



Notice/Agenda of May BOT Meeting

**The Board of Trustees
College of the Mainland
Doyle Family Administration Boardroom (A129)
Monday, May 24, 2021
1200 Amburn Road
Texas City, TX 77591**

May BOT Meeting of the Board of Trustees of College of the Mainland will be held Monday, May 24, 2021, beginning at 1:30 PM in the Doyle Family Administration Boardroom (A129), 1200 Amburn Road, Texas City, Texas 77591.

The subjects to be discussed or considered or upon which any formal action may be taken are as listed below. The items listed in this notice may be considered in any order at the discretion of the Chair or Board and items listed for closed session discussion may be discussed and/or approved in open session and vice versa as permitted by law.

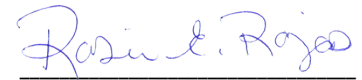
Unless removed from the consent agenda, items identified within the consent agenda will be acted on at one time.

1. **Call to Order**
2. **Pledge of Allegiance (American Flag), Texas Pledge & a Moment of Silence**
3. **Roll Call & Determination of Quorum**
4. **Minutes**
 - A. Consideration of and Possible Action to Approve the Minutes of Monday, April 26, 2021
5. **Acknowledgement of Donation(s)**
6. **Comments from the Community**
 - A. Students
 - B. Employees
 - C. Other Citizens
7. **Constituent Leader Activity Reports**
 - A. Faculty Senate
 - B. Students
8. **Human Resources Items**
 - A. Appointment Nominations
 1. Consideration of and Possible Action on the Appointment Nomination of Dr. Helen Brewer to the Position of Vice President for Student Services, Vice President for Student Services Division
 2. Consideration of and Possible Action on the Appointment Nomination of Dr. Tareq Ismail to the Position of Faculty Mechanical Engineering, Science Department
 - B. Consideration of and Possible Acceptance of the Non-Contractual Positions Hiring Report
9. **Policy Items**

- A. 87th Legislature Session - Higher Ed Bills
- B. TASB Update 41 - Legal Policy Packet
- 10. **Consideration of and Possible Acceptance of the 2020 Racial Profile Report**
- 11. **Consideration of and Possible Action to Approve the Order Authorizing the Issuance, Sale and Delivery of College of the Mainland Limited Tax General Obligation Refunding Bonds, Series 2021; Authorizing a Pricing Officer to Approve the Amount, the Interest Rates, Price, Redemption Provisions and Terms Thereof and Certain Other Procedures and Provisions Related Thereto; and Containing Other Matters Related Thereto**
- 12. **Consideration of and Possible Action on the Approval of the Procurement Method of Utilizing a Construction Manager-At-Risk for the Student Center Landscaping and Hardscape Construction**
- 13. **Consideration of and Possible Action to Approve the Procurement Method of Utilizing a Construction Manager-At-Risk for the Renovation and New Construction of the Fine Arts Building**
- 14. **Update Report on Bursar and Cash Management Internal Audit**
- 15. **Financial Report(s)**
 - A. Consideration of and Possible Acceptance of the April 2021 Investment Report and the April 2021 Financial Reports
- 16. **Board Report**
- 17. **President's Report**
 - A. Updates
 - 1. CARES Act 2.0 and 3.0
 - B. Reminders/Announcements
 - 1. COM Staff Appreciation Day
Tuesday, May 25th, 4:00 p.m. - 9:00 p.m.
The Texas Xperience (Former Mall of the Mainland)
 - 2. Return to Campus - June 1st
 - 3. 4th of July Celebration
Thursday, July 1st, Noon - 1:30 p.m.
STEAM Building Terrace
 - 4. Fall Graduation
Saturday, December 11th, 10:00 a.m.
Abundant Life
 - C. Resignations and Retirement Report
 - D. Miscellaneous
- 18. **Adjournment to closed or executive session pursuant to Texas Government Code of the Open Meetings Act Section 551.072 - deliberation regarding real property**
- 19. **Adjourn**

**If, during the course of the meeting, discussion of any item on the agenda should be held in a closed meeting, the Board reserves the right to conduct a closed meeting in accordance with the Texas Open Meetings Act, Texas Government Code, Chapter 551, Subchapters D and E, including but not limited to the following provisions; 1)Section 551.071-consultation with attorney, 2)Section 551.072-deliberation regarding real property, 3) Section 551.073-deliberation regarding prospective gifts, 4)Section 551.074-deliberation regarding personnel matters, and/or complaints against school personnel, 5)Section 551.082-deliberation regarding student disciplinary matters and/or complaints against personnel. 6)Section 551.087-deliberation regarding economic development negotiations, and/or 7)Section 551.089 – deliberation regarding security devices or security audits. Before any closed meeting is convened, the presiding officer will publicly identify the section or sections of the Act authorizing the closed meeting. All final votes, actions, or decisions will be taken in open meeting.*

The notice for this meeting was posted in compliance with the Texas Open Meeting Act on, Wednesday, May 19, 2021, 3:00 P.M..



Rosie E. Rojas
Board Clerk

Administration

President Warren Nichols Ed.D.
Vice President Jerry Fliger, Ph.D.
Vice President Clen Burton, Ph.D.
Vice President Helen Brewer, Ph.D.



PRESIDENT'S OFFICE

Call to Order

Call to Order on **(insert date)**
at **(insert time)**



PRESIDENT'S OFFICE

Pledge of Allegiance to the American Flag
Texas Pledge
Moment of Silence

The Texas State Flag Pledge
"Honor the Texas flag; I pledge
allegiance to thee, Texas, one state under
God, one and indivisible."



College of the Mainland
Board of Trustees
May 2019

Mr. Kyle L. Dickson, Board Chair
2514 Pilgrim Estate Dr.
Texas City, TX 77590
281-488-0630
kdickson@murray-lobb.com

Mr. Alan L. Waters, Board
Vice-Chair
#1 South Pintail Street
La Marque, TX 77568
409-655-5055
awaters1@com.edu

Mrs. Dawn King, Trustee
P.O. Box 1105
Dickinson, TX 77539
832-860-0663
dking4@com.edu

Dr. Verna J. Henson
7306 Heron Ln.
Texas City, TX 77591
409-995-0948
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Dr. Bill McGarvey, Trustee
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409-770-3537
wmcgarvey@gmail.com

Mr. Don Gartman, Trustee
2538 Quaker Dr.
Texas City, 77590
409-739-2618
dgartman@com.edu

Mrs. Melissa Skipworth, Trustee
1061 Misty Cliff
Dickinson, TX 77539
281-684-9146
mskipworth@com.edu



MINUTE ORDER

To: Board of Trustees
From: Dr. Warren Nichols, President
Date: May 24, 2021
Subject: Full Board Minutes

Presented for recommended acceptance to Board of Trustees on the same date.

MINUTE ORDER

Motion to be acted upon: "I move the Board of Trustees approve the Full Board Minutes of April 26, 2021."

PURPOSE

To ensure accuracy of the monthly minutes.

BACKGROUND

Minutes are brought forward every month for approval.

IMPLICATIONS

Financial: N/A

Strategic Goal #1: Strategic Goal #5: College of the Mainland will provide services/processes that enhance the integrity/safety/quality of the institution (including physical facilities) and that enhance the quality of the faculty and staff.

Human Resources: N/A

Attachments

1. Minutes of 4/26/21

**College of the Mainland
Board of Trustees
Minutes of Monday, April 26, 2021
1:30 p.m., COM Conference Center**

Call to Order – Kyle Dickson called the meeting to order at 1:30 p.m.

Pledge of Allegiance (American Flag), Texas Pledge & a Moment of Silence

Roll Call & Determination of Quorum

Roll call indicated that all Trustees were present except Alan Waters.

Minutes

Consideration of and Possible Action to Approve the Full Board Minutes of Wednesday, March 31, 2021

Melissa Skipworth moved for approval of the Full Board Minutes of Wednesday, March 31, 2021. Don Gartman seconded the motion; all voted in approval.

Comments from the Community

Henry Gomez spoke to the Board regarding the need for bilingual employees or volunteers.

Constituent Leader Activity Reports

Faculty Senate – R.E. Davis updated the Board on faculty activities.

Students – Leslie Leyva, SGA VP – Leslie Leyva updated the Board on student activities.

Consideration of and Possible Action on the Appointment Nomination of Kayla Molnar to the Position of College Connections Advisor, Recruitment Department

Don Gartman moved the Board of Trustees approve the appointment nomination of Kayla Molnar to the position of College Connections Advisor, Recruitment Department. Verna Henson seconded the motion; all voted in approval.

Consideration of and Possible Action on the Appointment Nomination of Theophilus Boye to the Position of Faculty Math, Mathematics Department

Melissa Skipworth moved the Board of Trustees approve the appointment nomination of Theophilus Boye to the position of Faculty Math, Mathematics Department. Bill McGarvey seconded the motion; all voted in approval.

Consideration of and Possible Acceptance of the 2021-2022 Faculty Re-Appointment List

Don Gartman moved the Board of Trustees accept the 2021-2022 Faculty Re-Appointment List. Verna Henson seconded the motion; all voted in approval.

Consideration of and Possible Acceptance of the 2021-2022 Professional Re-Appointment List

Don Gartman moved the Board of Trustees accept the 2021-2022 Professional Re-Appointment List. Melissa Skipworth seconded the motion; all voted in approval.

Consideration of and Possible Approval to Request a Change Order Proposal for the Renovations of the Math/Science Building as Identified in the Master Plan to Contract 20-29 Awarded to Austin Commercial

Don Gartman moved the Board of Trustees approve requesting a Change Order Proposal for the renovations of the Math/Science Building as identified in the Master Plan to Contract 20-29 awarded to Austin Commercial. Bill McGarvey seconded the motion; all voted in approval.

Fine Arts Building Addition/Renovation Design Update

Alan Stilts from PBK updated the Board on the Fine Arts Building addition and renovation.

Consideration of and Possible Acceptance of the Annual Internal Audit Report

Melissa Skipworth moved the Board of Trustees accept the Annual Internal Audit Report. Bill McGarvey seconded the motion; all voted in approval.

Consideration of and Possible Acceptance of the Internal Audit Report on Human Resources Administration

Verna Henson moved the Board of Trustees accept the Internal Audit Report on Human Resources Administration. Melissa Skipworth seconded the motion; all voted in approval.

Expanded Co-Requisites and the Second Chance Boot Camp

Dr. Rocky Barney updated the Board on expanded co-requisites and the Second Chance Boot Camp for students.

Financial Report(s)

Consideration of and Possible Acceptance of the March 2021 Investment and Financial Reports

Bill McGarvey moved the Board of Trustees accept the March 2021 Investment and Financial Reports. Melissa Skipworth seconded the motion; all voted in approval.

Board Report

Dawn King thanked Bill McGarvey for presenting on the refinancing the maintenance tax note at the Dickinson Chamber meeting.

Melissa Skipworth expressed her sadness in hearing that Sparky Koerner is retiring and stated that he will be missed.

**President's Report
Updates**

Reminders/Announcements

Early Voting – April 19-23, April 26-27 – Conference Center

Voting Day – May 1st – Conference Center

STEAM Building Ribbon Cutting/Industrial Careers Building Groundbreaking – April 30th at 2 p.m., STEAM Building

Spring 2021 Virtual Graduation Ceremony – May 15th at 10 a.m.

Return to Campus – June 1st

Resignations and Retirements Report– report attached in BOT packet.

Dr. Nichols announced that Dr. Stanfield will be retiring at the end of August. A nation-wide search was conducted, and the two finalists spoke at an open forum that last week. Dr. Nichols plans to bring forward the finalist to the May BOT meeting for approval.

Miscellaneous

Diane Burkett updated the Board on the marketing efforts taking place to promote the refinancing of the maintenance tax note.

Executive Session 2:55 p.m.

Melissa Skipworth read the paragraph allowing the Board to move into executive session, per Texas Open Act Meetings Act Section 51.071.

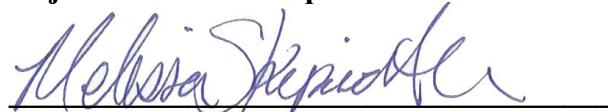
Reconvene 4:04 p.m.

Ron LeVick updated the Board on the 2019 ITS Security Audit and Weaver presented the Internal Audit Report for Disaster Recovery/Business Continuity Planning.

Consideration of and Possible Acceptance of the Internal Audit Report on Disaster Recovery and Business Continuity Planning

Don Gartman moved the Board of Trustees accept the Internal Audit Report on Disaster Recovery and Business Continuity Planning. Dawn King seconded the motion; all voted in approval.

Adjournment at 4:04 p.m.



Melissa Skipworth, Secretary
Board of Trustees



Kyle Dickson, Chair
Board of Trustees



PRESIDENT'S OFFICE

To: Board of Trustees
From: Dr. Warren Nichols, President
Date: May 18, 2021
Subject: Acknowledgment of Donations

A. Charles and Mary Ellen Doyle

Comments from the Community

A citizen desiring to appear before the Board of Trustees shall complete a Public Comment Request Form indicating the topic about which they wish to speak which shall be filed with the Board Clerk ten (10) minutes prior to the start of the meeting. Time allotted each citizen or organization shall be limited to five minutes. The total time for hearing of citizens shall be no more than 60 minutes at any one meeting. Presentation of matters concerning a complaint or charge against a College District employee or officer will be heard in closed session unless the individual who is the subject of the change or complaint requests a public hearing.

We appreciate your concerns. If the matter(s) you raise are not included on the board agenda, state law, specifically the Texas Open Meetings Act, prohibits the Board from discussing, commenting on or taking action on these issues at this board meeting. Thank you.



PRESIDENT'S OFFICE

Constituents Leader Activity Reports

- A. Faculty Senate – Dr. R.E. Davis
- B. SGA Representative



PRESIDENT'S OFFICE

MINUTE ORDER

To: Board of Trustees
From: Dr. Warren Nichols, President
Date: May 24, 2021
Subject: Recommendation – Vice President for Student Services (Replacement)

Presented for recommended approval to the Board of Trustees on May 24, 2021 and forwarded for recommended approval to Board of Trustees on the same date.

MINUTE ORDER

Motion to be acted upon: “I move the Board of Trustees approve the appointment of Dr. Helen Brewer to the position of Vice President for Student Services, Vice President for Student Services Division.”

PURPOSE

Provide leadership and overall direction to the following functions in the institution: Enrollment and Student Services, which include, but are not limited to, Admissions and Records, Advising, Financial Aid, Student Success Services, International and Veterans and other student success initiatives. This position is responsible for the oversight of development of student success goals and objectives ensuring effective collaboration and coordination among all departments to meet new and on-going initiatives in achieving the mission of the College.

BACKGROUND

This position is replacing Dr. Vicki Stanfield who retires August 31, 2021.

IMPLICATIONS

Financial: \$142,022 from budget 11-0-0000-5150-5120.

Strategic Goal 5: College of the Mainland will provide services/processes that enhance the integrity/safety/quality of the institution (including physical facilities) and that enhance the quality of the faculty and staff.

ATTACHMENTS

1. Appointment Nomination



PRESIDENT'S OFFICE

MINUTE ORDER

To: Board of Trustees
From: Dr. Warren Nichols, President
Date: May 24, 2021
Subject: Recommendation – Faculty Mechanical Engineering (New)

Presented for recommended approval to the Board of Trustees on May 24, 2021 and forwarded for recommended approval to Board of Trustees on the same date.

MINUTE ORDER

Motion to be acted upon: “I move the Board of Trustees approve the appointment of Dr. Tareq Ismail to the position of Faculty Mechanical Engineering, Science Department.”

PURPOSE

Responsible for developing curricula and coursework for our Engineering Associate Degree programs and providing instruction within the Engineering and allied programs as qualified. In addition to providing quality instruction, the faculty member will be responsible for providing scheduled office hours for student consultation, serve on College committees as needed and assigned, and participating in student orientated instructional and advisement activities as needed and assigned.

BACKGROUND

This is a new position

IMPLICATIONS

Financial: \$66,712 from budget 11-0-0000-1120-5100.

Strategic Goal 5: College of the Mainland will provide services/processes that enhance the integrity/safety/quality of the institution (including physical facilities) and that enhance the quality of the faculty and staff.

ATTACHMENTS

1. Appointment Nomination



MINUTE ORDER

To: Board of Trustees
From: Dr. Warren Nichols, President
Date: May 24, 2021
Subject: Recommendation – Acceptance of Non-Contractual Positions Hiring Report

Presented for recommended acceptance to Board of Trustees on May 24, 2021.

MINUTE ORDER

Motion to be acted upon: “I move the Board of Trustees accept the *Non-Contractual Positions Hiring Report* as written.”

PURPOSE

The *Non-Contractual Positions Hiring Report* is being presented to the Board of Trustees for review and acceptance.

BACKGROUND

Notwithstanding Board policy DC (Local) which states that the Board delegates to the College President final authority to employ and dismiss non-contractual classified employees on an at-will basis, based on recommendations from the staff the persons listed on the attached Non-Contractual Positions Hiring Report is recommended for employment.

IMPLICATIONS

Financial:

Accounting Specialist IV-A/R Lead - \$47,923 from budget 11-0-0000-5112-5160
Office & Disability Support Specialist - \$35,821 from budget 11-0-0000-4119-5160
Police Officer - \$42,172 from budget 11-0-0000-5151-5160
Adult Education Program Coordinator I - \$51,052 from budget 32-0-4850-1401-5140

Strategic Goal #5: College of the Mainland will provide services/processes that enhance the integrity/safety/quality of the institution (including physical facilities) and that enhance the quality of the faculty and staff.

Attachments

Non-contractual Positions Hiring Report

	POSITION	DEPARTMENT	CLASS SUMMARY	POSITION STATUS	SELECTED CANDIDATE	SALARY	SALARY RANGE
1	Accounting Spec. IV - A/R Lead	Financial Services	Provides a variety of routine accounting office support to various College offices. May perform general office support duties including data entry into administrative software, word processing and filing.	Replacement of Chris Hubbard, who resigned.	Monica Wylie	\$47,923	\$38,338 - \$47,923 - \$57,508
2	Office & Disability Support Specialist	Student Success Center	Incumbent is responsible for providing technical and office support for the Student Success Center.	Replacement for Cindy Kater, who retired.	Alicia Hernandez	\$35,821	\$34,853 - \$43,566 - \$52,280
3	Police Officer	Campus Police	Provides safety and security for staff, students and visitors. Performs law enforcement duties in controlling and analyzing crime scenes, establishing order at traffic accidents and identifying and enforcing parking violations.	Replacement of Richard Gillam, who resigned.	Jonovan Jeffery	\$42,172	\$42,172 - \$57,715 - \$63,258
4	Program Coordinator I (Grant Funded)	Adult Education	Education program requirements; Create, provide, and offer pathways for Adult Education students into college based vocational/degree plans. Interpret, monitor and report students' progress in meeting their	Replacement of Elida Matthews, who retired.	Rachel Ruiz	\$51,052	\$42,172 - \$57,715 - \$63,258
5							
6							



PRESIDENT'S OFFICE

MEMORANDUM

To: Board of Trustees
From: Dr. Warren Nichols, President
Date: May 24, 2021
Subject: 87th Legislature - Higher Education Bills

Included for review and informational purposes is a synopsis of bills introduced in the 87th Legislature affecting Higher Education.

ATTACHMENT

Texas Legislature - 87th Legislature Regular Session - Higher Education Bills.



TEXAS LEGISLATURE
87TH LEGISLATURE REGULAR SESSION
HIGHER EDUCATION 5/18/2021

BILL STAGES:

Stage 1	Filed in Senate or House
Stage 2	Out of Committee (Senate or House)
Stage 3	Voted on by Senate or House
Stage 4	Out of Committee (Senate or House)
Stage 5	Voted on by Senate or House
Stage 6	Governor Action
Stage 7	Becomes Law

SENATE BILLS OUT OF COMMITTEE

SB 165 (Stage 4) Allows a student at an institution of higher education to drop more than six courses without being penalized if a disaster declaration by the governor results in a bar or limit on in-person course attendance. This bill is retroactive and prohibits a college from counting courses toward the number of courses permitted to be dropped if the courses were dropped by a student during the 2020 spring semester or summer term or the 2020-2021 academic year because of a bar or limit on in-person course attendance due to the COVID-19 pandemic.

Author: Creighton/Powell

SB 959/HB 1312 (Stage 4) Requires the THECB to consider achievement in qualified continuing workforce education programs offered by those colleges but for which credit toward a certificate, associate's degree, or bachelor's degree is not awarded in making its recommendations for success-based junior college funding (i.e., performance-based funding, which amounts to roughly 10 percent of state appropriations to junior colleges). S.B. 959 amends current law relating to student success-based funding recommendations for certain continuing workforce education courses offered by public junior colleges. **Author: Zaffirini/Romero**

SB 994/HB 4491/HB 4487 (Stage 2) Texas Recovery Act. Incentivizes public institutions of higher education to steer students toward completion in critical fields and to partner with businesses to provide relevant job training. The Texas Recovery Act would:

1. Provide stopped-out adult learners who have completed 75 percent of their coursework a "signing bonus" through their institution to apply toward their tuition and fees and encourage them to return and complete;
2. Incentivize public institution recruitment and counseling outside of the current formula for adult learner completion, with an additional incentive for completion in critical fields;
3. Work with business partners to provide on-the-job training as part of students' completion process that meets regional workforce needs; and

4. Provide a wrap-around stipend for learners as they are completing their externship. **Authors: Powell/Blanco/Eckhardt/Hinojosa/Johnson/Zwiener/Rosenthal**

SB 1092/HB 1027 (Stage 4) Proposes to ensure students and their parents are made aware of the charges they will be expected to pay, and how they can opt in or out of such charges. It also requires disclosure of how student data will be collected and used, and how students can opt out of such use. If students are being billed for materials by credit hour, the bill requires these charges to be included up front as part of tuition, rather than being tacked on afterwards, unless the charge is only assessed if the student opts in.

The bill also requires that if an institution chooses to label courses as having "low-cost" materials, they must indicate how they are defining "low-cost." The bill would ensure that all automatic billing agreements are open records, so students and policymakers can see if students are really benefitting from these arrangements. **Author: Creighton/Parker**

SB 1102/HB 3003 (Stage 4) The Texas Reskilling and Upskilling through Education (TRUE) program aims to prepare students for in-demand careers accelerating their transition to work while also building an enduring education infrastructure to support a thriving Texas economy throughout the diverse regions of the state. **Author: Creighton/Parker**

S.B. 1230/HB 3351 (Stage 5) Amends the Education Code to establish a 12-member Texas Commission on Community College Finance to make recommendations for consideration by the 88th Legislature regarding the state funding formula and funding levels for public junior colleges that would be sufficient to sustain viable junior college education and training offerings throughout the state and improve student outcomes in alignment with state postsecondary goals. **Author: Taylor**

S.B. 1521 (Stage 4) This bill would establish a mental health task force at the THECB to study mental health resources provided at institutions of higher education in Texas. The task force would research the capacity of institutions of higher education to identify and address the mental health needs of students, identify structural barriers that directly impact student mental health and wellbeing, and explore innovative and effective approaches to meeting student mental health needs. **Author: Zaffirini**

S.B. 1531 (Stage 4) Amends current law relating to formula funding for excess undergraduate credit hours at public institutions of higher education and to the tuition rate that may be charged for those credit hours. The bill would apply a cap of 75 formula funded hours for community college students pursuing an academic tracked associate degree. Such a cap would include the current exception in statute for hours earned through examination; hours from college preparatory, technical courses, workforce education courses, or other courses that would not generate credit that qualifies to be applied to an academic degree at the institution; and hours earned at a private or out-of-state institution, as to not harm any student upskilling or reskilling. **Author: West**

SB 1622 (Stage 2) The Act would make permanent the temporary collaborative work of the Texas Education Agency (TEA), the Texas Workforce Commission (TWC), and the Texas Higher Education Coordinating Board (THECB) over the past two interims. In order to ensure effectiveness, the Act ensures strong guidelines on this work to maximize taxpayer value. Under this initiative THECB, TWC, and TEA are required to:

1. Identify statewide workforce goals, including goals for the attainment of living wage jobs. This will hold the state accountable and keep all agencies pulling in the same direction.
2. Designate career pathways for occupations aligned with current workforce needs and for forecasted high-growth careers and skills.

