL
OR ATHLETIC
FACILITY

A school district and a College District, located wholly or partially in the boundaries of the county in which the school district is located, may contract for the school district to contribute school district resources to pay a portion of the costs of the design or construction of an instructional facility or a stadium or other athletic facilities owned by or under the control of the College District. A school district may contribute school district resources only if the school district and the College District enter into a written agreement authorizing the school district to use that facility.

One or more independent school districts and the College District may contract for the school district to contribute school district resources to pay a portion of the costs of the design, improvement, or construction of an instructional facility owned by or under the control of the College District. A school district may contribute district resources only if the school district and the College District enter into a written agreement authorizing the school district to use that facility, including authorizing the enrollment of the school district's students in courses offered at that facility.

USE OF ATHLETIC
FACILITIES

A school district board may enter into a contract on behalf of the school district with a College District located wholly or partially within its boundaries, for the use of any stadium and other athletic facilities owned by or under the control of the College District. The contract may be for any period not exceeding 75 years and may contain terms agreed on by the parties.

Education Code 45.109

RELATIONS WITH SCHOOLS AND DISTRICTS

GH
(LEGAL)

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| COLLEGE COURSES IN SCHOOL DISTRICT FACILITIES | By resolution, the Board may enter into a contract with the board members of a 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, in accordance with Education Code 130.006. <i>Education Code 130.006(a)-(b)</i> |
| SCHOOL DISTRICT COURSES ON COLLEGE DISTRICT CAMPUS | <p>The board members 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.</p> <p>The College President or other chief executive officer of the College District may provide written consent to a board of a school district regardless of whether the College District is located within the boundaries of the school district.</p> <p><i>Education Code 11.166</i></p> |
| REPORTS OF ACADEMIC ACHIEVEMENT | 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 College District 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. <i>Education Code 51.403(e); 19 TAC 9.23</i> |
| COLLEGE CREDIT PROGRAM | <p>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:</p> <ol style="list-style-type: none">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; or3. Any combination of the courses described above. |
| PAYMENT OF COSTS | <p>A school district is not required to pay a student's tuition or other associated costs for taking a course under this section. This provision expires September 1, 2011.</p> <p><i>Education Code 28.009(a), (a-2)</i></p> |

RELATIONS WITH SCHOOLS AND DISTRICTS

GH
(LEGAL)

INSTRUCTIONAL
PARTNERSHIPS WITH
PUBLIC SECONDARY
SCHOOLS

Types of instructional partnerships between a College District and a school district include:

1. Award of High School Credit Only [see HIGH SCHOOL CREDIT-ONLY COURSES, below].
2. Award of Concurrent Course Credit [see DUAL CREDIT PROGRAMS/CONCURRENT ENROLLMENT, below].
3. Tech-Prep Programs [see TECH-PREP PROGRAMS, below].
4. Remedial or Development Instruction for High School Graduates [see REMEDIAL PROGRAMS, below].

19 TAC 9.143

AGREEMENTS
REQUIRED

For any instructional partnership between a secondary school and the College District, an agreement must be approved by the governing boards of both the public school district or private secondary 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. Transcribing of credit
8. Funding provisions

19 TAC 9.144

HIGH SCHOOL
CREDIT-ONLY
COURSES

The College District may contract to provide instruction for public secondary schools. An agreement between the College District and the public secondary school must be approved by both governing boards.

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.

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| INSTRUCTORS | 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. |
| FUNDING | Funding for this type of instruction must flow to the public secondary school as the contracting agency. An agreed cost for instruction must be negotiated between the College District and the public secondary school. <i>19 TAC 9.125, .143(a)</i> |
| DUAL CREDIT PROGRAMS / CONCURRENT ENROLLMENT | 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: <ol style="list-style-type: none"><li data-bbox="552 850 1435 913">1. Course credit toward the student's high school academic requirements; and<li data-bbox="552 934 1435 1081">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 enter into an agreement with a school district, organization, or other person that operates a high school to offer a course as provided by this section regardless of whether the high school is located within the service area of the College District; but only if the other College District is unable to provide the requested course to the satisfaction of the school district. <i>Education Code 130.008</i> |
| STUDENT ELIGIBILITY REQUIREMENTS | In admitting or enrolling high school students in a course offered for joint high school and College District 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. <i>Education Code 130.008</i> A high school student is eligible to enroll in dual credit courses in the eleventh and/or twelfth grade if the student: <ol style="list-style-type: none"><li data-bbox="552 1806 1435 1873">1. Demonstrates college readiness by achieving the minimum passing standards under the provisions of the Texas Success |

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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 Texas Assessment of Knowledge and Skills (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 grade 12; 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.