- Evaluate career education and training programs across Texas based on the workforce outcomes of program participants to ensure transparency and accountability in how the state spends its workforce dollars. **Author: Bettencourt**

S.B. 1888 (Stage 3) This proposal establishes the Texas First Early High School Completion Program to allow Texas resident students who demonstrate early readiness for college to graduate from a Texas public high school early and to receive a scholarship at an eligible Texas institution during the first full academic year following the student's early high school graduation. The purpose of the program is to promote efficiency in the Texas public education system and incentivize the enrollment of high-performing Texas students in Texas institutions of higher education. **Author: Creighton**

S.B. 1889/HB 3709 (Stage 3) Seeks to reinforce the original intent of the American history requirement by specifying that only survey courses in American or Texas history can satisfy the six semester credit hour requirement. **Author: Creighton/Capriglione**

S.B. 1963 (Stage 3) Would require HEIs to place on their website a transferability report card that would indicate the number of credit hours transferred to their campus yearly and the percentage of those hours that were successfully accepted for transfer towards a degree. This would be their transferability percentage rate. **Author: West**

HOUSE – BILLS OUT OF COMMITTEE

HB 214 (Stage 2) Relating to measures to assist students enrolled at public institutions of higher education who are homeless or who are or were in foster care.

Author: Thierry/Senfronia/Bonnen/Coleman/Meyer

HB 1482 (Stage 3) Relating to measures to assist students enrolled at public institutions of higher education who are homeless or who are or were in foster care. It extends liaison officer services and provides for housing assistance. **Author: Johnson, Jarvis**

HB 1624 (Stage 2) Relating to a study on best practices in STEM programs at minority-serving public institutions of higher education and to a grant program to implement those practices. H.B. 1624 amends the Education Code to require the Texas Higher Education Coordinating Board (THECB), not later than January 1, 2022, to conduct a study on best practices in science, technology, engineering, or mathematics (STEM) programs offered by institutions of higher education designated as minority-serving institutions by the U.S. Department of Education.

Author: Raymond

HB 3462 (Stage 3) Relating to the designation of liaison officers to assist certain students at public institutions of higher education who are parents. **Author: Morales Shaw**

HB 3812 (Stage 2) Relating to the release of student directory information by a public institution of higher education. H.B. 3812 seeks to prohibit a public institution of higher education from selling or releasing student contact information without the written consent of the student or the student's parent. **Author: Hunter**

HB 4403/SB 1277 (Stage 5) Relating to an agreement between a school district and public institution of higher education to provide a dual credit program to high school students enrolled in the district. H.B. 4403 amends the Education Code to require any agreement between a public school district and public institution of higher education providing for a dual credit program to designate at least one employee of the district or institution as

responsible for providing academic advising to a student who enrolls in a dual credit course under the program before the student begins the course. **Author: Turner/West**

BILLS IN COMMITTEE

SB 1300 (Stage 1) Amends the Education Code which currently limits eligible community colleges to having only three baccalaureate degree programs at any time, except that those that had previously participated in a pilot program. The institutions that had participated in a pilot program could offer up to five baccalaureate degree programs. This legislation proposes to repeal this limitation allowing junior colleges to offer up to five baccalaureate degrees even though they had not participated in the pilot program. **Author: Creighton**

SB-1 Appropriations

TACC – Legislative Policy Priorities – Funding

1. Adopt the Success Point metrics and weights recommended by the Community and Technical Colleges Formula Advisory Committee.
2. Fund Success Points at the 2020-2021 reimbursement rate of \$202.53 per point. Increases appropriations for community colleges by approximately \$26.7 million.
3. Provide “Hold Harmless” funding to ensure that no college’s state appropriation declines relative to the 2020-21 biennium. TACC is requesting \$19.6 million in hold harmless funding (this is a new funding request) because of declines in enrollment/attendance due to COVID-19.
4. TACC is not recommending changes in appropriations for Core Operations and Contact Hour funding.

*TACC’s recommendations would result in an overall increase in community college appropriations for the 2022-23 biennium of 2.5% over the 2020-21 biennium. Debate is ongoing.

To learn more and follow these and other proposed bills go to <https://capitol.texas.gov/>



PRESIDENT'S OFFICE

MEMORANDUM

To: Board of Trustees
From: Dr. Warren Nichols, President
Date: May 24, 2021
Subject: TASB Legal Policy Update 41

Included for review and information are TASB issued updates to legal policies.

ATTACHMENT

- 1) TASB Update 41 – Legal Policy Packet

Explanatory Notes

Community College Policy Reference Manual Update 41

Community College Policy Reference Manual

ATTN(NOTE)

GENERAL INFORMATION ABOUT THIS UPDATE

Unless otherwise noted, references to legislative bills throughout these explanatory notes refer to Senate Bills (SB) or House Bills (HB) from the 86th Regular Legislative Session. All referenced bills have already gone into effect unless otherwise noted.

A25(INDEX)

CROSS-INDEX

All references to suspension have been replaced with the newly created policy on the topic, DLB.

AFA(LEGAL)

INSTITUTIONAL EFFECTIVENESS: PERFORMANCE AND INSTITUTION REPORTS

This legally referenced policy has been amended at Cost of Attendance to include a link to the [Free Application for Federal Student Aid \(FAFSA\)](#) website for ease of reference. An existing federal requirement that college districts with four-year degree programs provide certain information to enrolled and prospective students has also been added at Dissemination of Institutional Information.

BBB(LEGAL)

BOARD MEMBERS: ELECTIONS

Provisions addressing the deadline to provide Notice to Candidates regarding the filing period have been updated in this legally referenced policy to conform with statute. Additionally, an expired statute referencing the composition of the Blinn College board of trustees was removed from the policy.

BBD(LEGAL)

BOARD MEMBERS: ORIENTATION AND TRAINING

A note providing a link to the Texas Department of Information Resources' (DIR) list of certified programs and compliance reporting requirements for Cybersecurity Training has been added to this legally referenced policy.

CAAB(LEGAL)

STATE AND FEDERAL REVENUE SOURCES: FEDERAL

This legally referenced policy has been amended to include new U.S. Department of Defense regulations implementing the Office of Management and Budget's (OMB) guidelines related to grants and awards.

CAK(LEGAL)

APPROPRIATIONS AND REVENUE SOURCES: INVESTMENTS

Margin notes in this legally referenced policy have been updated to clarify existing Investment Training requirements for the college district's board of trustees and investment officer and reporting requirements for the investment officer. Additional amendments are to conform with statute.

CDC(LEGAL)

ACCOUNTING: AUDITS

This legally referenced policy has been updated with a link to the 2020 fiscal year Texas Higher Education Coordinating Board publication [Budget Requirements and Annual Financial Reporting Requirements for Texas Public Community Colleges](#).

CFG(LEGAL)

PURCHASING AND ACQUISITION: REAL PROPERTY AND IMPROVEMENTS

The provision at Initial Report has been removed from this legally referenced policy due to the expiration of the statute.

Explanatory Notes

Community College Policy Reference Manual Update 41

Community College Policy Reference Manual

CH(LLEGAL) SITE MANAGEMENT

A citation in this legally referenced policy has been updated to reflect recent Administrative Code changes related to Pools.

CR(LLEGAL) TECHNOLOGY RESOURCES

This legally referenced policy has been revised to reflect the repeal of DIR rules on Interagency Contracts for Information Resources Technologies.

In addition, this legally referenced policy has been updated to reflect recent amendments to Federal Aviation Administration (FAA) regulations, including:

- Updated exceptions to the registration, airman certification, and operation requirements for a civil Small Unmanned Aircraft System (additional information is available on [Flying Over Humans and at Night](#)), effective April 21, 2021; and
- The repeal of provisions on Model Aircraft.

CRA(LLEGAL) TECHNOLOGY RESOURCES: WEBSITE POSTINGS

This legally referenced policy has been revised to reflect the repeal of a duplicative Administrative Code provision addressing the posting of work-study employment opportunities.

D(LLEGAL) PERSONNEL

This table of contents has been revised to change the subtitle at DLB to Suspension.

DAA(LLEGAL) EMPLOYMENT OBJECTIVES: EQUAL EMPLOYMENT OPPORTUNITY

This legally referenced policy has been revised to include an existing federal statute prohibiting employment discrimination based on Bankruptcy.

DC(LLEGAL) EMPLOYMENT PRACTICES

This legally referenced policy has been revised with an existing federal statute regarding the Drug and Alcohol Clearinghouse Pre-Employment Inquiry. Additional amendments are to conform with statute.

DECB(LLEGAL) LEAVES AND ABSENCES: MILITARY LEAVE

This legally referenced policy has been revised to reflect amendments to a federal statute addressing Reemployment following service in the National Oceanic and Atmospheric Administration (NOAA) commissioned officer corps. Additional amendments are to conform with statute.

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

This legally referenced policy has been revised to include existing federal requirements addressing queries of the Drug and Alcohol Clearinghouse and the prohibition on certain driver's performance of safety-sensitive functions based on those results. The requirement to report employee drug and alcohol use, test results, and other relevant information to the clearinghouse has also been added at Reports–Federal.

DK(LLEGAL) PROFESSIONAL DEVELOPMENT

A note providing a link to DIR's list of certified programs and compliance reporting requirements for Cybersecurity Training has been added to this legally referenced policy.

Explanatory Notes

Community College Policy Reference Manual Update 41

Community College Policy Reference Manual

EBA(LLEGAL) ALTERNATE METHODS OF INSTRUCTION: DISTANCE EDUCATION

This legally referenced policy has been revised to reflect amended federal Definitions of Distance Education and Correspondence Courses. Existing Administrative Code provisions addressing the State Authorization Reciprocity Agreement (SARA) have also been added to the policy.

EFAC(LLEGAL) INSTRUCTIONAL PROGRAMS AND COURSES: DEVELOPMENTAL EDUCATION

This legally referenced policy has been revised to reflect an amendment to the Administrative Code requiring all students enrolled in developmental education who are not otherwise exempt to be enrolled in the Corequisite Model beginning with the 2021–22 academic year.

EI(LLEGAL) TESTING PROGRAMS

Amendments to the Administrative Code addressing the transition from the Texas Success Initiative Assessment (TSIA) to the TSIA, Version 2 (TSIA2) have been added to this legally referenced policy at Assessment Instruments.

FEB(LLEGAL) FINANCING EDUCATION: WORK STUDY

In response to the repeal of a duplicative Administrative Code provision, this legally referenced policy has been revised to reflect an existing Administrative Code provision addressing the List of Work-Study Employment Opportunities. A new Administrative Code provision addressing the Transfer of funds between the Texas College Work-Study Program and the Work-Study Student Mentorship Program and an existing provision addressing fund transfers between the Texas Educational Opportunity Grant and Texas College Work-Study Programs have also been added.

GG(LLEGAL) RELATIONS WITH GOVERNMENTAL AGENCIES AND AUTHORITIES

A note providing a link to DIR's list of certified programs and compliance reporting requirements for Cybersecurity Training for Contractors has been added to this legally referenced policy.

GGC(LLEGAL) RELATIONS WITH GOVERNMENTAL AGENCIES AND AUTHORITIES: STATE GOVERNMENTAL AUTHORITIES

This legally referenced policy has been updated to reflect new and amended reporting requirements from the General Appropriations Act at Notice to the State Regarding Contracts.

GL(LLEGAL) RELATIONS WITH BUSINESSES AND THE COMMUNITY

This legally referenced policy has been updated to include statutory language and a citation to new Administrative Code provisions addressing the Skills Development Fund.

Annual Performance Report

As soon as practicable after the end of each academic year, a junior college district shall prepare an annual performance report for that academic year. The report shall be prepared in a form that would enable any interested person, including a prospective student, to understand the information in the report and to compare the information to similar information for other junior college districts. A junior college district shall make the report available to any person on request.

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

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

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

Education Code 130.0035

Customer Service

Customer Input

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

A state agency shall create an inventory of external customers for each budget strategy listed in the General Appropriations Act for that agency.

Each agency shall gather information from customers using surveys, focus groups, mobile and web applications, or other appropriate methods approved by the governor's OBP and the LBB regarding the quality of service delivered by that agency. The information requested shall be as specified by the governor's OBP and the LBB and may include evaluations of the agency's:

1. Facilities, including the customer's ability to access that agency, the office location, signs, and cleanliness;
2. Staff, including employee courtesy, friendliness, and knowledgeability, and whether staff members adequately identify themselves to customers by name, including the use of name plates or tags for accountability;
3. Communications, including toll-free telephone access, the average time a customer spends on hold, call transfers, access to a live person, letters, electronic mail, and any applicable text messaging or mobile applications;
4. Internet site, including the ease of use of the site, mobile access to the site, information on the location of the site and the agency, and information accessible through the site such as a listing of services and programs and whom to contact for further information or to complain;
5. Complaint-handling process, including whether it is easy to file a complaint and whether responses are timely;
6. Ability to timely serve its customers, including the amount of time a customer waits for service in person, by phone, by letter, or at a website; and
7. Brochures or other printed information, including the accuracy of that information.

Each agency maintains ownership of the information gathered under this section.

Gov't Code 2114.002

Customer Relations
Representative

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

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

2. Gather information and evaluations from the public about an agency's customer service;
3. Respond to customer concerns; and
4. Establish the agency's Compact With Texans.

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

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

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

Gov't Code 2114.006

**Affordability and
Access**

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

The report must include:

1. Statistical information on the percentage of gross family income required for a student who is a resident of this state to pay tuition and required fees charged by the institution;
2. The criteria used by the institution to admit students;
3. An analysis of the criteria used to admit students and to award financial assistance to students, considering the mission of the institution and the purposes of higher education in this state;
4. An analysis of the manner in which the above factors relate to:
 - a. The regions of this state in which students reside;
 - b. The race or ethnicity of students;
 - c. The gender of students; and

- d. The level of education achieved by the parents of students; and
5. Comparisons of the institution with peer institutions in this state and in other states with respect to affordability and access.

For purposes of the report, a student who applies for admission to or enrolls in an institution and applies for financial aid from the institution may be required to provide documentation necessary for the institution to complete the report.

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

Education Code 51.4031

College District
Resume[Resumes](#)

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

1. Submit to the Coordinating Board any information requested by the Coordinating Board as necessary for the Coordinating Board to include information or calculate data required to be included in the institution's ~~resume~~[resumes](#), described in Education Code Chapter 51A, Subchapter C; and
2. Ensure that the first frame of the institution's internet website home page includes, in a font that is larger than the font of the majority of the text on the home page, an accessible link to the institution's online ~~resume~~[resumes](#) maintained on the Coordinating Board's internet website.

~~*Education Code 51A.003*~~

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

~~[Education Code 51A.003-.004](#)~~

Student Enrollment
Status Report

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

1. Students seeking a degree;
2. Students seeking a certificate;

3. Students enrolled in workforce continuing education courses;
4. Students enrolled in college credit courses who are not seeking a degree or certificate;
5. Students enrolled in courses for credit to transfer to another institution;
6. Students enrolled in developmental education courses by course level; and
7. Enrollment in other categories as specified by the Coordinating Board.

Education Code 130.0036(a)

Cost of Attendance

Each institution of higher education, including each college district, that offers an undergraduate degree or certificate program shall prominently display on the institution's internet website the cost of attendance for a first-time entering full-time student in accordance with the uniform standards prescribed by the commissioner. These standards may be updated on an annual basis. In addition, each institution must provide a link to the [Free Application for Federal Student Aid \(FAFSA\)](#)¹~~Free Application for Federal Student Aid (FAFSA)~~ website.

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

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

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

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

Dissemination of Institutional Information

An institution, including a college district, must make available to any enrolled student or prospective student through appropriate publications, mailings or electronic media, information concerning:

1. Financial assistance available to students enrolled in the institution. [See FEA]
2. The institution pursuant to this section.

3. The institution's retention rate as reported to the Integrated Postsecondary Education Data System. In the case of a request from a prospective student, the information must be made available prior to the student's enrolling or entering into any financial obligation with the institution. [See EGC]
4. The institution's completion or graduation rate and, if applicable, its transfer-out rate. In the case of a request from a prospective student, the information must be made available prior to the student's enrolling or entering into any financial obligation with the institution. [See EGC]
5. The placement of, and types of employment obtained by, graduates of the institution's degree or certificate programs.
6. The types of graduate and professional education in which graduates of the institution's four-year degree programs enroll.

20 U.S.C. 1092(a); 34 C.F.R. 668.41(d)

Required
Information

Institutional information that the institution must make readily available to enrolled and prospective students under 34 C.F.R. Part 668, Subpart D includes, but is not limited to:

1. The cost of attending the institution, including tuition and fees charged to full-time and part-time students, estimates of costs for necessary books and supplies, estimates of typical charges for room and board, estimates of transportation costs for students, and any additional cost of the program in which the student is enrolled or expresses a specific interest [see FD];
2. Any refund policy with which the institution is required to comply for the return of unearned tuition and fees or other refundable portions of costs paid to the institution [see FD];
3. The requirements and procedures for officially withdrawing from the institution;
4. A summary of the requirements under 34 C.F.R. 668.22 for the return of Title IV grant or loan assistance [see FEA];
5. The academic program of the institution, including:
 - a. The current degree programs and other educational and training programs [see EFBA and EFBB];
 - b. The instructional, laboratory, and other physical facilities which relate to the academic program;
 - c. The institution's faculty and other instructional personnel;

- d. Any plans by the institution for improving the academic program of the institution, upon a determination by the institution that such a plan exists;
- e. If an educational program is designed to meet educational requirements for a specific professional license or certification that is required for employment in an occupation, or is advertised as meeting such requirements, information regarding whether completion of that program would be sufficient to meet licensure requirements in a state for that occupation, including:
 - (1) A list of all states for which the institution has determined that its curriculum meets the state educational requirements for licensure or certification;
 - (2) A list of all states for which the institution has determined that its curriculum does not meet the state educational requirements for licensure or certification; and
 - (3) A list of all states for which the institution has not made a determination that its curriculum meets the state educational requirements for licensure or certification;
6. The names of associations, agencies, or governmental bodies that accredit, approve, or license the institution and its programs, and the procedures by which documents describing that activity may be reviewed under 34 C.F.R. 668.3443(b);
7. A description of the services and facilities available to students with disabilities, including students with intellectual disabilities as defined in 34 C.F.R. [Part 668.43](#), [Subpart O](#) [see EFCA];
8. The titles of persons designated under 34 C.F.R. 668.44, below, and information regarding how and where those persons may be contacted;
9. A statement that a student's enrollment in a program of study abroad approved for credit by the home institution may be considered enrollment at the home institution for the purpose of applying for assistance under the Title IV, Higher Education Act (HEA) programs;
10. Institutional policies and sanctions related to copyright infringement [see CT], including:

- a. A statement that explicitly informs its students that unauthorized distribution of copyrighted material, including unauthorized peer-to-peer file sharing, may subject the students to civil and criminal liabilities;
 - b. A summary of the penalties for violation of federal copyright laws; and
 - c. A description of the institution's policies with respect to unauthorized peer-to-peer file sharing, including disciplinary actions that are taken against students who engage in illegal downloading or unauthorized distribution of copyrighted materials using the institution's information technology system;
11. A description of the transfer of credit policies established by the institution [see EGA], which must include a statement of the institution's current transfer of credit policies that includes, at a minimum:
- a. Any established criteria the institution uses regarding the transfer of credit earned at another institution and any types of institutions or sources from which the institution will not accept credits;
 - b. A list of institutions with which the institution has established an articulation agreement; and
 - c. Written criteria used to evaluate and award credit for prior learning experience including, but not limited to, service in the armed forces, paid or unpaid employment, or other demonstrated competency or learning;
12. A description of written arrangements the institution has entered into in accordance with 34 C.F.R. 668.5, including, but not limited to, information on:
- a. The portion of the educational program that the institution that grants the degree or certificate is not providing;
 - b. The name and location of the other institutions or organizations that are providing the portion of the educational program that the institution that grants the degree or certificate is not providing;
 - c. The method of delivery of the portion of the educational program that the institution that grants the degree or certificate is not providing; and

- d. Estimated additional costs students may incur as the result of enrolling in an educational program that is provided, in part, under the written arrangement;
13. The percentage of those enrolled, full-time students who:
 - a. Are male;
 - b. Are female;
 - c. Receive a Federal Pell Grant; and
 - d. Are a self-identified member of a racial or ethnic group;
14. If the institution's accrediting agency or state requires the institution to calculate and report a placement rate, the institution's placement in employment of, and types of employment obtained by, graduates of the institution's degree or certificate programs, gathered from such sources as alumni surveys, student satisfaction surveys, the National Survey of Student Engagement, the Community College Survey of Student Engagement, state data systems, or other relevant sources approved by the institution's accrediting agency as applicable;
15. The types of graduate and professional education in which graduates of the institution's four-year degree programs enrolled, gathered from such sources as alumni surveys, student satisfaction surveys, the National Survey of Student Engagement, state data systems, or other relevant sources;
16. The fire safety report prepared by the institution pursuant to 34 C.F.R. 668.49 [see FG];
17. The retention rate of certificate- or degree-seeking, first-time, full-time, undergraduate students entering the institution;
18. Institutional policies regarding vaccinations [see FFAA];
19. If the institution is required to maintain a teach-out plan by its accrediting agency, notice that the institution is required to maintain such teach-out plan and the reason that the accrediting agency required such plan under 34 C.F.R. 602.24(c)(1); and
20. If an enforcement action or prosecution is brought against the institution by a state or federal law enforcement agency in any matter where a final judgment against the institution, if rendered, would result in an adverse action by an accrediting agency against the institution, revocation of state authorization, or limitation, suspension, or termination of eligibility under Title IV, notice of that fact.

[20 U.S.C. 1092\(a\); 34 C.F.R. 668.43\(a\)](#)

The institution must make available for review to any enrolled or prospective student upon request, a copy of the documents describing the institution's accreditation and its state, federal, or tribal approval or licensing. The institution must also provide its students or prospective students with contact information for filing complaints with its accreditor and with its state approval or licensing entity and any other relevant state official or agency that would appropriately handle a student's complaint.

20 U.S.C. 1092(a); 34 C.F.R. 668.~~7~~.43(a)-(b)

Employees
Available to
Disseminate
Information

Except as provided below, each institution shall designate an employee or group of employees who shall be available on a full-time basis to assist enrolled or prospective students in obtaining the information specified in 34 C.F.R. 668.42, 668.43, 668.45 and 668.46.

If the institution designates one person, that person shall be available, upon reasonable notice, to any enrolled or prospective student throughout the normal administrative working hours of that institution. If more than one person is designated, their combined work schedules must be arranged so that at least one of them is available, upon reasonable notice, throughout the normal administrative working hours of that institution.

The U.S. Secretary of Education may waive the requirement that the designated employee or group of employees be available on a full-time basis if the institution's total enrollment, or the portion of the enrollment participating in the Title IV, Higher Education Act (HEA) programs, is too small to necessitate an employee or group of employees being available on a full-time basis. To receive a waiver, the institution shall apply to the Secretary at the time and in the manner prescribed by the Secretary.

The granting of a waiver does not exempt an institution from designating a specific employee or group of employees to carry out on a part-time basis the information dissemination requirements.

34 C.F.R. 668.44

Prospective Student

The term "prospective student" means ~~any~~[an](#) individual who has contacted an eligible institution requesting information concerning admission to that institution. *34 C.F.R. 668.41(a)*

**Postsecondary and
Career Information**

In accordance with Education Code 7.040, the Texas Education Agency (TEA) shall prepare information comparing institutions of higher education in this state and post the information on the agency's internet website. Each institution of higher education, including each college district, shall include on its internet website, in a prominent location that is not more than three hyperlinks from the

website's home page, a link to the information posted on the TEA's internet website. *Education Code 7.040(a), (c)*

¹ Free Application for Federal Student Aid (FAFSA): <https://fafsa.gov>

**Section I: Elections
Generally**

General Election
Dates

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

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

Election Code 41.001

The governing body of a political subdivision, other than a county or municipal utility district, that holds its general election for officers on a date other than the November uniform election date may, not later than December 31, 2016, change the date on which it holds its general election for officers to the November uniform election date. *Election Code 41.0052(a)*

Publication of
Election Date and
Location Online

A political subdivision, including a college district, with the authority to impose a tax that maintains a publicly accessible internet website shall post on a publicly accessible internet website the date and location of the next election for officers of the political subdivision. [See also Election Notice, below] *Gov't Code 2051.151, .152(a)*

Joint Elections
Administrator

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

Membership

The number of members or trustees of the governing board shall be either seven or nine, in accordance with the laws applicable to the junior college district on the effective date of the Education Code or on the date of the creation of a new district or a new board. *Education Code 130.082(d)*

Blinn College

~~Notwithstanding any other law, in addition to the members of the board of trustees of the Blinn Junior College District elected or appointed under other provisions of Education Code Chapter 130, Subchapter E, the commissioners court of each county in which a branch campus of the district with a student enrollment greater than 10,000 is located shall appoint two members to serve on the district's board of trustees. If an advisory committee for a branch campus has been previously established, the members must be selected from the membership of the advisory committee.~~

~~Members of the board of trustees appointed under Education Code 130.0827 serve two-year terms and may be appointed to serve~~

~~successive terms. The commissioners court shall appoint initial members to serve a term beginning December 1, 2015.~~

~~Members of the board of trustees appointed under Section 130.0827 may participate in the decision making of the board to the same extent as any other member of the board except that members of the board appointed under Section 130.0827 by the commissioners court of a county that is not located in the Blinn Junior College District:~~

- ~~4. May participate in the decision making of the board only in matters not related to the imposition of a tax or the distribution of revenue raised from a tax;~~
- ~~5. Are counted for purposes of determining whether a quorum of the board is present only for the purpose of item 1; and~~
- ~~6. May not serve as an officer of the board of trustees.~~

~~*Education Code 130.0827*~~

*Weatherford
College*

Notwithstanding any other law, in addition to the members of the board of trustees of the Weatherford Junior College District elected or appointed under other provisions of Education Code Chapter 130, Subchapter E, the commissioners court of each county in which a branch campus of the district is located and that imposed a branch campus maintenance tax under Education Code 130.253 on September 1, 2017, shall appoint one member to serve on the district's board of trustees.

Members of the board of trustees appointed under Education Code 130.082850828 serve two-year terms and may be appointed to serve successive terms. The commissioners court shall appoint initial members to serve a term beginning December 1, 2017.

A member of the board of trustees appointed under Section 130.082850828 may participate in the decision-making of the board to the same extent as any other member of the board, including by voting on any budget that affects the entire district, except that a member of the board of trustees appointed under Section 130.082850828:

1. May not participate in the decision-making of the board in matters related to the imposition of a tax or an issue that only affects a campus located in the junior college district;
2. Is not counted for purposes of determining whether a quorum of the board is present for the purpose of item 1; and
3. May not serve as an officer of the board of trustees.

Education Code 130.082850828(a)-(d)

BOARD MEMBERS
ELECTIONS

BBB
(LEGAL)

<i>Increase in Membership</i>	Any seven-member board may be increased to nine, and the two additional members shall be appointed by resolution or order of the board for terms of office as prescribed in Education Code 130.082(e). <i>Education Code 130.082(d)</i>
Trinity Valley Community College	In accordance with Education Code 130.08285, the governing board of the Trinity Valley Community College District may by resolution or order of the governing board increase the number of board members to 11. <i>Education Code 130.08285(a)</i>
Terms	The basic term of office of a member of the board shall be six years. <i>Education Code 130.082(e)</i>
Methods of Election	Election of board members shall be by at-large positions, except as otherwise provided. <i>Education Code 130.082(f), (h)</i>
<i>At-Large Positions</i>	One-third of the members of the board shall be elected at large in the college district at regular elections in accordance with Education Code 130.082(e)–(g), provided that with a seven-member board two members shall be elected in two consecutive even-numbered years and three members shall be elected in the following even-numbered year. <i>Education Code 130.082(e)–(g)</i>
<i>Single-Member Districts Generally</i>	The board of trustees of a junior college district may order that all or a majority of the trustees of the district be elected from single-member trustee districts. The order must be entered not later than the 120th day before the day of the first election of trustees from single-member trustee districts. <i>Education Code 130.0822(a)–(b)</i>
Board Order	
Trustee Districts	If the board orders that trustees shall be elected from single-member trustee districts, the board shall divide the junior college district into the appropriate number of trustee districts, based on the number of members of the board that are to be elected from single-member districts, and shall number each trustee district. The trustee districts must be compact and contiguous and must be as nearly as practicable of equal population according to the last preceding federal census. Trustee districts must be drawn not later than the 90th day before the day of the first election of trustees from single-member districts. The board may provide for trustees holding office on the date of the initial election of trustees from single-member districts to serve the remainder of their terms and to represent a trustee district for that term without having residency in that trustee district. Unless the board has made provision for trustees to complete their term, as described above, residents of each trustee district are entitled to elect one trustee to the board. A candidate for trustee must

be a resident of the trustee district the candidate seeks to represent. The trustee vacates the office if the trustee ceases to reside in the trustee district the trustee represents.

Education Code 130.0822(d)–(h)

Redistricting

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

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

Education Code 130.0822(j)–(k)

The board of trustees of any junior college district that elects some or all of its members from single-member districts and in which the trustees serve staggered terms may provide for the trustees in office at the first election after the junior college district is redistricted to serve for the remainder of their terms in accordance with Education Code 130.0826.

If the board of trustees provides for the trustees in office to serve for the remainder of their terms in accordance with [Education Code Section 130.0826](#), the trustee districts established by the redistricting plan shall be filled as the staggered terms of trustees in office expire. When the board of trustees adopts a redistricting plan, the board shall determine from which new trustee district the position of each trustee in office will be filled as it becomes vacant.

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

Education Code 130.0826

Applicability

This method of election does not apply to a junior college district to which Education Code 130.081, 130.083, 130.0821, or 130.088 applies, or to a junior college district required by other law to elect trustees from single-member districts. This method of election does

not apply to the election of trustees in any district in which the election of trustees is governed by a court order so long as that order remains in effect. *Education Code 130.0822(l)*

Single-Member
Districts in
Certain Counties

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

*Election by
Position*

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

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

Education Code 130.044(g), .0823

*Paris Junior
College*

In accordance with Education Code 130.0829, the governing board of the Paris Junior College District may provide by resolution or order of the board for the election of nine board members, eight members elected from respective commissioner precincts and evenly allocated among those precincts and one member elected at large. *Education Code 130.0829*

Boundary Change
Notice

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

1. Notify the voter registrar of the county in which the area subject to the boundary change is located of the adopted boundary change; and
2. Provide the voter registrar with a map of an adopted boundary change in a format that is compatible with the mapping format used by the registrar's office.

Election Code 42.0615

Notice of Voting
Rights

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

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

Election Code 31.0055, 62.0115

Delivery or
Submission of
Election Documents

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

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

Election Code 1.007

**Section II:
Conducting an
Election**

Election Services

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

Election Order

The governing body of a political subdivision, including a college district board of trustees, shall order the election. For an election to be held on a uniform election date, the election shall be ordered not later than the 78th day before election day.

Each election order must state the date of the election; the offices or measures to be voted on; the location of the main early voting polling place; the date that early voting will begin if the early voting period is to begin later than the prescribed date; the dates and

hours that early voting will be conducted; the dates and hours that early voting on Saturday and Sunday is ordered to be conducted; and the early voting clerk's official mailing address, except for an election in which a county clerk or city secretary is the early voting clerk under Election Code 83.002 or 83.005. The authority ordering an election shall preserve the order, proclamation, or other document ordering the election, in an election involving a federal office, for at least 22 months after election day in accordance with federal law or, in an election not involving a federal office, for at least six months after election day.

Election Code 3.004, .005(c), .006, .008, 66.058(a), 83.010, 85.004, .007

*Failure to Order
an Election*

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

Election Notice
Contents

The notice of a general or special election must state:

1. The nature and date of the election;
2. The location of each polling place;
3. The hours the polls will be open;
4. For early voting:
 - a. The location of the main early voting polling place, as determined under Election Code 85.002;
 - b. The date that early voting will begin if under Education Code 85.001(d) the early voting period is to begin later than the prescribed date;
 - c. The regular dates and hours that early voting will be conducted;
 - d. The dates and hours that voting on Saturday and Sunday is ordered to be conducted; and
 - e. The early voting clerk's official mailing address.
5. The numbers of the positions to be filled;
6. The candidates for each position; and
7. Any other matters deemed necessary or advisable.

When the Election Code requires notice of a polling place location, the written notice must state the building name, if any, and the street address, including the suite or room number, if any, of the polling place.

Election Code 1.021, 4.004(a), 83.010, 85.004, .007; Education Code 130.082(f)

Notice of Special Election	The notice of a special election must also state each office to be filled or the proposition stating each measure to be voted on. <i>Election Code 4.004(b)</i>
<i>Publication</i>	<p>Notice of the election shall be given by publishing the notice at least once, not earlier than the 30th day or later than the tenth day before election day in a newspaper published in the territory that is covered by the election and is in the jurisdiction of the authority responsible for giving the notice or in a newspaper of general circulation in the territory if none is published in the jurisdiction of the authority responsible for giving the notice.</p> <p>If notice of an election is given by publication, the authority responsible for giving the notice shall retain a copy of the published notice that contains the name of the newspaper and the date of publication. The records shall be preserved by the authority to whom they are distributed for at least 22 months after election day.</p> <p><i>Election Code 4.003(a)(1), .005(a), 66.058(a); Education Code 130.082(f)</i></p>
<i>Posting</i>	<p>In addition to the notice described above, not later than the 21st day before election day, a county shall post a copy of a notice of the election given by the county or provided to the county by a political subdivision under Election Code 4.008(a), which must include the location of each polling place, on the county's internet website, if the county maintains a website. An authority responsible for giving notice of an election may post a copy of the notice on the bulletin board used for posting notices of the meetings of the governing body of the political subdivision that the authority serves. If a county does not maintain a website, the authority responsible for giving notice of the election shall post a copy of a notice of the election on the bulletin board used for posting notices of meetings of the governing body of the political subdivision that the authority serves. The notice must remain posted continuously through election day. The notice must include the location of each polling place. The person posting the notice shall make a record at the time of posting stating the date and place of posting. The person shall sign the record and deliver it to the authority responsible for giving the election notice after the last posting is made. <i>Election Code 4.003(b), .005(b)</i></p>
<i>Early Voting</i>	<p>Any notice required under Election Code 85.007 must also be posted:</p> <ol style="list-style-type: none"><li data-bbox="560 1753 1435 1822">1. On the internet website of the authority ordering the election, if the authority maintains a website; and

2. For a primary election or general election, by the secretary of state on the secretary's internet website.

The authority ordering an election shall forward its election notice to the secretary of state in a manner that affords the secretary of state sufficient time to comply with item 2.

Election Code 85.007(d)–(e)

*Notice to the
County Clerk and
Voter Registrar*

The governing body of a political subdivision, other than a county, that orders an election shall also deliver notice of the election, including the location of each polling place, to the county clerk and voter registrar of each county in which the political subdivision is located not later than the 60th day before election day. *Election Code 4.008(a)*

*Notice to Election
Judge*

Not later than the 15th day before election day or the seventh day after the date the election is ordered, whichever is later, the authority responsible for giving notice of the election shall deliver to the presiding judge of each election precinct in which the election is to be held in the authority's jurisdiction a written notice of:

1. The nature and date of the election;
2. The location of the polling place for the precinct served by the judge;
3. The hours that the polls will be open;
4. The judge's duty to hold the election in the precinct specified by the notice; and
5. The maximum number of clerks that the judge may appoint for the election.

Election Code 4.007

*Failure to Give
Notice of Election*

Failure to give notice of a general election does not affect the validity of the election. *Election Code 4.006*

Filing Information
*Notice to
Candidates*

The authority with whom an application for a place on the ballot must be filed shall post notice of the dates of the filing period in a public place in a building in which the authority has an office not later than the 30th day before the ~~last~~first day on which a candidate may file the application. ~~This requirement does not apply to an office filled at the general election for state and county officers (the November uniform election date of even-numbered years).~~ *Election Code 141.040*

<i>Publication of Filing Information Online</i>	A political subdivision, including a college district, with the authority to impose a tax that maintains a publicly accessible internet website, shall post on a publicly accessible internet website the requirements and deadline for filing for candidacy of each elected office of the political subdivision, which shall be continuously posted for at least one year before the election day for office. <i>Gov't Code 2051.151, .152(a)</i>
<i>General Election</i>	An application for a place on the ballot may not be filed earlier than the 30th day before the date of the filing deadline. Any resident, qualified elector of a junior college district may have his or her name placed as a candidate on the official ballot for any position to be filled at each regular election by filing a written application, signed by the candidate, with the secretary of the board not later than 5:00 p.m. of the 78th day before election day, if the election is to be held on a uniform election date. <i>Education Code 130.082(g); Election Code 144.005</i>
<i>Special Election</i>	<p>An application for a place on a special election ballot may not be filed before the election is ordered.</p> <p>An application must be filed not later than:</p> <ol style="list-style-type: none">1. 5:00 p.m. of the 62nd day before election day if election day is on or after the 70th day after the election is ordered; or2. 5:00 p.m. of the 40th day before election day if election day is on or after the 46th day and before the 70th day after the date the election is ordered. <p><i>Election Code 201.054(a), (d)</i></p>
Exception	For a special election to be held on the date of the general election for state and county officers (the November uniform election date of even-numbered years), the filing deadline is 6:00 p.m. of the 75th day before election day. <i>Election Code 201.054(f)</i>
<i>Write-In Candidacy</i>	<p>In a general or special election for members of the governing body of a junior college district, a write-in vote may not be counted for a person unless the person has filed a declaration of write-in candidacy with the secretary of the board of trustees in the manner provided for write-in candidates in the general election for state and county officers. A declaration of write-in candidacy must be filed not later than 5:00 p.m. of the 74th day before election day, if the election is to be held on a uniform election date.</p> <p>A declaration of write-in candidacy for a special election must be filed not later than the filing deadline prescribed by Election Code 201.054.</p>

A write-in candidate may not withdraw from the election after the 71st day before election day.

Education Code 130.0825(a)-(b); Election Code 146.054, 201.054(g)

Application

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

Withdrawal

To withdraw from an election, a candidate whose name is to appear on the ballot must request that the candidate's name be omitted from the ballot in accordance with Election Code 145.001. *Election Code 145.001(a)*

Deadline

A candidate may not withdraw from an election after 5:00 p.m. of the fifth day after the deadline for filing the candidate's application for a place on the ballot. *Election Code 145.092(a)*

Exceptions

A candidate in an election for which the filing deadline for an application for a place on the ballot is not later than 5:00 p.m. of the 62nd day before election day may not withdraw from the election after 5:00 p.m. of the 57th day before election day.

A candidate in an election for which the filing deadline for an application for a place on the ballot is not later than 5:00 p.m. of the 78th day before election day may not withdraw from the election after 5:00 p.m. of the 71st day before election day.

A candidate in a runoff election may not withdraw from the election after 5:00 p.m. of the third day after the date of the final canvass for the main election.

Election Code 145.092(b), (d), (f)

Late Request

If a candidate files a withdrawal request after the deadline prescribed by Election Code 145.092, and the candidate complies with each requirement under Election Code 145.001 except that the candidate's filing to withdraw is untimely, the authority responsible for preparing the ballots may choose to omit the candidate from the ballot if at the time the candidate files the withdrawal request:

1. The ballots have not been prepared; and

2. If using a voting system to which Election Code Chapter 129 applies, public notice of the test of logic and accuracy has not been published.

Election Code 145.098(a)

Death of Candidate

If a candidate dies on or before the deadline for filing an application for a place on the ballot:

1. The authority responsible for preparing the ballots may choose to omit the candidate from the ballot; and
2. If the authority omits the candidate's name as described above, the filing deadline for an application for a place on the ballot for the office sought by the candidate is extended until the fifth day after the filing deadline.

Election Code 145.098(b)

Election of
Unopposed
Candidate

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

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

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

Election Code 2.051(a)

*Single-Member
Districts*

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

*Procedure for
Canceling
Election*

The authority responsible for having the official ballot prepared shall certify in writing that a candidate is unopposed for election to an office if, were the election held, only the votes cast for that candidate in the election for that office may be counted.

The certification shall be delivered to the governing body of the political subdivision as soon as possible after the filing deadlines for placement on the ballot and list of write-in candidates.

Election Code 2.052(a)–(b)

Exception

A certification may be made following the filing of a withdrawal request by a candidate after the deadline prescribed by Election Code 145.092, above, if:

1. The withdrawal request is valid except for the untimely filing;
2. Ballots for the election have not been prepared; and
3. The conditions for certification under Election Code 2.052(a) are otherwise met.

The certification shall be delivered to the governing body of the political subdivision as soon as possible.

Election Code 2.052(c)–(d)

Declaration of
Election

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

If no election is to be held on election day by the political subdivision, a copy of the order shall be posted on election day at each polling place used or that would have been used in the election.

The ballots used at the separate election held at the same time as an election that would have been held if the candidates were not declared elected under this section shall include the offices and names of the candidates declared elected under this section listed separately after the measures or contested races in the separate election, under the heading “Unopposed Candidates Declared Elected.” The candidates shall be grouped in the same relative order prescribed for the ballot generally. No votes are cast in connection with the unopposed candidates.

Election Code 2.053(a)–(c)

Ballot

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

Ballot Position

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

Propositions

Except as otherwise provided by law, the authority ordering the election shall prescribe the wording of a proposition that is to appear on the ballot. A proposition shall be printed on the ballot in the form of a single statement and may appear on the ballot only once.

If an election of officers is contingent on the adoption of a proposition appearing on the same ballot, the proposition shall appear on

the ballot before the listing of offices. Otherwise, in an election in which an office and a measure are to be voted on, each proposition stating a measure shall appear on the ballot after the listing of offices.

Except as otherwise provided by law, the authority ordering an election in which more than one measure is to be voted on shall determine the order in which the propositions are to appear on the ballot.

Each political subdivision's proposition on the ballot shall be assigned a unique number or letter on the ballot as follows:

1. Except as provided by item 2, for each proposition on the ballot, the authority ordering the election shall assign a letter of the alphabet to the measure that corresponds to its order on the ballot; and
2. For each proposition on the ballot to be voted on statewide, the authority ordering the election shall assign a number to the measure that corresponds to its order on the ballot.

Each proposition on the ballot must identify the name of the authority ordering the election on the measure.

Election Code 52.072 ~~-(a)-(d)~~, *.095(a)-(c)*

Election Judges and Clerks

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

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

Polling Places

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

Use of County Election Precincts

The county election precincts are the election precincts for the following elections:

1. The general election for state and county officers;
2. A special election ordered by the governor;
3. A primary election;

4. A countywide election ordered by the commissioners court, county judge, or other county authority, except an election subject to Election Code 42.062(2); and
5. As provided by Election Code 42.0621, any other election held by a political subdivision, including college districts, on a uniform election date.

Election Code 42.002(a)

In an election held on the November uniform election date, the political subdivisions to which Election Code 42.002(a)(5) applies shall use the regular county election precincts. If a political subdivision holds an election on a uniform election date and is required to use the regular county election precincts, the political subdivision shall designate as the polling places for the election the regular county polling places in the county election precincts that contain territory from the political subdivision. *Election Code 42.0621; (a), 43.004(b)*

*Polling Place for
Early Voting*

The following provision applies to an election held by a political subdivision, other than a county, on the November uniform election date in which the political subdivision:

1. Is not holding a joint election with a county in accordance with Election Code Chapter 271; and
2. Has not executed a contract with a county elections officer under which the political subdivision and the county share early voting polling places for the election.

The political subdivision shall designate as an early voting polling place for the election an eligible county polling place located in the political subdivision and may not designate as an early voting polling place a location other than an eligible county polling place unless each eligible county polling place located in the political subdivision is designated as an early voting polling place by the political subdivision.

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

“Eligible county polling place” means an early voting polling place, other than a polling place established under Election Code 85.062(e), established by a county.

Election Code 85.010

Temporary
Branch

Early voting by personal appearance at each temporary branch polling place shall be conducted on the days that voting is required to be conducted at the main early voting polling place under Election Code 85.005 and remain open for at least:

1. Eight hours each day; or
2. Three hours each day if the city or county clerk does not serve as the early voting clerk for the territory holding the election and the territory has fewer than 1,000 registered voters.

Election Code 85.064(b)

*Posting Signs
Prohibited*

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

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

Election Code 62.013(a)–(b)

Electioneering

A person commits an offense if, during the voting period and within 100 feet of an outside door through which a voter may enter the building in which a polling place is located, the person loiters or electioneers for or against any candidate, measure, or political party.

“Electioneering” includes the posting, use, or distribution of political signs or literature. The term does not include the distribution of a notice of a party convention authorized under Election Code 172.1114.

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

“Early voting period” is described at Election Code 85.001.

The entity that owns or controls a public building being used as a polling place or early voting polling place may not, at any time during the voting period or early voting periods, as applicable, prohibit electioneering on the building’s premises outside of the area described above, but may enact reasonable regulations concerning the time, place, and manner of electioneering.

Election Code 61.003, 85.036

*Use of Certain
Devices
Prohibited*

A person may not use a wireless communication device within 100 feet of a voting station. A person may not use any mechanical or electronic means of recording images or sound within 100 feet of a voting station. [Election Code 61.014\(a\)–\(b\)](#)

Exception

The prohibitions do not apply to:

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

[Election Code 61.014\(d\)](#)

Bilingual Materials
Spanish

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

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

[Election Code 272.002, .003\(a\)–\(c\), \(e\)](#)

Other Languages

If the director of the census determines under 42 U.S.C. 1973aa-1a that a political subdivision must provide election materials in a language other than English or Spanish, the political subdivision shall provide election materials in that language in the same manner in which the political subdivision would be required to provide materials in Spanish, to the extent applicable. [Election Code 272.011\(a\)](#); [52 U.S.C. 10503](#)

Voting Systems	A voting system shall be selected and utilized in accordance with Election Code Title 8. <i>Election Code Title 8</i>
<i>Voting Machines and Punch-Card Ballots</i>	A voting system may not be used in an election if the system uses mechanical voting machines or a punch-card ballot or similar form of tabulating card. <i>Election Code 122.001(d)</i>
<i>Voters with Disabilities</i> Accessible Voting Stations	Each polling place must provide at least one voting station that complies with Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. 794) and its subsequent amendments, Title II of the federal Americans with Disabilities Act (42 U.S.C. 12131 et seq.) and its subsequent amendments and the requirements for accessibility under 42 U.S.C. 15481(a)(3) and its subsequent amendments, and provides a practical and effective means for voters with physical disabilities to cast a secret ballot. <i>Election Code 61.012(a)</i>
Electronic Voting System Exceptions	Upon providing the notice detailed in Election Code 61.013(d), for an election other than an election of a political subdivision that is held jointly with another election in which a federal office appears on the ballot, a political subdivision, including a college district, is not required to meet the requirements for accessibility under Election Code 61.012(a)(1)(C) if the political subdivision is located in a county: <ol style="list-style-type: none">1. With a population of less than 2,000;2. With a population of 2,000 or more but less than 5,000, and the political subdivision provides at least one voting station that meets the requirements for accessibility under 42 U.S.C. 15481(a)(3) on election day;3. With a population of 5,000 or more but less than 10,000, and the political subdivision provides at least one voting station that meets the requirements for accessibility under 42 U.S.C. 15481(a)(3) on election day and during the period for early voting by personal appearance;4. With a population of 10,000 or more but less than 20,000, and the political subdivision:<ol style="list-style-type: none">a. Makes a showing in the manner provided by Election Code 61.103(c) that compliance with Section 61.012(a)(1)(C) constitutes an undue burden on the political subdivision;b. Provides at least one voting station that meets the requirements for accessibility under 42 U.S.C. 15481(a)(3) on election day and during the period for early voting by personal appearance; and

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

Election Code 61.013(a)

*Multiple
Counties*

For purposes of Election Code 61.013, a political subdivision located in more than one county may choose:

1. To be considered located in the county that contains the greatest number of registered voters of the political subdivision; or
2. For each portion of the political subdivision located in a different county, to be considered a separate political subdivision.