4. A student may enroll only in those workforce education dual credit courses for which the student has demonstrated eligibility.
5. 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 Administrative Code 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 Administrative Code 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)*

FACULTY
QUALIFICATIONS

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)

LOCATION AND
COURSE
COMPOSITION

Dual credit courses may be taught on the College District campus or on the high school campus. For dual credit courses taught exclusively to high school students on the high school campus and for dual credit courses taught electronically, public colleges shall comply with applicable rules and procedures. Dual credit courses

taught electronically shall comply with the Board's adopted Principles of Good Practice for Courses Offered Electronically.
19 TAC 4.85(c); 19 TAC 4.255-.264, .270-.279

Dual credit courses may be composed of dual credit students only or of dual and college credit students. Exceptions for a mixed class, which would also include high school credit-only students, may be allowed only under one of the following conditions:

1. If the course involved is required for completion under the State Board of Education Recommended or Advanced/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 placement students; or
3. If the course is a career and technology/college workforce education course and the high school credit-only students are earning articulated college credit.

19 TAC 4.85(d)

STUDENT
SERVICES

Students in dual credit courses must be eligible to utilize the same or comparable support services that are afforded College District students on the main campus. The College District is responsible for ensuring timely and efficient access to such services (e.g., academic advising and counseling), to learning materials (e.g., library resources), and to other benefits for which the student may be eligible. *19 TAC 4.85(g)(2)*

ELIGIBLE
COURSES

Courses offered for dual credit by the College District must be identified as college-level academic courses in the current edition of the Lower Division Academic Course Guide Manual adopted by the Coordinating Board or as college-level workforce education courses in the current edition of the Workforce Education Course Manual adopted by the Coordinating Board.

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)

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| 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. <i>19 TAC 4.85(g)(1)</i> For dual credit courses, high school as well as college credit should be transcribed immediately upon a student's completion of the performance required in the course. <i>19 TAC 4.85(h)</i> |
| TUITION AND STATE FUNDING | 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 College District 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 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. The College District may claim funding for all students getting college credit in dual credit courses. <i>Education Code 130.008; 19 TAC 4.85(i)(1)–(2)</i> |
| NO REQUIREMENT | The College District is not required, under the provisions of 19 Administrative Code 4.85, to offer dual credit courses for high school students. <i>19 TAC 4.85(b)(9)</i> |
| TECH-PREP PROGRAMS | A College District may partner with a school 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. <i>19 TAC 9.143(c)</i> |
| REMEDIAL PROGRAMS | As outlined in 19 Administrative Code 9.125 [see HIGH SCHOOL CREDIT-ONLY COURSES, above], 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. 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 |

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coursework is indicated by student performance on an assessment instrument approved by the Coordinating Board.

Remedial and developmental courses may not be offered for dual credit.

TUITION AND
FUNDING

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 College District for a student enrolled in courses offered by a 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.

Education Code 130.090; 19 TAC 9.143(d), .146

PLAN TO INCREASE
ENROLLMENT

REQUIRED
AGREEMENT

The public institution of higher education in this state in closest geographic proximity to an affected school district shall enter into an agreement with the school district, not later than August 1 of the year in which an affected school district receives notice from TEA that Education Code 29.904 applies, to develop a plan in accordance with Section 29.904 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.

NOTICE

Not later than May 1 of each year, the Coordinating Board shall notify each institution of public education in closest geographic proximity to an affected school district of the applicability of Education Code 29.904 to the school district unless the school district is operating under a plan required by this section.

AFFECTED SCHOOL
DISTRICTS

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

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and enrolling for the following academic year in an institution
of higher education.

Education Code 29.904

EARLY COLLEGE HIGH
SCHOOLS AND
MIDDLE COLLEGES

The College District is eligible to enter into agreements with Texas public schools to create Early College High Schools/Middle Colleges to be administered in accordance with 19 Administrative Code Chapter 4, Subchapter G. The College District shall notify the Texas Higher Education Coordinating Board in accordance with provisions and schedules determined by the Commissioner.

19 TAC 4.154