Election Code 61.013(e)

Multiple Voting
Systems
Permitted

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

Voting System
Malfunction

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

Early Voting

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

Conducting
Elections

Elections shall be conducted in accordance with Election Code Title 6. *Election Code Title 6*

**Section III: Post-
Election Procedures**

Determination of
Results

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

Majority

Runoff Elections

If no candidate receives such a majority, then the two candidates receiving the highest number of votes shall run against each other for the position. The runoff election for all positions shall be held not earlier than the 20th day or later than the 45th day after the date the final canvass of the main election is completed. [The runoff election shall be conducted in accordance with Election Code Chapter 2, Subchapter B. Education Code 130.082\(g\); Election Code ~~Chapter 2, Subch. B~~ \[2.021, .025\\(a\\)\]\(#\)](#)

Write-In Voting

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

Canvass Returns

Except as provided by Election Code 67.003(c), each local canvassing authority shall convene to conduct the local canvass at the time set by the canvassing authority's presiding officer not later than the 11th day after election day and not earlier than the later of:

1. The third day after election day;
2. The date on which the early voting ballot board has verified and counted all provisional ballots, if a provisional ballot has been cast in the election; or
3. The date on which all timely received ballots cast from addresses outside of the United States are counted, if a ballot to be voted by mail in the election was provided to a person outside of the United States.

Two members of the authority constitute a quorum for purposes of canvassing an election.

The presiding officer of the canvassing authority shall note the completion of the canvass in the minutes or in the recording required by Government Code 551.021.

Election Code 67.003(b), .004(a), (g)

*Early Voting
Canvass—
November
Election*

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

Certificate of
Election

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

1. The candidate's name;
2. The office to which the candidate is elected;
3. A statement of election to an unexpired term, if applicable;

4. The date of the election;
5. The signature of the officer preparing the certificate; and
6. Any seal used by the officer preparing the certificate to authenticate documents that the officer executes or certifies.

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

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

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

Election Code 67.016, ~~(a), (c), (e)~~, 212.0331 ~~(a)-(c)~~

Certificate of
Election for
Unopposed
Candidate

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

Officer's Statement

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

Oath of Office

All elected and appointed officers, before they enter upon the duties of their offices, shall take the oath or affirmation of office. [See BBB(EXHIBIT)]

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

1. A judge, retired judge, or clerk of a municipal court.
2. A judge, retired judge, senior judge, clerk, or commissioner of a court of record.
3. A notary public.
4. A justice of the peace or clerk of a justice court.

5. An associate judge, magistrate, master, referee, or criminal law hearing officer.
6. The secretary of state or a former secretary of state.
7. The speaker of the house of representatives or a former speaker of the house of representatives.
8. The lieutenant governor or a former lieutenant governor.
9. The governor or a former governor.
10. A legislator or retired legislator.
11. The secretary of the senate or the chief clerk of the house of representatives.
12. The attorney general or a former attorney general.
13. A county treasurer.

Tex. Const. Art. XVI, Sec. 1(a); Education Code 130.082(d); Gov't Code 602.002

Training

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

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

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

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

Training Content

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

Topics covered by the training program must include:

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

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

Education Code 61.084(d)

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

Training
Alternatives

Electronic Option

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

*Hardship
Exception*

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

Fee

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

Reporting

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

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

**Open Meetings Act
Training**

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

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

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

Gov't Code 551.005(a)–(c), (f)

**Public Information
Act Training**

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

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

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

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

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

Gov't Code 552.012(a)–(e)

**Cybersecurity
Training**

At least once each year, an employee identified by a state agency, including a college district, and each elected or appointed officer of the agency shall complete a cybersecurity training program certified under Government Code 2054.519. [See [also](#) DK] *Gov't Code 2054.5191(a), (c)*

Note: [For more information on cybersecurity training, including a list of certified cybersecurity training programs and compliance reporting requirements, see DIR's website at Certified Cybersecurity Training Programs.](#)¹

¹ Certified Cybersecurity Training Programs: <https://dir.texas.gov/View-About-DIR/Information-Security/Pages/Content.aspx?id=154>

Perkins Grants

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

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

20 U.S.C. 2352(a)(1)–(2)

**Retirement
Contributions**

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

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

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

Gov't Code 825.406 [See CAM]

**Requests for Federal
Financial Assistance**

The governing body of a local government, including a college district, by order or resolution may request that the governor or the designated state agency act on behalf of the local government in any matter relating to:

1. A request for federal financial assistance; or
2. An agreement, assurance of compliance, requirement, or enforcement action relating to the request.

Gov't Code 742.004

A governing body of a local government that has requested that the governor or the designated state agency act on behalf of the local

government under ~~Section~~[Government Code](#) 742.004(a) shall submit to the governor or the designated state agency each application for federal financial assistance. The governor or the designated state agency shall approve or disapprove the application.

The governing body of a local government by order or resolution may revoke the request and the authority delegated by the request to the governor or designated state agency.

Gov't Code 742.005

**Administration of
Federal Awards**

The U.S. Office of Management and Budget (OMB), in 2 C.F.R. Part 200, establishes uniform administrative requirements, cost principles, and audit requirements for federal awards to non-federal entities, as described in 2 C.F.R. 200.101. Federal awarding agencies must not impose additional or inconsistent requirements, except as provided in 2 C.F.R. 200.102 and 200.211, or unless specifically required by federal statute, regulation, or Executive Order. *2 C.F.R. 200.100(a)(1)*

The non-federal entity is responsible for complying with all requirements of the federal award. For all federal awards, this includes the provisions of the Federal Funding Accountability and Transparency Act (FFATA), which includes requirements on executive compensation, and also requirements implementing the Act for the non-federal entity at 2 C.F.R. Part 25 and 2 C.F.R. Part 170. See also statutory requirements for whistleblower protections at 10 U.S.C. 2409, 41 U.S.C. 4712, and 10 U.S.C. 2324, 41 U.S.C. 4304 and 4310. *2 C.F.R. 200.300(b)*

“Non-federal entity” (NFE) means a state, local government, Indian tribe, institution of higher education (IHE), or nonprofit organization that carries out a federal award as a recipient or subrecipient. *2 C.F.R. 200.1*

**Financial
Management**

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

The financial management system of each non-federal entity must provide for the following (see also 2 C.F.R. 200.334, 200.335, 200.336, and 200.337):

1. Identification, in its accounts, of all federal awards received and expended and the federal programs under which they were received. Federal program and federal award identification must include, as applicable, the Assistance Listings title and number, federal award identification number and year, name of the federal agency, and name of the pass-through entity, if any.
2. Accurate, current, and complete disclosure of the financial results of each federal award or program in accordance with the reporting requirements set forth in 2 C.F.R. 200.328 and 200.329. If a federal awarding agency requires reporting on an accrual basis from a recipient that maintains its records on other than an accrual basis, the recipient must not be required to establish an accrual accounting system. This recipient may develop accrual data for its reports on the basis of an analysis of the documentation on hand. Similarly, a pass-through entity must not require a subrecipient to establish an accrual accounting system and must allow the subrecipient to develop accrual data for its reports on the basis of an analysis of the documentation on hand.
3. Records that identify adequately the source and application of funds for federally funded activities. These records must contain information pertaining to federal awards, authorizations, obligations, unobligated balances, assets, expenditures, income, and interest and be supported by source documentation.
4. Effective control over, and accountability for, all funds, property, and other assets. The non-federal entity must adequately safeguard all assets and assure that they are used solely for authorized purposes. See 2 C.F.R. 200.303.
5. Comparison of expenditures with budget amounts for each federal award.
6. Written procedures to implement the requirements of 2 C.F.R. 200.305.
7. Written procedures for determining the allowability of costs in accordance with 2 C.F.R. Part 200, Subpart E and the terms and conditions of the federal award.

2 C.F.R. 200.302

Internal Controls

The non-federal entity must:

1. Establish and maintain effective internal control over the federal award that provides reasonable assurance that the non-federal entity is managing the federal award in compliance with federal statutes, regulations, and the terms and conditions of the federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework," issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
2. Comply with the U.S. Constitution, federal statutes, regulations, and the terms and conditions of the federal awards.
3. Evaluate and monitor the non-federal entity's compliance with statutes, regulations, and the terms and conditions of federal awards.
4. Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.
5. Take reasonable measures to safeguard protected personally identifiable information and other information the federal awarding agency or pass-through entity designates as sensitive or the non-federal entity considers sensitive consistent with applicable federal, state, local, and tribal laws regarding privacy and responsibility over confidentiality.

2 C.F.R. 200.303

Advanced Payment

The non-federal entity must be paid in advance, provided it maintains or demonstrates the willingness to maintain both written procedures that minimize the time elapsing between the transfer of funds and disbursement by the non-federal entity, and financial management systems that meet the standards for fund control and accountability as established in 2 C.F.R. Part 200. Advance payments to a non-federal entity must be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the non-federal entity in carrying out the purpose of the approved program or project. The timing and amount of advance payments must be as close as is administratively feasible to the actual disbursements by the non-federal entity for direct program or project costs and the proportionate share of any allowable indirect costs. The non-federal entity must make timely payment to contractors in accordance with the contract provisions.

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

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

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

1. The non-federal entity receives less than \$250,000 in federal awards per year.
2. The best reasonably available interest-bearing account would not be expected to earn interest in excess of \$500 per year on federal cash balances.
3. The depository would require an average or minimum balance so high that it would not be feasible within the expected federal and non-federal cash resources.
4. A foreign government or banking system prohibits or precludes interest-bearing accounts.

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

2 C.F.R. 200.305(b)(1), (7)–(9)

Budgets and
Program Plans

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

Cost Principles

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

1. Arrangements under which federal financing is in the form of loans, scholarships, fellowships, traineeships, or other fixed amounts based on such items as education allowance or published tuition rates and fees.
2. For institutions of higher education, capitation awards, which are awards based on case counts or number of beneficiaries according to the terms and conditions of the federal award.
3. Fixed amount awards. See also 2 C.F.R. 200.1 Definitions and 200.201.
4. Federal awards to hospitals (see Appendix IX to 2 C.F.R. Part 200).
5. Other awards under which the non-federal entity is not required to account to the federal government for actual costs incurred.

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

1. The non-federal entity is responsible for the efficient and effective administration of the federal award through the application of sound management practices.
2. The non-federal entity assumes responsibility for administering federal funds in a manner consistent with underlying agreements, program objectives, and the terms and conditions of the federal award.
3. The non-federal entity, in recognition of its own unique combination of staff, facilities, and experience, has the primary responsibility for employing whatever form of sound organization and management techniques may be necessary in order to assure proper and efficient administration of the federal award.
4. The application of these cost principles should require no significant changes in the internal accounting policies and practices of the non-federal entity. However, the accounting practices of the non-federal entity must be consistent with these cost principles and support the accumulation of costs as required by the principles and must provide for adequate documentation to support costs charged to the federal award.
5. In reviewing, negotiating, and approving cost allocation plans or indirect cost proposals, the cognizant agency for indirect costs should generally assure that the non-federal entity is

applying these cost accounting principles on a consistent basis during their review and negotiation of indirect cost proposals. Where wide variations exist in the treatment of a given cost item by the non-federal entity, the reasonableness and equity of such treatments should be fully considered. See the definition of indirect (facilities & administrative (F&A)) costs in 2 C.F.R. 200.1.

6. For non-federal entities that educate and engage students in research, the dual role of students as both trainees and employees, including pre- and post-doctoral staff, contributing to the completion of federal awards for research must be recognized in the application of these principles.
7. The non-federal entity may not earn or keep any profit resulting from federal financial assistance, unless explicitly authorized by the terms and conditions of the federal award. See also 2 C.F.R. 200.307.

2 C.F.R. 200.400, .401(a)

Cost Sharing	Cost sharing related to federal awards is subject to 2 C.F.R. 200.306. <i>2 C.F.R. 200.306</i>
Program Income	Non-federal entities are encouraged to earn income to defray program costs where appropriate. Such income is subject to 2 C.F.R. 200.307. <i>2 C.F.R. 200.307</i>
Period of Performance	If a federal awarding agency or pass-through entity approves an extension, or if a recipient extends under 2 C.F.R. 200.308(e)(2), the period of performance will be amended to end at the completion of the extension. If a termination occurs, the period of performance will be amended to end upon the effective date of termination. If a renewal award is issued, a distinct period of performance will begin. <i>2 C.F.R. 200.309</i>
Conflict of Interest	The non-federal entity must disclose in writing any potential conflict of interest to the federal awarding agency or pass-through entity in accordance with applicable federal awarding agency policy. <i>2 C.F.R. 200.112</i>
<i>Procurement</i>	The non-federal entity must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award, and administration of contracts. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ

any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the non-federal entity may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-federal entities may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-federal entity. *2 C.F.R. 200.318(c)(1)*

Restricted
Contracts

Federal awarding agencies and recipients are subject to the regulations implementing Never Contract with the Enemy in 2 C.F.R. Part 183. The regulations in 2 C.F.R. Part 183 affect covered contracts, grants and cooperative agreements that are expected to exceed \$50,000 within the period of performance, are performed outside the United States and its territories, and are in support of a contingency operation in which members of the Armed Forces are actively engaged in hostilities. *2 C.F.R. 200.215*

Property Standards
Real Property

Subject to the requirements and conditions set forth in 2 C.F.R. 200.311, title to real property acquired or improved under a federal award will vest upon acquisition in the non-federal entity.

Except as otherwise provided by federal statutes or by the federal awarding agency, real property will be used for the originally authorized purpose as long as needed for that purpose, during which time the non-federal entity must not dispose of or encumber its title or other interests.

When real property is no longer needed for the originally authorized purpose, the non-federal entity must obtain disposition instructions from the federal awarding agency or pass-through entity. The instructions must provide for one of the following alternatives:

1. Retain title after compensating the federal awarding agency as described by 2 C.F.R. 200.311(c)(1).
2. Sell the property and compensate the federal awarding agency as described by 2 C.F.R. 200.311(c)(2).
3. Transfer title to the federal awarding agency or to a third party designated/approved by the federal awarding agency. The non-federal entity is entitled to be paid as described by 2 C.F.R. 200.311(c)(3).

2 C.F.R. 200.311

Equipment

Subject to the requirements and conditions set forth in this section, title to equipment acquired under a federal award will vest upon acquisition in the non-federal entity. Unless a statute specifically authorizes the federal agency to vest title in the non-federal entity without further responsibility to the federal government, and the federal agency elects to do so, the title must be a conditional title. Title must vest in the non-federal entity subject to the following conditions:

1. Use the equipment for the authorized purposes of the project during the period of performance, or until the property is no longer needed for the purposes of the project.
2. Not encumber the property without approval of the federal awarding agency or pass-through entity.
3. Use and dispose of the property in accordance with 2 C.F.R. 200.313(b), (c), and (e).

Procedures for managing equipment, including replacement equipment, whether acquired in whole or in part under a federal award, until disposition takes place will, as a minimum, meet the requirements of 2 C.F.R. 200.313(d).

2 C.F.R. 200.313(a), (d)

Supplies

Title to supplies will vest in the non-federal entity upon acquisition. If there is a residual inventory of unused supplies exceeding \$5,000 in total aggregate value upon termination or completion of the project or program and the supplies are not needed for any other federal award, the non-federal entity must retain the supplies for use on other activities or sell them, but must, in either case, compensate the federal government for its share. The amount of compensation must be computed in the same manner as for equipment under 2 C.F.R. 200.313(e)(2).

As long as the federal government retains an interest in the supplies, the non-federal entity must not use supplies acquired under a federal award to provide services to other organizations for a fee that is less than private companies charge for equivalent services, unless specifically authorized by federal statute.

2 C.F.R. 200.314

Federally Owned Property

Title to federally owned property remains vested in the federal government. The non-federal entity must submit annually an inventory listing of federally owned property in its custody to the federal awarding agency. Upon completion of the federal award or when the property is no longer needed, the non-federal entity must report the property to the federal awarding agency for further federal agency utilization.

Exempt property means property acquired under a federal award where the federal awarding agency has chosen to vest title to the property to the non-federal entity without further responsibility to the federal government, based upon the explicit terms and conditions of the federal award. The federal awarding agency may exercise this option when statutory authority exists. Absent statutory authority and specific terms and conditions of the federal award, title to exempt federally owned property acquired under the federal award remains with the federal government.

2 C.F.R. 200.312(a), (c)

*Intangible
Property*

Title to intangible property acquired under a federal award vests upon acquisition in the non-federal entity. The non-federal entity must use that property for the originally authorized purpose and must not encumber the property without approval of the federal awarding agency. When no longer needed for the originally authorized purpose, disposition of the intangible property must occur in accordance with the provisions in 2 C.F.R. 200.313(e).

The non-federal entity may copyright any work that is subject to copyright and was developed, or for which ownership was acquired, under a federal award. The federal awarding agency reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for federal purposes, and to authorize others to do so.

The non-federal entity is subject to applicable regulations governing patents and inventions, including governmentwide regulations issued by the U.S. Department of Commerce at 37 C.F.R. Part 401.

2 C.F.R. 200.315

*Property Trust
Relationship*

Real property, equipment, and intangible property, that are acquired or improved with a federal award, must be held in trust by the non-federal entity as trustee for the beneficiaries of the project or program under which the property was acquired or improved. The federal awarding agency may require the non-federal entity to record liens or other appropriate notices of record to indicate that personal or real property has been acquired or improved with a federal award and that use and disposition conditions apply to the property. *2 C.F.R. 200.316*

*Insurance
Coverage*

The non-federal entity must, at a minimum, provide the equivalent insurance coverage for real property and equipment acquired or improved with federal funds as provided to property owned by the non-federal entity. Federally owned property need not be insured

	unless required by the terms and conditions of the federal award. 2 C.F.R. 200.310
Procurement	
<i>Generally</i>	The non-federal entity must have and use documented procurement procedures, consistent with state, local, and tribal laws and regulations and the standards of this section, for the acquisition of property or services required under a federal award or subaward. The non-federal entity's documented procurement procedures must conform to the procurement standards identified in 2 C.F.R. 200.317 through 200.327. 2 C.F.R. 200.318(a)
<i>Eligible Contractors</i>	The non-federal entity must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. See also 2 C.F.R. 200.214. 2 C.F.R. 200.318(h)
Contracting with Certain Businesses	The non-federal entity must take all necessary affirmative steps, including those described by 2 C.F.R. 200.321, to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. 2 C.F.R. 200.321(a)
<i>Competition</i>	All procurement transactions for the acquisition of property or services required under a federal award must be conducted in a manner providing full and open competition consistent with the standards of 2 C.F.R. 200.319 and 200.320. 2 C.F.R. 200.319(a)
<i>Methods of Procurement</i>	The non-federal entity must have and use documented procurement procedures, consistent with the standards of 2 C.F.R. 200.320 and 2 C.F.R. 200.317, 200.318, and 200.319 for any of the methods of procurement used for the acquisition of property or services required under a federal award or sub-award. 2 C.F.R. 200.320
Informal Procurement Methods	When the value of the procurement for property or services under a federal award does not exceed the simplified acquisition threshold (SAT) or a lower threshold established by a non-federal entity, formal procurement methods are not required. The non-federal entity may use informal procurement methods to expedite the completion of its transactions and minimize the associated administrative burden and cost. The informal methods used for procurement of property or services at or below the SAT include: <ul style="list-style-type: none"> 1. Micro-purchases: The acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold. To the maximum extent practicable, the non-federal entity should distribute micro-purchases equitably

among qualified suppliers. Micro-purchases may be awarded without soliciting competitive price or rate quotations if the non-federal entity considers the price to be reasonable based on research, experience, purchase history, or other information and documents it files accordingly. Purchase cards can be used for micro-purchases if procedures are documented and approved by the non-federal entity. The micro-purchase method is subject to the requirements of 2 C.F.R. 200.320(a)(1).

2. Small purchases: The acquisition of property or services, the aggregate dollar amount of which is higher than the micro-purchase threshold but does not exceed the simplified acquisition threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources as determined appropriate by the non-federal entity. The small purchases method is subject to the requirements of 2 C.F.R. 200.320(a)(2).

2 C.F.R. 200.320(a)

Formal
Procurement
Methods

When the value of the procurement for property or services under a federal financial assistance award exceeds the SAT, or a lower threshold established by a non-federal entity, formal procurement methods are required. Formal procurement methods require following documented procedures. Formal procurement methods also require public advertising unless a non-competitive procurement can be used in accordance with 2 C.F.R. 200.319 or the noncompetitive procurement procedures below. The following formal methods of procurement are used for procurement of property or services above the simplified acquisition threshold or a value below the simplified acquisition threshold the non-federal entity determines to be appropriate:

1. Sealed bids: A procurement method in which bids are publicly solicited and a firm fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bids method is the preferred method for procuring construction, if the conditions. The sealed bid method is subject to the requirements of 2 C.F.R. 200.320(b)(1).
2. Proposals: A procurement method in which either a fixed price or cost-reimbursement type contract is awarded. Proposals are generally used when conditions are not appropriate for the use of sealed bids. Proposals are awarded in accordance with the requirements described by 2 C.F.R. 200.320(b)(2).

2 C.F.R. 200.320(b)

Noncompetitive Procurement	<p>There are specific circumstances in which noncompetitive procurement can be used. Noncompetitive procurement can only be awarded if one or more of the following circumstances apply:</p> <ol style="list-style-type: none">1. The acquisition of property or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold;2. The item is available only from a single source;3. The public exigency or emergency for the requirement will not permit a delay resulting from publicizing a competitive solicitation;4. The federal awarding agency or pass-through entity expressly authorizes a noncompetitive procurement in response to a written request from the non-federal entity; or5. After solicitation of a number of sources, competition is determined inadequate.
<i>Domestic Preference</i>	<p><i>2 C.F.R. 200.320(c)</i></p> <p>As appropriate and to the extent consistent with law, the non-federal entity should, to the greatest extent practicable under a federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States, including but not limited to iron, aluminum, steel, cement, and other manufactured products. The requirements of 2 C.F.R. 300.022 must be included in all subawards including all contracts and purchase orders for work or products under this award.</p> <p>“Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.</p> <p>“Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.</p>
<i>Contract Provisions</i>	<p><i>2 C.F.R. 200.322</i></p> <p>The non-federal entity's contracts must contain the applicable provisions described in Appendix II to 2 C.F.R. Part 200. <i>2 C.F.R. 200.327</i></p>
<i>Time and Materials Contracts</i>	<p>The non-federal entity may use a time-and-materials type contract only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at</p>

its own risk. Time-and-materials type contract means a contract whose cost to a non-federal entity is the sum of:

1. The actual cost of materials; and
2. Direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.

Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the non-federal entity awarding such a contract must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

2 C.F.R. 200.318(j)

*Contract Cost
and Price*

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

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

Costs or prices based on estimated costs for contracts under the federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the non-federal entity under 2 C.F.R. Part 200, Subpart E. The non-federal entity may reference its own cost principles that comply with the federal cost principles.

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

2 C.F.R. 200.324

Cost
Effectiveness

The non-federal entity's procedures must avoid acquisition of unnecessary or duplicative items. Consideration should be given to

consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the federal government, the non-federal entity is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services. Competition requirements will be met with ~~applied to~~ documented procurement actions using strategic sourcing, shared services, and other similar procurement arrangements.

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

The non-federal entity is encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

2 C.F.R. 200.318(d)–(g)

*Procurement of
Certain Services
and Equipment*

Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to procure or obtain; extend or renew a contract to procure or obtain; or enter into a contract, or extend or renew a contract, to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services, as described by 2 C.F.R. 200.316, as a substantial or essential component of any system, or as critical technology as part of any system. *2 C.F.R. 200.318(a)*

*Procurement of
Recovered
Materials*

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

manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines. *2 C.F.R. 200.323*

*Bonding
Requirements*

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, the federal awarding agency or pass-through entity may accept the bonding policy and requirements of the non-federal entity in accordance with 2 C.F.R. 200.326. *2 C.F.R. 200.326*

Oversight

By Non-Federal
Entities

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

By Other
Governmental
Entities

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

The non-federal entity must make available upon request, for the federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:

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

5. A proposed contract modification changes the scope of a contract or increases the contract amount by more than the Simplified Acquisition Threshold.

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

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

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

2 C.F.R. 200.325

*Settlement of
Contractual and
Administrative
Issues*

The non-federal entity alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the non-federal entity of any contractual responsibilities under its contracts. The federal awarding agency will not substitute its judgment for that of the non-federal entity unless the matter is primarily a federal concern. Violations of law will be referred to the local, state, or federal authority having proper jurisdiction. *2 C.F.R. 200.318(k)*

Travel Costs

Travel costs are the expenses for transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business of the non-federal entity. Such costs may be charged on an actual cost basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used is applied to an entire trip and not to selected days of the trip, and results in charges consistent with those normally allowed in like circumstances in the non-federal entity's non-federally funded activities and in accordance with non-federal entity's written travel reimbursement policies. Notwithstanding the

provisions of 2 C.F.R. 200.444, travel costs of officials covered by that section are allowable with the prior written approval of the federal awarding agency or pass-through entity when they are specifically related to the federal award. Charges for travel costs are subject to 2 C.F.R. 200.475. *2 C.F.R. 200.475(a)*

Records

*Records
Retention*

Generally

Financial records, supporting documents, statistical records, and all other non-federal entity records pertinent to a federal award must be retained for a period of three years from the date of submission of the final expenditure report or, for federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, respectively, as reported to the federal awarding agency or pass-through entity in the case of a subrecipient. Federal awarding agencies and pass-through entities must not impose any other record retention requirements upon non-federal entities with the exception of those situations described by 2 C.F.R. 200.334. *2 C.F.R. 200.334*

Procurement

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

*Methods for
Collection,
Transmission,
and Storage of
Information*

The federal awarding agency and the non-federal entity should, whenever practicable, collect, transmit, and store federal award-related information in open and machine-readable formats rather than in closed formats or on paper in accordance with applicable legislative requirements. A machine-readable format is a format in a standard computer language (not English text) that can be read automatically by a web browser or computer system. The federal awarding agency or pass-through entity must always provide or accept paper versions of federal award-related information to and from the non-federal entity upon request. If paper copies are submitted, the federal awarding agency or pass-through entity must not require more than an original and two copies. When original records are electronic and cannot be altered, there is no need to create and retain paper copies. When original records are paper, electronic versions may be substituted through the use of duplication or other forms of electronic media provided that they are subject to periodic quality control reviews, provide reasonable safeguards against alteration, and remain readable. *2 C.F.R. 200.336*

*Access to
Records*

By
Governmental
Entities

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

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

Only under extraordinary and rare circumstances would such access include review of the true name of victims of a crime. Routine monitoring cannot be considered extraordinary and rare circumstances that would necessitate access to this information. When access to the true name of victims of a crime is necessary, appropriate steps to protect this sensitive information must be taken by both the non-federal entity and the federal awarding agency.

2 C.F.R. 200.337

By the Public

No federal awarding agency may place restrictions on the non-federal entity that limit public access to the records of the non-federal entity pertinent to a federal award, except for protected personally identifiable information (PII) or when the federal awarding agency can demonstrate that such records will be kept confidential and would have been exempted from disclosure pursuant to the Freedom of Information Act, 5 U.S.C. 552, or controlled unclassified information pursuant to Executive Order 13556 if the records had belonged to the federal awarding agency. The Freedom of Information Act (FOIA), 5 U.S.C. 552, does not apply to those records that remain under a non-federal entity's control except as required under 2 C.F.R. 200.315. Unless required by federal, state, local, and tribal statute, non-federal entities are not required to permit public access to their records. The non-federal entity's records provided to a federal agency generally will be subject to FOIA and applicable exemptions. *2 C.F.R. 200.338*

Performance
 Reports

*Monitoring
 Required*

The non-federal entity is responsible for oversight of the operations of the federal award supported activities. The non-federal entity must monitor its activities under federal awards to assure compliance with applicable federal requirements and performance expectations are being achieved. Monitoring by the non-federal entity must cover each program, function, or activity. See also 2 C.F.R. 200.332. *2 C.F.R. 200.329(a)*

*Reporting
 Generally*

The federal awarding agency must use OMB-approved common information collections, as applicable, when providing financial and performance reporting information. As appropriate and in accordance with above-mentioned information collections, the federal awarding agency must require the recipient to relate financial data and accomplishments to performance goals and objectives of the federal award. Also, in accordance with above-mentioned common

information collections, and when required by the terms and conditions of the federal award, recipients must provide cost information to demonstrate cost-effective practices (e.g., through unit-cost data). In some instances (e.g., discretionary research awards), this will be limited to the requirement to submit technical performance reports (to be evaluated in accordance with federal awarding agency policy). Reporting requirements must be clearly articulated such that, where appropriate, performance during the execution of the federal award has a standard against which non-federal entity performance can be measured. 2 C.F.R. 200.329(b)

*Nonconstruction
Performance
Reports*

The federal awarding agency must use standard, governmentwide OMB-approved data elements for collection of performance information, including performance progress reports, Research Performance Progress Reports.

The non-federal entity must submit performance reports at the interval required by the federal awarding agency or pass-through entity to best inform improvements in program outcomes and productivity. Intervals must be no less frequent than annually nor more frequent than quarterly except in unusual circumstances, for example where more frequent reporting is necessary for the effective monitoring of the federal award or could significantly affect program outcomes. Reports submitted annually by the non-federal entity and/or pass-through entity must be due no later than 90 calendar days after the reporting period. Reports submitted quarterly or semiannually reports must be due no later than 30 calendar days after the reporting period. Alternatively, the federal awarding agency or pass-through entity may require annual reports before the anniversary dates of multiple year federal awards. The final performance report submitted by the non-federal entity and/or pass-through entity must be due no later than 120 calendar days after the period of performance end date. A subrecipient must submit to the pass-through entity, no later than 90 calendar days after the period of performance end date, all final performance reports as required by the terms and conditions of the federal award. See also 2 C.F.R. 200.344. If a justified request is submitted by a non-federal entity, the federal agency may extend the due date for any performance report.

As appropriate in accordance with above-mentioned performance reporting, these reports will contain, for each federal award, brief information on the following unless other data elements are approved by OMB in the agency information collection request:

1. A comparison of actual accomplishments to the objectives of the federal award established for the period. Where the ac-

accomplishments of the federal award can be quantified, a computation of the cost (for example, related to units of accomplishment) may be required if that information will be useful. Where performance trend data and analysis would be informative to the federal awarding agency program, the federal awarding agency should include this as a performance reporting requirement.

2. The reasons why established goals were not met, if appropriate.
3. Additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

2 C.F.R. 200.329(c)

*Construction
Performance
Reports*

For the most part, onsite technical inspections and certified percentage of completion data are relied on heavily by federal awarding agencies and pass-through entities to monitor progress under federal awards and subawards for construction. The federal awarding agency may require additional performance reports only when considered necessary. *2 C.F.R. 200.329(d)*

*Significant
Developments*

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

1. Problems, delays, or adverse conditions which will materially impair the ability to meet the objective of the federal award. This disclosure must include a statement of the action taken, or contemplated, and any assistance needed to resolve the situation.
2. Favorable developments which enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more or different beneficial results than originally planned.

2 C.F.R. 200.329(e)

Site Visits

The federal awarding agency may make site visits as warranted by program needs. *2 C.F.R. 200.329(f)*

Waiver

The federal awarding agency may waive any performance report required by 2 C.F.R. Part 200 if not needed. *2 C.F.R. 200.329(g)*

*Real Property
Reports*

The federal awarding agency or pass-through entity must require a non-federal entity to submit reports at least annually on the status

of real property in which the federal government retains an interest in accordance with 2 C.F.R. 200.330. *2 C.F.R. 200.330*

Audits

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

Collection of
Amounts Due

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

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

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

2 C.F.R. 200.346

Mandatory
Disclosure

The non-federal entity or applicant for a federal award must disclose, in a timely manner, in writing to the federal awarding agency or pass-through entity all violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award. Non-federal entities that have received a federal award including the term and condition outlined in Appendix XII to 2 C.F.R. Part 200 are required to report certain civil, criminal, or administrative proceedings to the System for Award Management (SAM) (currently Federal Awardee Performance and Integrity Information System or FAPIIS). Failure to make required disclosures can result in any of the remedies described in 2 C.F.R. 200.339. (See also 2 C.F.R. Part 180, 31 U.S.C. 3321, and 41 U.S.C. 2313) *2 C.F.R. 200.113*

- Noncompliance
- If a non-federal entity fails to comply with the U.S. Constitution, federal statutes, regulations, or the terms and conditions of a federal award, the federal awarding agency or pass-through entity may impose additional conditions, as described in 2 C.F.R. 200.208. If the federal awarding agency or pass-through entity determines that noncompliance cannot be remedied by imposing additional conditions, the federal awarding agency or pass-through entity may take one or more of the following actions, as appropriate in the circumstances:
1. Temporarily withhold cash payments pending correction of the deficiency by the non-federal entity or more severe enforcement action by the federal awarding agency or pass-through entity.
 2. Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.
 3. Wholly or partly suspend or terminate the federal award.
 4. Initiate suspension or debarment proceedings as authorized under 2 C.F.R. Part 180 and federal awarding agency regulations, or in the case of a pass-through entity, recommend such a proceeding be initiated by a federal awarding agency.
 5. Withhold further federal awards for the project or program.
 6. Take other remedies that may be legally available.

2 C.F.R. 200.339

Opportunities to Object

Upon taking any remedy for non-compliance, the federal awarding agency must provide the non-federal entity an opportunity to object and provide information and documentation challenging the suspension or termination action, in accordance with written processes and procedures published by the federal awarding agency. The federal awarding agency or pass-through entity must comply with any requirements for hearings, appeals, or other administrative proceedings to which the non-federal entity is entitled under any statute or regulation applicable to the action involved. *2 C.F.R. 200.342*

Suspension and Debarment

Non-federal entities are subject to the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, 2 C.F.R. Part 180. The regulations in 2 C.F.R. Part 180 restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs or activities. *2 C.F.R. 200.214*

Termination of
Federal Award

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

1. By the federal awarding agency or pass-through entity, if a non-federal entity fails to comply with the terms and conditions of a federal award;
2. By the federal awarding agency or pass-through entity, to the greatest extent authorized by law, if an award no longer effectuates the program goals or agency priorities;
3. By the federal awarding agency or pass-through entity with the consent of the non-federal entity, in which case the two parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated;
4. By the non-federal entity upon sending to the federal awarding agency or pass-through entity written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if the federal awarding agency or pass-through entity determines in the case of partial termination that the reduced or modified portion of the federal award or subaward will not accomplish the purposes for which the federal award was made, the federal awarding agency or pass-through entity may terminate the federal award in its entirety; or
5. By the federal awarding agency or pass-through entity pursuant to termination provisions included in the federal award.

When a federal award is terminated or partially terminated, both the federal awarding agency or pass-through entity and the non-federal entity remain responsible for compliance with the requirements in 2 C.F.R. 200.344 and 200.345.

2 C.F.R. 200.340(a), (d)

U.S. Education
Department
General
Administrative
Regulations

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

*Direct Grant
Programs*

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

*State-
administered
Programs*

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

<i>General Education Provision Act</i>	The regulations in 34 C.F.R. Part 81 govern the enforcement of legal requirements under applicable programs administered by the U.S. Department of Education and implement Part E of the General Education Provisions Act (GEPA). <i>34 C.F.R. 81.1</i>
U.S. Department of Agriculture	Title 2 C.F.R. Part 400 adopts the OMB guidance in 2 C.F.R. Part 200, Subparts A–F, as supplemented by 2 C.F.R. Part 400, as U.S. Department of Agriculture (USDA) policies and procedures for uniform administrative requirements, cost principles, and audit requirements for federal awards. It thereby gives regulatory effect for the USDA to the OMB guidance, as supplemented by 2 C.F.R. Part 400. <i>2 C.F.R. 400.1</i>
<u>U.S. Department of Defense</u>	<u>U.S. Department of Defense (DOD) components must conform the format of new grants and cooperative agreements to the standard award format specified in 2 C.F.R. Part 1120. The standard format provides locations within the award for:</u> <ol style="list-style-type: none"><u>1. General terms and conditions, including the administrative and national policy requirements discussed in 2 C.F.R. 1104.105(a) and (b), respectively; and</u><u>2. Any award-specific terms and conditions discussed in 2 C.F.R. 1104.110.</u> <p><u><i>2 C.F.R. 1104.100</i></u></p> <p><u>On an interim basis pending completion of the update of the DOD Grant and Agreement Regulations (DODGARs) to implement OMB guidance published in 2 C.F.R. Part 200, the provisions of 2 C.F.R. Parts 1126 through 1138 govern the administrative requirements to be included in the general terms and conditions of DOD components' new grants and cooperative agreements awarded to institutions of higher education.</u></p> <p><u>2 C.F.R. Part 1122 governs the national policy requirements to be included in DOD components' new grants and cooperative agreements awarded to all types of entities.</u></p> <p><u><i>2 C.F.R. 1104.105(a)(1), (b)</i></u></p> <p><u>On an interim basis pending completion of the update of the DODGARs to implement OMB guidance published in 2 C.F.R. Part 200, the guidance in 2 C.F.R. Part 200 governs administrative requirements to be included in any award-specific terms and conditions used to supplement the general terms and conditions of a new grant or cooperative agreement awarded to an institution of higher education. <i>2 C.F.R. 1104.110(a)</i></u></p>

[On an interim basis pending completion of the update of the DODGARs to implement OMB guidance published in 2 C.F.R. Part 200, DOD components' internal pre-award, time-of-award, and post-award procedures will continue to comply with requirements in 32 C.F.R. Parts 21 and 22 and other applicable defense grant and agreement regulatory system policies. 2 C.F.R. 1104.115](#)

U.S. Department of Health and Human Services

The U.S. Department of Health and Human Services (HHS) adopts the OMB Guidance in 2 C.F.R. Part 200, and has codified the text, with HHS-specific amendments in 45 C.F.R. Part 75. Thus, 2 C.F.R. Part 300 gives regulatory effect to the OMB guidance and supplements the guidance as needed for HHS. *2 C.F.R. 300.1*

U.S. Department of Justice

The U.S. Department of Justice adopts the OMB Guidance in 2 C.F.R. Part 200, except as otherwise may be provided by 2 C.F.R. Part 2800. Unless expressly provided otherwise, any reference in 2 C.F.R. Part 2800 to any provision of law not in 2 C.F.R. Part 2800 shall be understood to constitute a general reference and thus to include any subsequent changes to the provision. *2 C.F.R. 2800.101*

U.S. Department of Labor

The U.S. Department of Labor (DOL) adopts the OMB Guidance in the uniform administrative requirements, cost principles, and audit requirements for federal awards to non-federal entities, 2 C.F.R. Part 200, Subparts A–F, as supplemented by 2 C.F.R. Part 2900, as the DOL policies and procedures for financial assistance administration. Part 2900 satisfies the requirements of 2 C.F.R. 200.110(a) and gives regulatory effect to the OMB guidance as supplemented by Part 2900. The DOL also has programmatic and administrative regulations located in [C.F.R. Titles 20 and 29](#)-~~C.F.R.~~ *2 C.F.R. 2900.4*

Public Funds
Investment Act

[A college district must comply with the Public Funds Investment Act, Government Code Chapter 2256.](#)

Investment
Compliance

All investments made by investing entities, including college districts, shall comply with ~~the Public Funds Investment Act~~, Government Code Chapter 2256, Subchapter A, and all federal, state, and local statutes, rules, or regulations. *Gov't Code 2256.026*

Written Policies

The governing body of an investing entity shall adopt by rule, order, ordinance, or resolution, as appropriate, a written investment policy regarding the investment of its funds under its control. The investment policies must be written; primarily emphasize safety of principal and liquidity; and address investment diversification, yield, and maturity and the quality and capability of investment management; and include:

1. A list of the types of authorized investments in which the investing entity's funds may be invested;
2. The maximum allowable stated maturity of any individual investment owned by the entity;
3. For pooled fund groups, the maximum dollar-weighted average maturity allowed based on the stated maturity date of the portfolio;
4. Methods to monitor the market price of investments acquired with public funds;
5. A requirement for settlement of all transactions, except investment pool funds and mutual funds, on a delivery versus payment basis; and
6. Procedures to monitor rating changes in investments acquired with public funds and the liquidation of such investments consistent with the provisions of Government Code 2256.021 [see Loss of Required Rating, below].

Gov't Code 2256.005(a)-(b)

Annual Review

The governing body of an investing entity shall review its investment policy and investment strategies not less than annually. The governing body shall adopt a written instrument by rule, order, ordinance, or resolution stating that it has reviewed the investment policy and investment strategies and that the written instrument so adopted shall record any changes made to either the investment policy or investment strategies. *Education Code 51.0032; Gov't Code 2256.005(e)*

Investment
Strategies

As an integral part of the investment policy, the governing body shall adopt a separate written investment strategy for each of the funds or group of funds under its control. Each investment strategy must describe the investment objectives for the particular fund using the following priorities in order of importance:

1. Understanding of the suitability of the investment to the financial requirements of the entity;
2. Preservation and safety of principal;
3. Liquidity;
4. Marketability of the investment if the need arises to liquidate the investment before maturity;
5. Diversification of the investment portfolio; and
6. Yield.

Gov't Code 2256.005(d)

Investment Officer

Each investing entity shall designate, by rule, order, ordinance, or resolution, as appropriate, one or more officers or employees as investment officer to be responsible for the investment of its funds consistent with the investment policy adopted by the entity. If the governing body of an investing entity has contracted with another investing entity to invest its funds, the investment officer of the other investing entity is considered to be the investment officer of the first investing entity for purposes of Government Code Chapter 2256. Authority granted to a person to invest an entity's funds is effective until rescinded by the investing entity, until the expiration of the officer's term or the termination of the person's employment by the investing entity, or if an investment management firm, until the expiration of the contract with the investing entity. In the administration of the duties of an investment officer, the person designated as investment officer shall exercise the judgment and care, under prevailing circumstances, that a prudent person would exercise in the management of the person's own affairs, but the governing body of the investing entity retains the ultimate responsibility as fiduciaries of the assets of the investing entity. Unless authorized by law, a person may not deposit, withdraw, transfer, or manage in any other manner the funds of the investing entity. *Gov't Code 2256.005(f)*

Government Code Chapter 2256 does not prohibit an investing entity or investment officer from using the entity's employees or the services of a contractor of the entity to aid the investment officer in the execution of the officer's duties under Government Code Chapter 2256. *Gov't Code 2256.003(c)*

Investment Training

[Initial Training for Board Members and Investment Officer](#)

Each member of the governing board of a state agency and its investment officer shall attend at least one training session relating to the person's responsibilities under ~~the Public Funds Investment Act~~ [Government Code Chapter 2256](#) within six months after taking office or assuming duties. The Coordinating Board shall provide the training under Government Code 2256.007. The training must include education in:

1. Investment controls;
2. Security risks;
3. Strategy risks;
4. Market risks;
5. Diversification of investment portfolio; and
6. [Compliance with ~~the Public Funds~~ Chapter 2256. Gov't Code 2256.007\(a\)-\(c\)](#)

[Biennial Training for Investment Act Officer](#)

The investment officer shall attend a training session not less than once each state fiscal biennium and may receive training from any independent source approved by the governing body of the state agency. ~~The investment officer shall prepare a report on the Public Funds Investment Act and deliver it to the governing body of the state agency no later than the 180th day after the last day of each regular session of the legislature.~~ [Gov't Code 2256.007\(d\)](#)

~~Gov't Code 2256.007~~

[Training for Investment Officer and Other College Officials](#)

The treasurer, the chief financial officer if the treasurer is not the chief financial officer, and the investment officer of a local government shall:

1. Attend at least one training session from an independent source approved by the governing body of the local government or a designated investment committee advising the investment officer as provided for in the investment policy of the local government and containing at least ten hours of instruction relating to the treasurer's or officer's responsibilities under Government Code Chapter 2256, Subchapter A within 12 months after taking office or assuming duties; and
2. Attend an investment training session not less than once in a two-year period that begins on the first day of that local government's fiscal year and consists of the two consecutive fiscal years after that date, and receive not less than ten hours of instruction relating to investment responsibilities under

Chapter 2256, Subchapter A from an independent source approved by the governing body of the local government or a designated investment committee advising the investment officer as provided for in the investment policy of the local government.

The training must include education in investment controls, security risks, strategy risks, market risks, diversification of investment portfolio, and compliance with Government Code Chapter 2256.

Gov't Code 2256.008(a), (c)

Standard of Care

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

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

In determining whether an investment officer has exercised prudence with respect to an investment decision, the following shall be taken into consideration:

1. The investment of all funds, or funds under the entity's control over which the officer had responsibility rather than a consideration as to the prudence of a single investment; and
2. Whether the investment decision was consistent with the written investment policy of the entity.

Gov't Code 2256.006

Personal Interest

An investment officer of an entity who has a personal business relationship with a business organization offering to engage in an investment transaction with the entity shall file a statement disclosing that personal business interest. An investment officer who is related within the second degree by affinity or consanguinity, as determined by Government Code Chapter 573, to an individual seeking to sell an investment to the investment officer's entity shall file a statement disclosing that relationship. A required statement must be filed with the Texas Ethics Commission and the governing body of the entity. For purposes of this policy, an investment officer has a personal business relationship with a business organization if:

1. The investment officer owns ten percent or more of the voting stock or shares of the business organization or owns \$5,000 or more of the fair market value of the business organization;
2. Funds received by the investment officer from the business organization exceed ten percent of the investment officer's gross income for the previous year; or
3. The investment officer has acquired from the business organization during the previous year investments with a book value of \$2,500 or more for the personal account of the investment officer.

Gov't Code 2256.005(i)

Reports

Quarterly Reports

Not less than quarterly, the investment officer shall prepare and submit to the governing body of the entity a written report of investment transactions for all funds covered by the Public Funds Investment Act for the preceding reporting period. This report shall be presented not less than quarterly to the governing body and the chief executive officer of the entity within a reasonable time after the end of the period. The report must:

1. Describe in detail the investment position of the entity on the date of the report;
2. Be prepared jointly by all investment officers of the entity;
3. Be signed by each investment officer of the entity;
4. Contain a summary statement for each pooled fund group (i.e., each internally created fund of an investing entity in which one or more institutional accounts of the investing entity are invested) that states the:
 - a. Beginning market value for the reporting period;
 - b. Ending market value for the period; and
 - c. Fully accrued interest for the reporting period;
5. State the book value and market value of each separately invested asset at the end of the reporting period by the type of asset and fund type invested;
6. State the maturity date of each separately invested asset that has a maturity date;
7. State the account or fund or pooled group fund in the state agency or local government for which each individual investment was acquired; and

8. State the compliance of the investment portfolio of the state agency or local government as it relates to the investment strategy expressed in the agency's or local government's investment policy and relevant provisions of Government Code Chapter 2256.

If the entity invests in other than money market mutual funds, investment pools or accounts offered by its depository bank in the form of certificates of deposit, or money market accounts or similar accounts, the reports prepared by the investment officer under Government Code Chapter 2256 shall be formally reviewed at least annually by an independent auditor, and the result of the review shall be reported to the governing body by that auditor.

Education Code 51.0032; Gov't Code 2256.001, .002 (9), .023

Biennial Report

The investment officer shall prepare a report on Government Code Chapter 2256, Subchapter A and deliver it to the governing body of the state agency no later than the 180th day after the last day of each regular session of the legislature. Gov't Code 2256.007(d)

Selection of Broker

The governing body of an entity subject to Government Code Chapter 2256, Subchapter A or a designated investment committee, shall, at least annually, review, revise, and adopt a list of qualified brokers that are authorized to engage in investment transactions with the entity. *Gov't Code 2256.025*

Authorized Investments

Each governing body of a local government or a state agency may purchase, sell, and invest its funds and funds under its control in investments described below, in compliance with investment policies approved by the governing body and according to the standard of care set out in this policy. The governing body of an investing entity may specify in its investment policy that any investment authorized by Government Code Chapter 2256 is not suitable. Investments may be made directly by the governing body or by a nonprofit corporation acting on behalf of the governing body or an investment pool acting on behalf of two or more local governments, state agencies, or a combination of those entities.

In the exercise of these powers, the governing body of an investing entity may contract with an investment management firm registered under the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-1 et seq.) or with the State Securities Board to provide for the investment and management of its public funds or other funds under its control. A contract made for such purpose may not be for a term longer than two years. A renewal or extension of the contract must be made by the governing body of an investing entity by order, ordinance, or resolution.

Gov't Code 2256.003(a)–(b), .005(j)

Obligations

Except as provided below, the following are authorized investments under the Public Funds Investment Act:

1. Obligations, including letters of credit, of the United States or its agencies and instrumentalities, including the Federal Home Loan Banks;
2. Direct obligations of this state or its agencies and instrumentalities;
3. Collateralized mortgage obligations directly issued by a federal agency or instrumentality of the United States, the underlying security for which is guaranteed by an agency or instrumentality of the United States;
4. Other obligations, the principal and interest of which are unconditionally guaranteed or insured by, or backed by the full faith and credit of, the state of Texas, the United States, or their respective agencies and instrumentalities, including obligations that are fully guaranteed or insured by the Federal Deposit Insurance Corporation (FDIC) or by the explicit full faith and credit of the United States;
5. Obligations of states, agencies, counties, cities, and other political subdivisions of any state rated as to investment quality by a nationally recognized investment rating firm not less than A or its equivalent;
6. Bonds issued, assumed, or guaranteed by the state of Israel;
7. Interest-bearing banking deposits that are guaranteed or insured by:
 - a. The FDIC or its successor; or
 - b. The National Credit Union Share Insurance Fund or its successor; and
8. Interest-bearing banking deposits other than those described by item 7 if:
 - a. The funds invested in the banking deposits are invested through a broker with a main office or branch office in this state that the investing entity selects from a list the governing body or designated investment committee of the entity adopts as required by Government Code 2256.025 or a depository institution with a main office or branch office in this state that the investing entity selects;

- b. The selected broker or depository institution arranges for the deposit of the funds in the banking deposits in one or more federally insured depository institutions, regardless of where located, for the investing entity's account;
- c. The full amount of the principal and accrued interest of the banking deposits is insured by the United States or an instrumentality of the United States; and
- d. The investing entity appoints as the entity's custodian of the banking deposits issued for the entity's account the selected depository institution, an entity described by Government Code 2257.041(d), or a clearing broker dealer registered with the Securities and Exchange Commission and operating under Securities and Exchange Commission Rule 15c3-3 (17 C.F.R. 240.15c3-3).

Gov't Code 2256.009(a)

The following investments are not authorized:

1. Obligations whose payment represents the coupon payments on the outstanding principal balance of the underlying mortgage-backed security collateral and pays no principal.
2. Obligations whose payment represents the principal stream of cash flow from the underlying mortgage-backed security collateral and bears no interest.
3. Collateralized mortgage obligations that have a stated final maturity date of greater than ten years.
4. Collateralized mortgage obligations the interest rate of which is determined by an index that adjusts opposite to the changes in a market index.

Gov't Code 2256.009(b)

Certificates of
Deposit and Share
Certificates

A certificate of deposit or share certificate is an authorized investment if the certificate is issued by a depository institution that has its main office or a branch office in Texas and is:

1. Guaranteed or insured by the FDIC or its successor or the National Credit Union Share Insurance Fund or its successor;
2. Secured by obligations described by Government Code 2256.009(a) above, including mortgage-backed securities directly issued by a federal agency or instrumentality that have a market value of not less than the principal amount of the

certificates, but excluding those mortgage-backed securities of the nature described by Section 2256.009(b); or

3. Secured in accordance with Government Code Chapter 2257 or in any other manner and amount provided by law for the deposits of the investing entity.

In addition to the authority to invest funds in certificates of deposit under the previous section, an investment in certificates of deposit made in accordance with the following conditions is an authorized investment under Government Code 2256.010:

1. The funds are invested by an investing entity through a broker that has its main office or a branch office in this state and is selected from a list adopted by the investing entity as required by Government Code 2256.025, or a depository institution that has its main office or a branch office in this state and that is selected by the investing entity;
2. The broker or depository institution selected by the investing entity arranges for the deposit of the funds in certificates of deposit in one or more federally insured depository institutions, wherever located, for the account of the investing entity;
3. The full amount of the principal and accrued interest of each of the certificates of deposit is insured by the United States or an instrumentality of the United States; and
4. The investing entity appoints the depository institution selected by the investing entity under paragraph a above or a clearing broker-dealer registered with the Securities and Exchange Commission and operating pursuant to Securities and Exchange Commission Rule 15c3-3 (17 C.F.R. 240.15c3-3) as custodian for the investing entity with respect to the certificates of deposit issued for the account of the investing entity.

Gov't Code 2256.010(a)-(b)

The investment policies may provide that bids for certificates of deposit be solicited orally, in writing, electronically, or in any combination of those methods. *Gov't Code 2256.005(c)*

Repurchase
Agreements

A fully collateralized repurchase agreement is an authorized investment under the Public Funds Investment Act if the repurchase agreement:

1. Has a defined termination date;
2. Is secured by a combination of cash and obligations described by Government Code 2256.009(a)(1) or 2256.013 or, if applicable, 2256.0204;

3. Requires the securities being purchased by the entity or cash held by the entity to be pledged to the entity, held in the entity's name, and deposited with the entity or a third party selected and approved by the entity; and
4. Is placed through a primary government securities dealer, as defined by the Federal Reserve or a financial institution doing business in Texas.

Notwithstanding any other law, the term of any reverse security repurchase agreement may not exceed 90 days after the date the reverse security repurchase agreement is delivered. Money received by an entity under the terms of a reverse security repurchase agreement shall be used to acquire additional authorized investments, but the term of the authorized investments acquired must mature not later than the expiration date stated in the reverse security repurchase agreement.

Government Code 1371.059(c) applies to the execution of a repurchase agreement by an investing entity.

A "repurchase agreement" means a simultaneous agreement to buy, hold for a specified time, and sell back at a future date obligations described by Section 2256.009(a)(1) or 2256.013 or, if applicable, 2256.0204, at a market value at the time the funds are disbursed of not less than the principal amount of the funds disbursed. The term includes a direct security repurchase agreement and a reverse security repurchase agreement.

Gov't Code 2256.011

Securities Lending
Program

A securities lending program is an authorized investment if:

1. The value of securities loaned must not be less than 100 percent collateralized, including accrued income, and the loan must allow for termination at any time;
2. The loan must be secured by:
 - a. Pledged securities described by Government Code 2256.009;
 - b. Pledged irrevocable letters of credit issued by a bank that is organized and existing under the laws of the United States or any other state and continuously rated by at least one nationally recognized investment rating firm at not less than A or its equivalent; or
 - c. Cash invested in accordance with Government Code 2256.009, 2256.013, 2256.014, or 2256.016;

3. The terms of the loan require that the securities being held as collateral be pledged to the investing entity, held in the investing entity's name, and deposited at the time the investment is made with the entity or with a third party selected by or approved by the investing entity; and
4. The loan must be placed through a primary government securities dealer, as defined by 5 C.F.R. 6801.102(f), as that regulation existed on September 1, 2003, or a financial institution doing business in this state.

An agreement to lend securities under a securities lending program must have a term of one year or less.

Gov't Code 2256.0115

Banker's
Acceptance

A banker's acceptance is an authorized investment if the banker's acceptance:

1. Has a stated maturity of 270 days or fewer from the date of issuance;
2. Will be, in accordance with its terms, liquidated in full at maturity;
3. Is eligible for collateral for borrowing from a Federal Reserve Bank; and
4. Is accepted by a bank organized and existing under the laws of the United States or any state, if the short-term obligations of the bank, or of a bank holding company of which the bank is the largest subsidiary, are rated not less than A-1 or P-1 or an equivalent rating by at least one nationally recognized credit rating agency.

Gov't Code 2256.012

Commercial Paper

Commercial paper is an authorized investment if the commercial paper:

1. Has a stated maturity of 365 days or fewer from the date of issuance; and
2. Is rated not less than A1-1 or P-1 or an equivalent rating by at least two nationally recognized credit rating agencies, or by one nationally recognized credit rating agency and is fully secured by an irrevocable letter of credit issued by a bank organized and existing under the laws of the United States or any state.

Gov't Code 2256.013

Mutual Funds

A no-load money market mutual fund is an authorized investment if the mutual fund:

1. Is registered with and regulated by the Securities and Exchange Commission;
2. Provides the investing entity with a prospectus and other information required by the Securities and Exchange Act of 1934 (15 U.S.C. 78a et seq.) or the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.); and
3. Complies with federal Securities and Exchange Commission Rule 2a-7 (17 C.F.R. Section 270.2a-7), promulgated under the Investment Company Act of 1940 (15 U.S.C. Section 80a-1 et seq.).

A no-load mutual fund is an authorized investment if the mutual fund:

1. Is registered with the Securities and Exchange Commission;
2. Has an average weighted maturity of less than two years; and
3. Either has a duration of one year or more and is invested exclusively in obligations approved by Government Code Chapter 2256, Subchapter A, regarding authorized investments (Public Funds Investment Act) or has a duration of less than one year and the investment portfolio is limited to investment grade securities, excluding asset-backed securities.

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

Gov't Code 2256.014

Guaranteed
Investment
Contracts

A guaranteed investment contract is an authorized investment for bond proceeds if the guaranteed investment contract:

1. Has a defined termination date;
2. Is secured by obligations described by Government Code 2256.009(a)(1), excluding those obligations described by Section 2256.009(b), in an amount at least equal to the amount of bond proceeds invested under the contract; and
3. Is pledged to the entity and deposited with the entity or with a third party selected and approved by the entity.

Bond proceeds, other than bond proceeds representing reserves and funds maintained for debt service purposes, may not be invested in a guaranteed investment contract with a term longer than five years from the date of issuance of the bonds.

To be eligible as an authorized investment:

1. The governing body of the entity must specifically authorize guaranteed investment contracts as eligible investments in the order, ordinance, or resolution authorizing the issuance of bonds;
2. The entity must receive bids from at least three separate providers with no material financial interest in the bonds from which proceeds were received;
3. The entity must purchase the highest yielding guaranteed investment contract for which a qualifying bid is received;
4. The price of the guaranteed investment contract must take into account the reasonably expected drawdown schedule for the bond proceeds to be invested; and
5. The provider must certify the administrative costs reasonably expected to be paid to third parties in connection with the guaranteed investment contract.

Government Code 1371.059(c) applies to the execution of a guaranteed investment contract by an investing entity.

Gov't Code 2256.015

Investment Pools

A public funds investment pool is an authorized investment if it meets the requirements of Government Code 2256.016 and 2256.019, including that the governing body of the entity authorizes the investment in the particular pool by rule, order, ordinance, or resolution, as appropriate. *Gov't Code 2256.016, .019*

Hedging
Transactions

A hedging transaction is an authorized investment if an eligible entity meets the requirements of Government Code 2256.0206.

"Eligible entity" means a political subdivision, including a college district, that has:

1. A principal amount of at least \$250 million in outstanding long-term indebtedness, long-term indebtedness proposed to be issued, or a combination of outstanding long-term indebtedness and long-term indebtedness proposed to be issued; and
2. Outstanding long-term indebtedness that is rated in one of the four highest rating categories for long-term debt instruments

by a nationally recognized rating agency for municipal securities, without regard to the effect of any credit agreement or other form of credit enhancement entered into in connection with the obligation.

Gov't Code 2256.0206

Funds from Mineral Rights

The governing board of a public junior college district may invest funds received by the district from a lease or contract for the management and development of land owned by the district and leased for oil, gas, or other mineral development in any investment authorized to be made by a trustee under Property Code Title 9, Subtitle B (Texas Trust Code).

Funds invested by the governing board of a public junior college district under this section shall be segregated and accounted for separately from other funds of the district.

Gov't Code 2256.0207

Authorized Investments Specific to Institutions of Higher Education

In addition to the authorized investments permitted by Government Code Chapter 2256, Subchapter A, an institution of higher education may purchase, sell, and invest its funds and funds under its control in the following:

1. Cash management and fixed income funds sponsored by organizations exempt from federal income taxation under Section 501(f), Internal Revenue Code of 1986, 26 U.S.C. Section (f);
2. Negotiable certificates of deposit issued by a bank that has a certificate of deposit rating of at least 1 or the equivalent by a nationally recognized credit rating agency or that is associated with a holding company having a commercial paper rating of at least A-1, P-1, or the equivalent by a nationally recognized credit rating agency; and
3. Corporate bonds, debentures, or similar debt obligations rated by a nationally recognized investment rating firm in one of the two highest long-term rating categories, without regard to gradations within those categories.

Gov't Code 2256.020

Change in Law

Except as provided by Government Code Chapter 2270, an entity is not required to liquidate investments that were authorized investments at the time of purchase. *Gov't Code 2256.017*

Loss of Required Rating

An investment that requires a minimum rating under Government Code Chapter 2256, [Subchapter A](#) does not qualify as an authorized investment during the period the investment does not have the

minimum rating. An entity shall take all prudent measures that are consistent with its investment policy to liquidate an investment that does not have the minimum rating. *Gov't Code 2256.021*

Investment of Bond Proceeds and Pledged Revenue

The investment officer of a local government, including a college district, may invest bond proceeds or pledged revenue only to the extent permitted by Government Code Chapter 2256, in accordance with:

1. Statutory provisions governing the debt issuance or the agreement, as applicable; and
2. The local government's investment policy regarding the debt issuance or the agreement, as applicable.

"Pledged revenue" means money pledged to the payment of or as security for bonds or other indebtedness issued by a local government; obligations under a lease, installment sale, or other agreement of a local government; or certificates of participation in a debt or obligation.

Gov't Code 2256.0208

Investment of Debt Service Funds

A school district, including a junior college district, may enter into a contract with a term not to exceed seven years to purchase investments with the proceeds of taxes levied or to be levied by the district for the purpose of paying debt service on bonds issued by the district.

A contract under this section may provide for the purchase of investments at a stated yield or yields.

Before entering a contract under this section, a school district must solicit and receive bids from at least three separate providers. The district must accept the qualifying bid that provides for the highest yield investments over the term of the contract.

A contract under this section may provide only for the purchase of an obligation described by Government Code 2256.009(a)(1), other than an obligation described by Government Code 2256.009(b).

Education Code 45.112

General Deposits

The governing board of each institution of higher education may invest the funds received as general deposits authorized by Education Code 54.502 in the manner provided under either Education Code 51.003 or 51.0031. *Education Code 54.5022*

**Sellers of
Investments**

A written copy of the investment policy shall be presented to any business organization offering to engage in an investment transaction with an investing entity. For purposes of [Government Code 2256.005](#)[this section](#), “business organization” means an investment pool or an investment management firm under contract with an investing entity to invest or manage the entity’s investment portfolio that has accepted authority granted by the entity under the contract to exercise investment discretion in regard to the investing entity’s funds. The qualified representative of the business organization offering to engage in an investment transaction with an investing entity shall execute a written instrument in a form acceptable to the investing entity and the business organization substantially to the effect that the business organization has:

1. Received and reviewed the investment policy of the entity; and
2. Acknowledged that the business organization has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the entity and the organization that are not authorized by the entity’s policy, except to the extent that this authorization is dependent on an analysis of the makeup of the entity’s entire portfolio, requires an interpretation of subjective investment standards, or relates to investment transactions of the entity that are not made through accounts or other contractual arrangements over which the business organization has accepted discretionary investment authority.

The investment officer of an entity may not acquire or otherwise obtain any authorized investment described in the investment policy of the investing entity from a business organization that has not delivered to the entity the instrument described above.

Gov’t Code 2256.005(k)–(l)

Donations

Government Code Chapter 2256, Subchapter A does not apply to an investment donated to an investing entity for a particular purpose or under terms of use specified by the donor. *Gov’t Code 2256.004(b)*

**Electronic Funds
Transfer**

Any local government, including a college district, may use electronic means to transfer or invest all funds collected or controlled by the local government. *Gov’t Code 2256.051*

Private Auditor

Notwithstanding any other law, a state agency, including a college district, shall employ a private auditor if authorized by the legislative audit committee either on the committee’s initiative or on request of the governing body of the agency. *Gov’t Code 2256.052*

The comptroller of public accounts and the Coordinating Board jointly shall prescribe and periodically update a uniform system of financial accounting and reporting for institutions of higher education, including definitions of the elements of cost on the basis of which appropriations shall be made and financial records shall be maintained. The Coordinating Board may require institutions to report additional financial information as the board considers necessary. The accounts of the institutions shall be maintained and audited in accordance with the approved reporting system. *Education Code 61.065*

Annual Audit Report

A community college's bound and audited financial statements, in the quantity indicated, should be forwarded to each agency listed in Section 2.1 of the Budget Requirements and Annual Financial Reporting Requirements for Texas Public Community Colleges manual by January 1st of each year and submitted electronically to the Coordinating Board. The audit must be certified by the auditor but does not need to be approved by the governing board before submission.

Each published audited financial report should include the items listed, arranged in the order as shown, in Section 2.2 of the manual.

[Budget Requirements and Annual Financial Reporting Requirements for Texas Public Community Colleges \(PDF\)](#)¹

**Information from
State Auditor**

At a reasonable time in advance of an independent audit of a junior college district, the state auditor shall provide the presiding officer of the district's governing body and the chief executive officer of the district with written information relating to the procedures for and scope of the audit. The state auditor shall include in the materials information describing:

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

Gov't Code 321.0137(a)

Publication

At the time and in the manner provided by the state auditor, a state agency, including a college district, shall post on the agency's internet website:

1. The agency's internal audit plan approved as provided by Government Code 2102.008; and

2. The agency's annual report required under Government Code 2102.009.

A state agency is not required to post information contained in the agency's internal audit plan or annual report if the information is excepted from public disclosure under ~~Government Code Chapter 552 (the Texas Public Information Act)~~, [Government Code Chapter 552](#).

A state agency shall update the posting required under Government Code 2102.015 at the time and in the manner provided by the state auditor to include a detailed summary of the weaknesses, deficiencies, wrongdoings, or other concerns, if any, raised by the audit plan or annual report.

A state agency shall update the posting required under Section 2102.015 to include a summary of the action taken by the agency to address the concerns, if any, that are raised by the audit plan or annual report.

Gov't Code 2102.015

Each taxing unit shall maintain an internet website or have access to a generally accessible internet website that may be used for the purposes of this provision. Each taxing unit shall post or cause to be posted on the internet website in a format prescribed by the comptroller the information described by Tax Code 26.18, including the most recent financial audit of the taxing unit. [See CAI] *Tax Code 26.18*

¹ Budget Requirements and Annual Financial Reporting Requirements for Texas Public Community Colleges (PDF): <https://reportcenter.highered.texas.gov/agency-publication/guidelines-manuals/annual-financial-reporting-manual-for-texas-public-community-colleges-2020/>

Financing	
Definitions	
<i>Contract</i>	“Contract” means an agreement entered into under the authority of the Public Property Finance Act, Local Government Code 271.001 through 271.009, but does not mean a contract solely for the construction of improvements to real property. <i>Local Gov’t Code 271.003(2)</i>
<i>Improvement</i>	“Improvement” means a permanent building, structure, fixture, or fence that is erected on or affixed to land but does not include a transportable building or structure whether or not it is affixed to land. <i>Local Gov’t Code 271.003(10)</i>
<i>Real Property</i>	“Real property” means land, improvement, or an estate or interest in real property, other than a mortgage or deed of trust creating a lien on property or an interest securing payment or performance of an obligation in real property. <i>Local Gov’t Code 271.003(11)</i>
Proposed Contract	The board of trustees of a school district, including a community college district or junior college district, may execute, perform, and make payments under a contract under the Public Property Finance Act for the use or purchase or other acquisition of real property or an improvement to real property. If the board proposes to enter into such a contract, the board shall publish notice of intent to enter into the contract not less than 60 days before the date set to approve execution of the contract in a newspaper with general circulation in the district. The notice must summarize the major provisions of the proposed contract. The notice shall estimate the construction and other costs, but the board shall not publish the first advertisement for bids for construction of improvements until 60 days after publication of the notice of intent to enter into the contract. <i>Local Gov’t Code 271.004(a)</i>
Petition and Referendum	<p>If, within 60 days of the date of publication of the notice of intent, a written petition signed by a least five percent of the registered voters of the district is filed with the board of trustees requesting that the board order a referendum on the question of whether the contract should be approved, the board may not approve the contract or publish the first advertisement for bids for construction of improvements unless the question is approved by a majority of the votes received in a referendum ordered and held on the question.</p> <p>The referendum shall be held in accordance with the applicable provisions of the Election Code. The requirement that an election must be held on a uniform election date as prescribed by the Election Code does not apply to an election held under this section.</p> <p><i>Local Gov’t Code 271.004(b)–(c)</i></p>

Submission to Attorney General	A lease-purchase contract entered into by the district under Local Government Code 271.004 and the records relating to its execution must be submitted to the attorney general for examination as to their validity. If the attorney general finds that the contract has been authorized in accordance with the law, the attorney general shall approve them, and the comptroller of public accounts shall register them. Following approval and registration, the contract is incontestable and is a binding obligation according to its terms. <i>Local Gov't Code 271.004(g)-(i)</i>
College District Obligation	The contract is a special obligation of the school district if ad valorem taxes are not pledged to the payment of the contract. If the contract provides that payments by the school district are to be made from maintenance taxes previously approved by the voters of the college district and are subject to annual appropriation or are paid from a source other than ad valorem taxes, the payments under the contract shall not be considered indebtedness under Tax Code 26.04(c). All or part of the obligation of the school district may be evidenced by one or more negotiable promissory notes. <i>Local Gov't Code 271.004(d)-(f)</i>
Cash Purchases with Available Funds	The requirements of the Public Property Finance Act, Local Government Code 271.001 through 271.009 , do not apply to cash purchases of real property made with moneys from available funds. <i>Bandera Indep. Sch. Dist. v. Hamilton, 2 S.W.3d 367 (Tex. App.—San Antonio 1999, pet. denied)</i>
Eminent Domain	<p>A college district may, by the exercise of the right of eminent domain, acquire the fee simple title to real property on which to construct school buildings or for any other public use necessary for the district. <i>Education Code 11.155(a), 130.084</i></p> <p>A governmental entity, including a college district, may not take private property through the use of eminent domain if the taking confers a private benefit on a particular private party through the use of the property, is for a public use that is merely a pretext to confer a private benefit on a particular private party, is for economic development purposes, or is not for a public use. <i>Gov't Code 2206.001(b)</i></p>
Procedures	When exercising the right of eminent domain, a college district must follow the procedures found at Government Code Chapter 2206, Subchapter B and Property Code Chapter 21, Subchapter B. <i>Gov't Code 2206.001(a); Property Code 21.011</i>
Reporting	Except as provided by Government Code 2206.154(b), not later than February 1 of each year, public and private entities, including common carriers, authorized by the state by a general or special law to exercise the power of eminent domain shall submit to the

comptroller a report containing records and other information specified by Government Code Chapter 2206, Subchapter D for the purpose of providing the comptroller with information to maintain the eminent domain database under Government Code 2206.153. The entity shall submit the report in a form and in the manner prescribed by the comptroller.

In addition to the annual report, an entity described above shall report to the comptroller any changes to the entity's eminent domain authority information reported under this section not later than the 90th day after the date on which the change occurred.

Gov't Code 2206.151, .154(a), (c)

Initial Report

~~An entity created before and in existence for at least 180 days on September 1, 2015, shall submit the entity's initial report not later than February 1, 2016. Gov't Code 2206.154(a-1)~~

Repurchase of Real
Property

A person from whom a real property interest is acquired by an entity through eminent domain for a public use, or that person's heirs, successors, or assigns, is entitled to repurchase the property as provided by Property Code Chapter 21, Subchapter E if the public use for which the property was acquired through eminent domain is canceled before the property is used for that public use, no actual progress is made toward the public use for which the property was acquired between the date of acquisition and the tenth anniversary of that date, or the property becomes unnecessary for the public use for which the property was acquired, or a substantially similar public use, before the tenth anniversary of the date of acquisition. Not later than the 180th day after the date an entity that acquired a real property interest through eminent domain determines that the former property owner is entitled to repurchase the property, the entity shall send by certified mail, return receipt requested, to the property owner or the owner's heirs, successors, or assigns a notice in accordance with Property Code 21.103. *Property Code 21.101–.102*

Reduction of Energy Consumption

Each political subdivision or institution of higher education, including each college district, shall establish a goal to reduce the electric consumption by the entity by at least five percent each state fiscal year for seven years, beginning September 1, 2019.

Each political subdivision or institution of higher education shall implement all energy efficiency measures that meet the standards established for a contract for energy conservation measures under Local Government Code 302.004(b) in order to reduce electricity consumption by the existing facilities of the entity.

A political subdivision or institution of higher education annually shall report to the State Energy Conservation Office (SECO), on forms provided by that office, regarding the entity's goal, the entity's efforts to meet the goal, and progress the entity has made. ~~The~~ SECO shall provide assistance and information to the entity to help the entity meet established goals.

A political subdivision or institution of higher education that does not attain the established goals must include in the report justification that the entity has already implemented all available cost-effective measures. An entity that submits a report indicating that the entity has reviewed its available options, has determined that no additional measures are cost-effective, and has already implemented all available cost-effective measures is exempt from the annual reporting requirement if a subsequent report would indicate no change in status. An entity may be required to provide notice that it is exempt to SECO.

Health and Safety Code 388.005(b)–(e)

Exception

This section does not apply to a state agency or an institution of higher education that ~~the~~ SECO determines, before September 1, 2007, adopted a plan for conserving energy under which the agency or institution established a percentage goal for reducing the consumption of electricity. The exemption provided by this section applies only while the agency or institution has an energy conservation plan in effect and only if the agency or institution submits reports on the conservation plan each year to the governor, the Legislative Budget Board, and ~~the~~ SECO. *Health and Safety Code 388.005(f)*

Energy or Water Conservation Measures

The governing board of an institution of higher education, including a college district, may enter into an energy savings performance contract in accordance with this section. "Energy savings performance contract" means a contract with a provider for energy or water conservation or usage measures in which the estimated energy savings, utility cost savings, increase in billable revenues, or increase in meter accuracy resulting from the measures is subject to

guarantee to offset the cost of the energy or water conservation or usage measures over a specified period. The term includes a contract related to the pilot program described by Local Government Code [302.001](#)(9-a) and a contract for the installation or implementation of the following in new or existing facilities, including all causally connected work:

1. Insulation of a building structure and systems within the building.
2. Storm windows or doors, caulking or weather stripping, multi-glazed windows or doors, heat absorbing or heat reflective glazed and coated window or door systems, or other window or door system modifications that reduce energy consumption.
3. Automatic energy control systems, including computer software and technical data licenses.
4. Heating, ventilating, or air-conditioning system modifications or replacements that reduce energy or water consumption.
5. Lighting fixtures that increase energy efficiency.
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.
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 or related equipment or systems that improve the accuracy of billable-revenue-generation systems.
15. Alternative fuel programs resulting in energy cost savings and reduced emissions for local government vehicles, including fleet vehicles.
16. Programs resulting in utility cost savings.
17. Other energy or water conservation-related improvements or equipment, including improvements or equipment related to renewable energy or nonconventional water sources or water reuse.

Each energy or water conservation measure must comply with current local, state, and federal construction, plumbing, and environmental codes and regulations. Notwithstanding the list above, an energy savings performance contract may not include improvements or equipment that allow or cause water from any condensing, cooling, or industrial process or any system of nonpotable usage over which the public water supply system officials do not have sanitary control, to be returned to the potable water supply.

The board may enter into energy savings performance contracts only with persons who are experienced in the design, implementation, and installation of the energy or water conservation measures addressed by the contract.

The contracting and delivery procedures for construction projects described at Government Code Chapter 2269 do not apply to energy savings performance contracts.

Education Code 51.927(a)–(d), (k); Local Gov’t Code 302.001(4)

Performance Bond

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

Contract Term

The board may enter into an energy savings performance contract for a period of more than one year only if the board finds that the amount the institution would spend on the energy or water conservation measures will not exceed the amount to be saved in energy,

water, wastewater, and operating costs over 20 years from the date of installation. *Education Code 51.927(f)*

Financing

An energy savings performance contract may be financed:

1. Under a lease/purchase contract that has a term not to exceed 20 years from the final date of installation and that meets federal tax requirements for tax-free municipal leasing or long-term financing;
2. With the proceeds of bonds; or
3. Under the contract with the provider of the energy or water conservation measures that has a term not to exceed the lesser of 20 years from the final date of installation or the average useful life of the energy or water conservation or usage measures.

Notwithstanding other law, the board may use any available money to pay the provider of the energy or water conservation measures, and the board is not required to pay for such costs solely out of the savings realized by the college district under an energy savings performance contract.

Education Code 51.927(g)–(g-1)

Cost Savings

An energy savings performance contract shall contain provisions requiring the provider of the energy or water conservation measures to guarantee the amount of the savings to be realized by the institution of higher education under the contract. If the term of the contract exceeds one year, the institution's contractual obligations in any one year during the term of the contract beginning after the final date of installation may not exceed the total energy, water, wastewater, and operating cost savings, including electrical, gas, water, wastewater, or other utility cost savings and operating cost savings resulting from the measures, as determined by the board, divided by the number of years in the contract term beginning after the final date of installation. The board shall consider all costs of the energy or water conservation measures, including costs of design, engineering, installation, maintenance, repairs, and debt service. *Education Code 51.927(f), (h)*

Contract
Procurement

An energy savings performance contract shall be let according to the procedures established for professional services by Government Code 2254.004. Notice of the request for qualifications shall be given in the manner provided by Government Code 2156.002.

The board may contract with the provider to perform work that is related to, connected with, or otherwise ancillary to the measures identified in the scope of an energy savings performance contract.

Education Code 51.927(g-1), (i)

Guidelines

The Coordinating Board, in consultation with ~~the~~ SECO with regard to energy conservation measures, shall establish guidelines and an approval process for awarding energy savings performance contracts. The guidelines must require that the cost savings projected by an offeror be reviewed by a licensed professional engineer who has a minimum of three years of experience in energy calculation and review, is not an officer or employee of an offeror for the contract under review, and is not otherwise associated with the contract. In conducting the review, the engineer shall focus primarily on the proposed improvements from an engineering perspective, the methodology and calculations related to cost savings, increases in revenue, and, if applicable, efficiency or accuracy of metering equipment. An engineer who reviews a contract shall maintain the confidentiality of any proprietary information the engineer acquires while reviewing the contract. A contract is not required to be reviewed or approved by ~~the~~ SECO. Occupations Code 1001.053 and 1001.047 apply to work performed under the contract. ~~Education Code 51.927(i)~~

The guidelines must require the Coordinating Board to review any reports submitted to the Coordinating Board that measure and verify cost savings to an institution of higher education under an energy savings performance contract; and based on the reports, provide an analysis, on a periodic basis, of the cost savings under the energy savings performance contract to the governing board of the institution of higher education and the Legislative Budget Board until the governing board of the institution of higher education determines that the analysis is no longer required to accurately measure cost savings. ~~Education Code 51.927(i)~~

[Education Code 51.927\(i\), \(l\)](#)

Energy Usage Report

A governmental entity, including a college district, shall record in an electronic repository the governmental entity's metered amount of electricity, water, or natural gas consumed for which it is responsible to pay and the aggregate costs for those utility services. The governmental entity shall report the recorded information on a publicly accessible internet website with an interface designed for ease of navigation if available, or at another publicly accessible location. *Gov't Code 2265.001*

Light Bulbs

An institution of higher education, including a college district, shall purchase for use in each type of light fixture in an educational or housing facility the commercially available model of light bulb that:

1. Is compatible with the light fixture;
2. Uses the fewest watts for the necessary luminous flux or light output; and

3. Is the most cost-effective, considering the factors described above.

Education Code 51.9271

"Housing facility" means a single- or multi-family residence used exclusively for housing or boarding, or housing and boarding students, faculty, or staff members of an institution of higher learning. The term includes infirmary and student union building, but does not include a housing or boarding facility for the use of a fraternity, sorority, or private club. *Education Code 53.02(7)*

Education Code 51.9271, 53.02(7)

Recycling Program

An institution of higher education, including a college district, shall:

1. In cooperation with the comptroller or the Texas Commission on Environmental Quality (TCEQ) establish a program for the separation and collection of all recyclable materials generated by the entity's operations, including, at a minimum, aluminum, steel containers, aseptic packaging, polycoated paperboard cartons, high-grade office paper, and corrugated cardboard;
2. Provide procedures for collecting and storing recyclable materials, provide containers for recyclable materials, and provide procedures for making contractual or other arrangements with buyers of recyclable materials;
3. Evaluate the amount of recyclable material recycled and modify the recycling program as necessary to ensure that all recyclable materials are effectively and practicably recycled; and
4. Establish educational and incentive programs to encourage maximum employee participation.

"Recyclable materials" includes materials in the entity's possession that have been abandoned or disposed of by the entity's officers or employees or by any other person.

Health and Safety Code 361.425(a), (d)

Certificate of Mold Remediation

If a property owner, including a college district, sells property, the property owner shall provide to the buyer a copy of each certificate of mold remediation issued for the property during the five years preceding the date the property owner sells the property. *Occupations Code 1958.154(b); 16 TAC 78.150(e)*

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 relevant 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~~211*

Drains

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

Electronic Transactions

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

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

Business and Commerce Code 322.005(b); 1 TAC 203.40, .43–.45

Electronic Signatures

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

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

Education Code 51.9336

Electronic Payments

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

Application of Government Code Chapter 2054

Government Code Chapter 2054 does not apply to a public junior college or a public junior college district, except as necessary to comply with information security standards and for participation in shared technology services, including the electronic government project implemented under Subchapter I and statewide technology centers under Subchapter L. *Gov't Code 2054.0075*

**Interagency
Contracts for
Information
Resources
Technologies**

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

**Access to Electronic
Communications**

Electronic
Communication
Privacy Act

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

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

5. Intentionally discloses, or endeavors to disclose, to any other person the contents of any wire, oral, or electronic communication, intercepted by means authorized by 18 U.S.C. 2511(2)(a)(ii), 2511(2)(b)–(c), 2511(2)(e), 2516, and 2518; knowing or having reason to know that the information was obtained through the interception of such a communication in connection with a criminal investigation; having obtained or received the information in connection with a criminal investigation; and with intent to improperly obstruct, impede, or interfere with a duly authorized criminal investigation.

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

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

Stored Wire and Electronic Communications and Transactional Records Access Act

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

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

Exceptions

This section does not apply with respect to conduct authorized:

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

18 U.S.C. 2701(c)

Definitions

Electronic Communication

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

Electronic Storage

“Electronic storage” means:

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

18 U.S.C. 2510(17)

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

*Electronic
Communications
System*

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

*Electronic
Communications
Service*

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

Facility

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

Drones

Federal Law

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

*Small Unmanned
Aircraft System*

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

[C.F.R. Title 14, Part 107 applies to](#) the registration, airman certification, and operation of civil small [UAS/UASs](#) within the United States ~~is subject to 14 C.F.R. Part 107~~. Part 107 does not apply to the following:

1. Air carrier operations;

2. Any aircraft subject to the provisions of ~~14 C.F.R. Part 101;~~ [49 U.S.C. 44809](#);
3. Any operation that ~~a remote pilot in command elects to conduct pursuant to the holder of~~ an exemption ~~issued~~ under Section 333 of Public Law 112–95 ~~or 49 U.S.C. 44807 elects to conduct pursuant to the exemption,~~ unless otherwise specified in the exemption; ~~or~~
- ~~3.4.~~ [Any operation that a person elects to conduct under 14 C.F.R. Part 91 with a small unmanned aircraft system that has been issued an airworthiness certificate.](#)

14 C.F.R. 107.1, .3

Recreational
Use

Except as provided in 49 U.S.C. 44809(e), and notwithstanding 49 U.S.C. Chapter 447, a person may operate a small unmanned aircraft without specific certification or operating authority from the Federal Aviation Administration (FAA) if the operation adheres to all of the following limitations:

1. The aircraft is flown strictly for recreational purposes.
2. The aircraft is operated in accordance with or within the programming of a community-based organization's set of safety guidelines that are developed in coordination with the FAA.
3. The aircraft is flown within the visual line of sight of the person operating the aircraft or a visual observer co-located and in direct communication with the operator.
4. The aircraft is operated in a manner that does not interfere with and gives way to any manned aircraft.
5. In Class B, Class C, or Class D airspace or within the lateral boundaries of the surface area of Class E airspace designated for an airport, the operator obtains prior authorization from the [FAA](#) administrator or designee before operating and complies with all airspace restrictions and prohibitions.
6. In Class G airspace, the aircraft is flown from the surface to not more than 400 feet above ground level and complies with all airspace restrictions and prohibitions.
7. The operator has passed an aeronautical knowledge and safety test described in 49 U.S.C. 44809(g) and maintains proof of test passage to be made available to the FAA administrator or law enforcement upon request.

8. The aircraft is registered and marked in accordance with 49 U.S.C. Chapter 441, and proof of registration is made available to the FAA administrator or a designee of the FAA administrator or law enforcement upon request.

49 U.S.C. 44809(a)

For the purposes of 49 U.S.C. 44809 a “recreational purpose” as distinguished in 49 U.S.C. 44809(a)(1) shall include an unmanned aircraft system operated by an institution of higher education for educational or research purposes.

The term “~~education~~educational or research purposes”, with respect to the operation of an unmanned aircraft system by an institution of higher education, includes:

1. Instruction of students at the institution;
2. Academic- or research-related uses of unmanned aircraft systems that have been approved by the institution, including federal research;
3. Activities undertaken by the institution as part of research projects, including research projects sponsored by the federal government; and
4. Other academic activities approved by the institution.

49 U.S.C. 44809 note; Pub. L. 115–254, Div. B, Title III, 350 (Oct. 5, 2018)

Model Aircraft

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

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

- ~~5.—The aircraft is flown strictly for hobby or recreational use;~~
- ~~6.—The aircraft is operated in accordance with a community-based set of safety guidelines and within the programming of a nationwide community-based organization;~~
- ~~7.—The aircraft is limited to not more than 55 pounds unless otherwise certified through a design, construction, inspection, flight test, and operational safety program administered by a community-based organization;~~
- ~~8.—The aircraft is operated in a manner that does not interfere with and gives way to any manned aircraft; and~~

~~9. When flown within five miles of an airport, the operator of the aircraft provides the airport operator and the airport air traffic control tower (when an air traffic facility is located at the airport) with prior notice of the operation.~~

~~No person may operate a model aircraft so as to endanger the safety of the national airspace system.~~

~~14 C.F.R. 101.1(5), .41, .43~~

State Law

*Regulation
Limited*

A political subdivision, including a college district, may not adopt or enforce any ordinance, order, or other similar measure regarding the operation of an unmanned aircraft. An ordinance, order, or other similar measure that violates this provision is void and unenforceable. *Gov't Code 423.009(b), (d)*

Exception

A political subdivision may adopt and enforce an ordinance, order, or other similar measure regarding:

1. The use of an unmanned aircraft during a special event;
2. The political subdivision's use of an unmanned aircraft; or
3. The use of an unmanned aircraft near a facility or infrastructure owned by the political subdivision, if the political subdivision:
 - a. Applies for and receives authorization from the Federal Aviation Administration to adopt the regulation; and
 - b. After providing reasonable notice, holds a public hearing on the political subdivision's intent to apply for the authorization.

"Special event" means a festival, celebration, or other gathering that involves the reservation and temporary use of all or a portion of a public park, road, or other property of a political subdivision; and entertainment, the sale of merchandise, food, or beverages, or mass participation in a sports event; and requires a significant use or coordination of a political subdivision's services.

Gov't Code 423.009(a)(2), (c)

Privacy Law

It is lawful to capture an image using an unmanned aircraft in this state for the reasons listed in Government Code 423.002, including:

1. For the purpose of professional or scholarly research and development or for another academic purpose by a person acting on behalf of an institution of higher education or a private or independent institution of higher education, as those terms

are defined by ~~Section 61.003~~, Education Code [61.003](#), including a person who:

- a. Is a professor, employee, or student of the institution; or
 - b. Is under contract with or otherwise acting under the direction or on behalf of the institution;
2. With the consent of the individual who owns or lawfully occupies the real property captured in the image; or
 3. From a height no more than eight feet above ground level in a public place, if the image was captured without using any electronic, mechanical, or other means to amplify the image beyond normal human perception.

Gov't Code 423.002(a)

Note: The following is an index of website posting requirements that are addressed in the ~~legally~~legal 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 website shall post the following:

1. The college district's Compact With Texans, under Government Code 2114.006. [See AFA]
2. On the first frame of the homepage and in a font that is larger than the font of the majority of the text on the home page, an accessible link to the college district's online resumes maintained on the Coordinating Board's internet website, under Education Code 51A.003. [See AFA]
3. The cost of attendance for a first-time entering full-time student in accordance with the uniform standards prescribed by the commissioner, under Education Code 61.0777 and 19 Administrative Code 21.2222. [See AFA]
4. In a prominent location that is not more than three hyperlinks from the website's home page, a link to the postsecondary and career information posted on the Texas Education Agency's internet website, under Education Code 7.040. [See AFA]
5. Each elected officer, under Government Code 2051.152. [See BB]
6. The date and location of the next board member election, under Government Code 2051.152. [See BBB]
7. An election notice, under Election Code 85.007. [See BBB]
8. For at least one year before the election day, the requirements and deadline for filing for candidacy, under Government Code 2051.152. [See BBB]
9. Conflicts disclosure statements and questionnaires, under Local Government Code 176.009. [See BBFA, CFE]
10. Notice of a board meeting and, if the college district contains all or part of the area within the corporate boundaries of a municipality with a population of 48,000 or more, the agenda for a board meeting, under Government Code 551.056. [See BD]

11. Any written agenda and related supplemental written materials for a board meeting, as well as a broadcast of the board meeting followed by an archived version of that broadcast, if the junior college district has a total student enrollment of more than 20,000 in any semester of the preceding academic year, under Government Code 551.1282. [See BD]
12. During the 21 days before the election, prominently and together with the notice of the election, the contents of the proposition, and any sample ballot prepared for the election, a debt obligation election order, under Election Code 4.003. [See CAD]
13. In a political subdivision with at least 250 registered voters, a voter information document, under Government Code 1251.052. [See CAD]
14. Prominently on the home page in the form prescribed by the comptroller, tax rate, estimated interest and fund balance, and debt obligation information, under Tax Code 26.04. [See CAI]
15. 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]
16. Notice of a required public hearing on a tax rate increase, under Tax Code 26.06 and 26.065. [See CAI]
17. Information about the college district, including the board, the budget, and the tax rate, in a format prescribed by the comptroller, under Tax Code 26.18. [See CAI, BB, CC, CDC, and GC]
18. The current version of the guidelines and criteria governing tax abatement agreements, under Tax Code 312.002. [See CAIB]
19. If the website is generally accessible, a link to the state expenditure database, under Government Code 2054.126. [See CDA]
20. A copy of the college district's financial transactions, under Education Code 51.9741. [See CDA]
21. An annual debt obligation report or link to where the information is located and the contact information for the college district's main office, under Local Government Code 140.008. [See CDA]

22. The internal audit plan and annual report, under Government Code 2102.009. [See CDC]
23. If adopted, the college district's policy regarding the maintenance, storage, administration, and disposal of epinephrine auto-injectors on the institution's campus, under Education Code 51.882. [See CGE]
24. A college district shall report its energy usage information on a publicly accessible internet website with an interface designed for ease of navigation, if available, under Government Code 2265.001. [See CH]
25. 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]
26. Information regarding college district employees and employee compensation, ~~as provided by~~[under](#) Government Code 659.026. [See DEA]
27. Information regarding a gift, grant, donation, or other consideration from a person that the person designated to be used as a salary supplement, and related conflict of interest provisions, ~~as provided by~~[under](#) Government Code 659.0201. [See DEA]
28. The campus expression policies, under Education Code 51.9315. [See DGC, FLA, and GD]
29. Prominently displayed, the contact information required to be listed for the Title IX coordinator and the notice of nondiscrimination, under 34 C.F.R. 106.8(b)(2). [See DIAA and FFDA]
30. All materials used to train Title IX coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, under 34 C.F.R. 106.45(b)(10). [See DIAA and FFDA]
31. On a web page dedicated solely to the policy that is easily accessible through a clearly identifiable link on the homepage, the policy on sexual harassment, sexual assault, dating violence, and stalking, under Education Code 51.282(b) and 19 Administrative Code 3.4(b). [See DIAA and FFDA]
32. A report concerning the reports of sexual harassment, sexual assault, dating violence, or stalking received by the college district, under Education Code 51.253(c)–(d) and 19 Administrative Code 3.6(c)–(d). [See DIAA and FFDA]

33. 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]
34. 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~~, under 20 U.S.C. 1015b. [See EDA]
35. 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~~, under Education Code 51.974 and 19 Administrative Code 4.227 to 4.228. [See EFA]
36. The recommended course sequences for each undergraduate certificate or degree program, under Education Code 51.96852. [See EFB]
37. 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]
38. Guidelines addressing the practices of the college district regarding the transfer of course credit, under Education Code 61.830. [See EGA]
39. A list of work-study employment opportunities accessible through a clearly identifiable link that appears in a prominent place on the financial aid page, under Education Code 56.080 and 19 Administrative Code ~~4.229 and~~ 22.129-(f). [See FEB]
40. The name of and contact information for the college district's liaison officer for students who are or were in foster care and information regarding support services and other resources available to the students, under Education Code 51.9356. [See FF]

41. The mental health resources available to students at the college district on a dedicated website, under Education Code 51.9193. [See FFCA]
42. In a prominent location, a report on hazing committed on or off campus by an organization registered with or recognized by the college district, under Education Code 51.936. [See FLBC]
43. The college district's contact information, under Government Code 2051.151 and 2051.152(a) and Tax Code 26.18. [See GC]

Optional Internet Postings

A college district that maintains an internet website may broadcast an open meeting over the internet, under Government Code 551.128. [See BD]

Geospatial Data Products

"Geospatial data product" means a document, computer file, or internet website that contains geospatial data, a map, or information about a service involving geospatial data or a map. *Gov't Code 2051.101(1)*

Notice

A governmental entity, including a college district, shall include a notice as provided by Government Code Chapter 2051, Subchapter D on each geospatial data product that:

1. Is created or hosted by the governmental entity;
2. Appears to represent property boundaries; and
3. Was not produced using information from an on-the-ground survey conducted by or under the supervision of a registered professional land surveyor or land surveyor authorized to perform surveys under laws in effect when the survey was conducted.

The notice must be in substantially the following form: "This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries."

The notice may include language further defining the limits of liability of a geospatial data product producer; apply to a geospatial data product that contains more than one map; or for a notice that applies to a geospatial data product that is or is on an internet website, be included on a separate page that requires the person accessing the website to agree to the terms of the notice before accessing the geospatial data product.

Gov't Code 2051.102

Exemption

A governmental entity is not required to include the notice on a geospatial data product that:

1. Does not contain a legal description, a property boundary monument, or the distance and direction of a property line;
2. Is prepared only for use as evidence in a legal proceeding;
3. Is filed with the clerk of any court; or
4. Is filed with the county clerk.

Gov't Code 2051.103

Note: For complaints of discrimination, harassment, and retaliation targeting employees on the basis of a protected characteristic, see DIAA(LEGAL) and DIAB(LEGAL).

**Title VII—
Discrimination on
the Basis of Sex,
Race, Color,
Religion, or National
Origin**

Generally

No governmental entity, including a college district, shall deny to any person within its jurisdiction the equal protection of the laws. *U.S. Const. Amend. XIV*

It shall be an unlawful employment practice for an employer to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin or to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin. *42 U.S.C. 2000e-2(a)*

Terminating an employee on the basis of the employee's homosexuality or transgender status violates Title VII's prohibition against sex discrimination in employment. *Bostock v. Clayton County, Georgia, 140 S. Ct. 1731 (2020)*

Title VII proscribes not only overt discrimination (disparate treatment) but also employment practices that are fair in form but discriminatory in operation (disparate impact). *Wards Cove Packing Co. v. Atonio, 490 U.S. 642 (1989)*

*Disparate
Treatment*

Disparate treatment occurs where members of a race, sex, or ethnic group have been denied the same employment, promotion, membership, or other employment opportunities as have been available to other employees or applicants. *29 C.F.R. 1607.11*

Disparate Impact

An unlawful employment practice based on disparate impact is established only if a complaining party demonstrates that a respondent uses a particular employment practice that causes a disparate impact on the basis of race, color, religion, sex, or national origin, and the respondent fails to demonstrate that the challenged practice is job-related and consistent with business necessity. *42 U.S.C. 2000e-2(k)(1)(A)*

Training

It shall be an unlawful employment practice for any employer controlling apprenticeship or other training or retraining, including on-the-job training programs, to discriminate against any individual because of his race, color, religion, sex, or national origin in admission to, or employment in, any program established to provide apprenticeship or other training. *42 U.S.C. 2000e-2(d)*

EMPLOYMENT OBJECTIVES
EQUAL EMPLOYMENT OPPORTUNITY

DAA
(LEGAL)

Job Qualification	It shall not be an unlawful employment practice for an employer to hire and employ an employee on the basis of his religion, sex, national origin, or age in those certain instances where religion, sex, national origin, or age is a bona fide occupational qualification. 42 U.S.C. 2000e-2(e)
Employment Postings	It shall be an unlawful employment practice for an employer controlling apprenticeship or other training or retraining, including on-the-job training programs, to print or publish or cause to be printed or published any notice or advertisement relating to employment by such an employer or membership in or any classification or referral for employment by such a labor organization, or relating to any classification or referral for employment by such an employment agency, or relating to admission to, or employment in, any program established to provide apprenticeship or other training by such a joint labor-management committee, indicating any preference, limitation, specification, or discrimination based on race, color, religion, sex, or national origin, except that such a notice or advertisement may indicate a preference, limitation, specification, or discrimination based on religion, sex, or national origin when religion, sex, or national origin is a bona fide occupational qualification. 42 U.S.C. 2000e-3(b)
Additional Considerations	An employer, including a college district, may not evaluate employees by assuming or insisting that they match the stereotype associated with their group. <i>Price Waterhouse v. Hopkins</i> , 490 U.S. 228 (1989)
Sex Discrimination	
Gender Stereotypes	
Pregnancy	The terms “because of sex” or “on the basis of sex” include, but are not limited to, because of or on the basis of pregnancy, childbirth, or related medical conditions; and women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work, and nothing in 29 U.S.C. 2000e-2(h) shall be interpreted to permit otherwise. 42 U.S.C. 2000e(k)
Equal Pay	No employer having employees subject to any provisions of this section shall discriminate, within any establishment in which such employees are employed, between employees on the basis of sex by paying wages to employees in such establishment at a rate less than the rate at which he pays wages to employees of the opposite sex in such establishment for equal work on jobs the performance of which requires equal skill, effort, or responsibility, and which are performed under similar working conditions, except where such

payment is pursuant to a seniority system, a merit system, a system which measures earnings by quantity or quality of production, or a differential based on any other factor other than sex. *29 U.S.C. 206(d); 34 C.F.R. 106.54*

*Religious
Discrimination*

The prohibition against discrimination on the basis of religion includes all aspects of religious observances and practice, as well as religious belief, unless an employer demonstrates that it is unable to reasonably accommodate an employee's or prospective employee's religious observance or practice without undue hardship to the employer's business. "Undue hardship" means more than a *de minimus* (minimal) cost. *42 U.S.C. 2000e(j); 29 C.F.R. 1605.2*

Note: See State Law, below, for state prohibitions on discrimination based on race, color, religion, sex, or national origin.

**Title VII—
Harassment of
Employees on the
Basis of Sex, Race,
Color, Religion, and
National Origin**

Harassment violates Title VII if it is sufficiently severe and pervasive to alter the conditions of employment. *Pennsylvania State Police v. Suders, 542 U.S. 129 (2004)*

Harassment on the basis of sex is a violation of [Title VII](#), 42 U.S.C. 2000e-2-(~~Title VII~~).

The Equal Employment Opportunity Commission (EEOC) has consistently held that harassment on the basis of national origin is a violation of Title VII. An employer has an affirmative duty to maintain a working environment free of harassment on the basis of national origin.

42 U.S.C. 2000e-2; 29 C.F.R. 1606.8(a), 1604.11(a)

Title VII does not prohibit all verbal and physical harassment in the workplace. For example, harassment between men and women is not automatically unlawful sexual harassment merely because the words used have sexual content or connotations. *Oncale v. Sun-downer Offshore Services, Inc., 523 U.S. 75 (1998)*

Hostile Environment

Verbal or physical conduct based on a person's sex, race, color, religion, or national origin constitutes unlawful harassment when the conduct:

1. Has the purpose or effect of creating an intimidating, hostile, or offensive working environment;
2. Has the purpose or effect of unreasonably interfering with an individual's work performance; or
3. Otherwise adversely affects an individual's employment opportunities.

Pennsylvania State Police v. Suders, 542 U.S. 129 (2004); *Nat'l Railroad Passenger Corp. v. Morgan*, 536 U.S. 101 (2002); *Meritor Savings Bank v. Vinson*, 477 U.S. 57 (1986); 29 C.F.R. 1604.11, 1606.8

Quid Pro Quo

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes sexual harassment when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or
2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual.

29 C.F.R. 1604.11(a)

Same-Sex Sexual Harassment

Same-sex sexual harassment constitutes sexual harassment. *Oncale v. Sundowner Offshore Services, Inc.*, 523 U.S. 75 (1998)

Sexual Harassment Policy

An employer should take all steps necessary to prevent sexual harassment from occurring, such as affirmatively raising the subject, expressing strong disapproval, developing appropriate sanctions, informing employees of their right to raise and how to raise the issue of harassment under Title VII, and developing methods to sensitize all concerned. *29 C.F.R. 1604.11(f)*

Corrective Action

With respect to conduct between fellow employees, an employer is responsible for acts of sexual harassment or harassment in the workplace on the basis of national origin in the workplace where the employer (or its agents or supervisory employees) knows or should have known of the conduct, unless it can show that it took immediate and appropriate corrective action.

An employer may also be responsible for the acts of non-employees, with respect to sexual harassment of employees in the workplace or harassment of employees in the workplace on the basis of national origin, where the employer (or its agents or supervisory employees) knows or should have known of the conduct and fails to take immediate and appropriate corrective action. In reviewing these cases, the EEOC will consider the extent of the employer's control and any other legal responsibility that the employer may have with respect to the conduct of such non-employees.

29 C.F.R. 1604.11(d)–(e), 1606.8(d)–(e)

When no tangible employment action is taken, an employer may raise the following affirmative defense:

1. That the employer exercised reasonable care to prevent and promptly correct any harassing behavior; and
2. That the employee unreasonably failed to take advantage of any preventive or corrective opportunities provided by the employer or to avoid harm otherwise.

Burlington Industries, Inc. v. Ellerth, 524 U.S. 742 (1998); *Faragher v. City of Boca Raton*, 524 U.S. 775 (1998)

Note: For related information regarding Title IX and the Clery Act see FA(LEGAL).

**ADEA—Age
Discrimination**

It shall be unlawful for an employer:

1. To fail or refuse to hire or to discharge any individual or otherwise discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment because of such individual's age;
2. To limit, segregate, or classify his employees in any way that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee because of such individual's age; or
3. To reduce the wage rate of any employee in order to comply with 29 U.S.C. Chapter 14.

29 U.S.C. 623(a)

It shall not be unlawful for an employer:

1. To take any action otherwise prohibited under 29 U.S.C. 623(a) where age is a bona fide occupational qualification reasonably necessary to the normal operation of the particular business, or where the differentiation is based on reasonable factors other than age, or where such practices involve an employee in a workplace in a foreign country, and compliance with such subsections would cause such employer, or a corporation controlled by such employer, to violate the laws of the country in which such workplace is located;
2. To take any action otherwise prohibited under 29 U.S.C. 623(a):
 - a. To observe the terms of a bona fide seniority system that is not intended to evade the purposes of 29 U.S.C. Chapter 14, except that no such seniority system shall

require or permit the involuntary retirement of any individual specified by 29 U.S.C. 631(a) because of the age of such individual; or

- b. To observe the terms of a bona fide employee benefit plan in compliance with 29 U.S.C. 623. No such employee benefit plan shall excuse the failure to hire any individual, and no such employee benefit plan shall require or permit the involuntary retirement of any individual specified by 29 U.S.C. 631(a) because of the age of such individual.

3. To discharge or otherwise discipline an individual for good cause.

29 U.S.C. 623(f)

It shall be unlawful for an employer to discriminate against any of his employees or applicants for employment because such individual has opposed any practice made unlawful by this section, or because such individual has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or litigation under 29 U.S.C. Chapter 14. *29 U.S.C. 623(d)*

Note: See State Law, below, for state prohibitions on discrimination based on age.

**ADA and Section 504
—Disability
Discrimination**

No covered entity, including a college district, shall discriminate against a qualified individual on the basis of disability in regard to job application procedures, hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment. *42 U.S.C. 12112(a); 29 C.F.R. 1630.4(b)*

Discrimination
Based on Lack of
Disability

Nothing in ~~42 U.S.C. Chapter 126~~ (the Americans with Disabilities Act ~~{(ADA)}~~), [42 U.S.C. Chapter 126](#), shall provide the basis for a claim by an individual without a disability that the individual was subject to discrimination because of the individual's lack of disability. *42 U.S.C. 12201(g); 29 C.F.R. 1630.4(b)*

Definition of
Disability

“Disability” means, with respect to an individual:

1. A physical or mental impairment that substantially limits one or more major life activities of an individual;
2. A record of having such an impairment; or
3. Being regarded as having such an impairment.

An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability. An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

42 U.S.C. 12102(1), (4)(C)–(D); 29 C.F.R. 1630.2(g), (j)(1), .3

*Regarded as
Having Such an
Impairment*

An individual meets the requirement of being “regarded as having such an impairment” if the individual establishes that he or she has been subjected to an action prohibited under the ADA because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity.
42 U.S.C. 12102(3)(A); 29 C.F.R. 1630.2(g), (l)

Transitory and
Minor

Item 3 in the definition of “disability,” above, (“regarded as having such an impairment”) shall not apply to impairments that are transitory or minor. A transitory impairment is an impairment with an actual or expected duration of six months or less. *42 U.S.C. 12102(3)(B); 29 C.F.R. 1630.2(j)(1)(ix)*

*Mitigating
Measures*

The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as medication, medical supplies, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy or supplies; use of assistive technology; reasonable accommodations or auxiliary aids or services; or learned behavioral or adaptive neurological modifications.

The ameliorative effects of mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity.

“Ordinary eyeglasses and contact lenses” are lenses that are intended to fully correct visual acuity or to eliminate refractive error.

“Low-vision devices” means devices that magnify, enhance, or otherwise augment a visual image.

42 U.S.C. 12102(4)(E)

Other Definitions

*Major Life
Activities*

“Major life activities” include, but are not limited to:

1. Caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, and working; and

2. The operation of a major bodily function, including functions of the immune system, special sense organs and skin, normal cell growth, and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions. The operation of a major bodily function includes the operation of an individual organ within the body system.

42 U.S.C. 12102(2); 29 C.F.R. 1630.2(i)

*Physical or
Mental
Impairment*

“Physical or mental impairment” means:

1. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems, such as neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic, lymphatic, skin, and endocrine; or
2. Any mental or psychological disorder, such as an intellectual disability (formerly termed “mental retardation”), organic brain syndrome, emotional or mental illness, and specific learning disabilities.

29 C.F.R. 1630.2(h)

*Qualified
Individual*

“Qualified” with respect to an individual with a disability, means that the individual:

1. Satisfies the requisite skill, experience, education, and other job-related requirements of the employment position such individual holds or desires; and
2. With or without reasonable accommodation, can perform the essential functions of such position. Consideration shall be given to the employer’s judgment as to what functions of a job are essential, and if an employer has prepared a written job description before advertising or interviewing applicants for the job, this description shall be considered evidence of the essential functions of the job.

42 U.S.C. 12111(8); 29 C.F.R. 1630.2(m)

*Reasonable
Accommodation*

A covered entity is required, absent undue hardship, to provide a reasonable accommodation to an otherwise qualified individual who meets the definition of disability under the “actual disability” prong or “record of disability” prong, but is not required to provide a reasonable accommodation to an individual who meets the definition of disability solely under the “regarded as” prong. [See DBB regarding medical examinations and inquiries under the Americans

with Disabilities Act] 29 U.S.C. 794, 42 U.S.C. 12112(b)(5);
29 C.F.R. 1630.2(o)(4), .9, 34 C.F.R. 104.11

“Reasonable accommodation” may include:

1. Making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and
2. Job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modification of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

42 U.S.C. 12111(9); 29 C.F.R. 1630.2(o); 34 C.F.R. 104.12(b)

Undue Hardship

“Undue hardship” means an action requiring significant difficulty or expense, when considered in light of the following factors. In determining whether an accommodation would impose an undue hardship on a covered entity, factors to be considered include the nature and cost of the accommodation needed, the overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation, the overall financial resources of the covered entity, the type of operation or operations of the covered entity, and other factors set out in 42 U.S.C. 12111(10). 42 U.S.C. 12111(10); 29 C.F.R. 1630.2(p); 34 C.F.R. 104.12(c)

Discrimination
Based on
Relationship

It is unlawful for a covered entity to exclude or deny equal jobs or benefits to, or otherwise discriminate against, a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a family, business, social, or other relationship or association. 42 U.S.C. 12112(b)(4); 29 C.F.R. 1630.8

Illegal Drugs and
Alcohol

A qualified individual with a disability shall not include any employee or applicant who is currently engaging in the illegal use of drugs, when the covered entity acts on the basis of such use. 42 U.S.C. 12114(a); 29 C.F.R. 1630.3(a)

Drug Testing

Nothing in ~~this subchapter~~ [42 U.S.C. Chapter 126, Subchapter I](#) shall be construed to encourage, prohibit, or authorize the conducting of drug testing for the illegal use of drugs by job applicants or employees or making employment decisions based on the results of such tests. [See DHB] 42 U.S.C. 12114(d)(2); 29 C.F.R. 1630.3(c), .16(c)

Alcohol Use

The term “individual with a disability” does not include any individual who is an alcoholic whose current use of alcohol prevents such individual from performing the duties of the job in question or

	<p>whose employment, by reason of such current alcohol abuse, would constitute a direct threat to property or the safety of others. <i>29 U.S.C. 705(20)(C)(v); 42 U.S.C. 12114(a); 29 C.F.R. 1630.16(b)</i></p>
Qualification Standards	<p>It is unlawful for a covered entity to use qualification standards, employment tests, or other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities, on the basis of disability, unless the standard, test, or other selection criteria, as used by the covered entity, is shown to be job-related for the position in question and is consistent with business necessity. <i>29 C.F.R. 1630.10(a)</i></p>
<i>Direct Threat to Health or Safety</i>	<p>The term “qualification standards” may include a requirement that an individual shall not pose a direct threat to the health or safety of other individuals in the workplace. “Direct threat” means a significant risk to the health or safety of the individual or others that cannot be eliminated by reasonable accommodation. The determination that an individual poses a “direct threat” shall be based on an individualized assessment of the individual's present ability to safely perform the essential functions of the job. This assessment shall be based on a reasonable medical judgment that relies on the most current medical knowledge and/or on the best available objective evidence. In determining whether an individual would pose a direct threat, the factors to be considered include the duration of the risk; the nature and severity of the potential harm; the likelihood that the potential harm will occur; and the imminence of the potential harm. <i>42 U.S.C. 12111(3), 12113(b); 29 C.F.R. 1630.2(r)</i></p>
<i>Vision Standards and Tests</i>	<p>A covered entity shall not use qualification standards, employment tests, or other selection criteria based on an individual's uncorrected vision unless the standard, test, or other selection criteria, as used by the covered entity, is shown to be job-related for the position in question and consistent with business necessity. <i>42 U.S.C. 12113(c); 29 C.F.R. 1630.10(b)</i></p>
<i>Communicable Diseases</i>	<p>In any case in which an individual has an infectious or communicable disease that is transmitted to others through the handling of food, that is included on the list developed by the U.S. Secretary of Health and Human Services under 42 U.S.C. 12113(e)(1), and that cannot be eliminated by reasonable accommodation, a covered entity may refuse to assign or continue to assign an individual to a job involving food handling. <i>42 U.S.C. 12113(e)(2); 29 U.S.C. 705(20)(D); 29 C.F.R. 1630.16(e)</i></p>
Service Animals	<p>A covered entity that is subject to the jurisdiction of Title I of the ADA (employment discrimination) or to section 504 of the Rehabilitation Act (employment discrimination), shall comply with the reasonable accommodation requirements of those laws with respect to service animals. [See Reasonable Accommodations, above]</p>

A covered entity that is not subject to either Title I or section 504 shall comply with Title II of the ADA (discrimination by public entity). An employer that is subject to Title II shall comply with 28 C.F.R. part 35, including the requirements relating to service animals at 28 C.F.R. 35.136 [see FAA].

28 C.F.R. 35.140

Note: See State Law, below, for state prohibitions on discrimination based on disability.

Military Service

A person who is a member of, applies to be a member of, performs, has performed, applies to perform, or has an obligation to perform service in a uniformed service shall not be denied initial employment, reemployment, retention in employment, promotion, or any benefit of employment on the basis of that membership, application for membership, performance of service, application for service, or obligation.

An employer, including a college district, may not discriminate in employment against or take any adverse employment action against any person because such person has taken action to enforce protections afforded any person under ~~38 U.S.C. Chapter 43~~ (the Uniformed Services Employment and ~~Re-employment-
Reemployment~~ Rights Act of 1994 (USERRA)), [38 U.S.C. Chapter 43](#), has testified or otherwise made a statement in or in connection with any proceeding under USERRA, has assisted or otherwise participated in an investigation under USERRA, or has exercised a right provided for in USERRA.

38 U.S.C. 4311 [See DECB]

Bankruptcy

A governmental unit, including a college district, may not deny, revoke, suspend, or refuse to renew a license, permit, charter, franchise, or other similar grant to, condition such a grant to, discriminate with respect to such a grant against, deny employment to, terminate the employment of, or discriminate with respect to employment against, a person that is or has been a debtor under U.S.C. Title 11 or a bankrupt or a debtor under the Bankruptcy Act, or another person with whom such bankrupt or debtor has been associated, solely because such bankrupt or debtor is or has been a debtor under Title 11 or a bankrupt or debtor under the Bankruptcy Act, has been insolvent before the commencement of the case under Title 11, or during the case but before the debtor is granted or denied a discharge, or has not paid a debt that is dischargeable in the case under Title 11 or that was discharged under the Bankruptcy Act. 11 U.S.C. 525(a)

Retaliation

An employer, including a college district, may not discriminate against any employee or applicant for employment because the employee or applicant has opposed any unlawful, discriminatory employment practices or participated in the investigation of any complaint related to an unlawful, discriminatory employment practice. 29 U.S.C. 623(d) (ADEA); 42 U.S.C. 2000e-3(a) (Title VII); 34 C.F.R. 100.7(e) (Title VI); 34 C.F.R. 110.34 (Age Act); 42 U.S.C. 12203 (ADA); Jackson v. Birmingham Bd. of Educ., 544 U.S. 167 (2005) (Title IX)

Note: See State Law, below, for state prohibitions on retaliation.

State Law

Unlawful
Employment
Practice

An employer commits an unlawful employment practice if because of race, color, disability, religion, sex, national origin, or age the employer fails or refuses to hire an individual, discharges an individual, or discriminates in any other manner against an individual in connection with compensation or the terms, conditions, or privileges of employment; or limits, segregates, or classifies an employee or applicant for employment in a manner that would deprive or tend to deprive an individual of any employment opportunity or adversely affect in any other manner the status of an employee.

An employer commits an unlawful employment practice if it aids, abets, incites, or coerces a person to engage in an unlawful discriminatory practice based on race, color, disability, religion, sex, national origin, or age.

Labor Code 21.051; 40 TAC 819.12(a), (f)

Disparate Impact

An unlawful employment practice based on disparate impact is established under [Labor Code](#) Chapter 21 only if a complainant demonstrates that a respondent uses a particular employment practice that causes a disparate impact on the basis of race, color, sex, national origin, religion, or disability and the respondent fails to demonstrate that the challenged practice is job-related for the position in question and consistent with business necessity; or the complainant makes the demonstration in accordance with federal law as that law existed June 4, 1989, with respect to the concept of alternative employment practices, and the respondent refuses to adopt such an alternative employment practice. To demonstrate that a particular employment practice causes a disparate impact, the complainant must demonstrate that each particular challenged employment practice causes a disparate impact, except that if the complainant demonstrates to the satisfaction of the court that the elements of a respondent's decision-making process are not capable of separation for analysis, that decision-making process may

	be analyzed as one employment practice. <i>Labor Code 21.122(a), (c)</i>
<i>Exception</i>	An employer does not commit an unlawful employment practice by engaging in a practice that has a discriminatory effect and that would otherwise be prohibited by Labor Code Chapter 21 if the employer establishes that the practice is not intentionally devised or operated to contravene the prohibitions of Chapter 21; and is justified by business necessity. <i>Labor Code 21.115(a)</i>
Job Training Programs	Unless a training or retraining opportunity or program is provided under an affirmative action plan approved under a federal law, rule, or order, an employer, labor organization, or joint labor-management committee controlling an apprenticeship, on-the-job training, or other training or retraining program commits an unlawful employment practice if the employer, labor organization, or committee discriminates against an individual because of race, color, disability, religion, sex, national origin, or age in admission to or participation in the program. <i>Labor Code 21.054</i>
Selection Criterion	An employer may not use a qualification standard, employment test, or other selection criterion based on an individual's uncorrected vision unless the standard, test, or criterion is consistent with business necessity and job-related for the position to which the standard, test, or criterion applies. <i>Labor Code 21.115(b)</i>
<i>Bona Fide Occupational Qualification</i>	If disability, religion, sex, national origin, or age is a bona fide occupational qualification reasonably necessary to the normal operation of the particular business or enterprise, performing any of the following practices on the basis of disability, religion, sex, national origin, or age of an employee, member, or other individual is not an unlawful employment practice: <ol style="list-style-type: none">1. An employer hiring and employing an employee;2. An employment agency classifying or referring an individual for employment; or3. An employer controlling an apprenticeship, on-the-job training, or other training or retraining program admitting or employing an individual in its program. <i>Labor Code 21.119</i>
Job Advertisement	An employer, labor organization, employment agency, or joint labor-management committee controlling an apprenticeship, on-the-job training, or other training or retraining program commits an unlawful employment practice if the employer, labor organization, employment agency, or committee prints or publishes or causes to be

printed or published a notice or advertisement relating to employment that:

1. Indicates a preference, limitation, specification, or discrimination based on race, color, disability, religion, sex, national origin, or age; and
2. Concerns an employee's status, employment, or admission to or membership or participation in a labor union or training or retraining program.

This section does not apply if disability, religion, sex, national origin, or age is a bona fide occupational qualification.

Labor Code 21.059; 40 TAC 819.12(i)

Bona Fide
Employee Benefit
Plan

An employer does not commit an unlawful employment practice by applying different standards of compensation or different terms, conditions, or privileges of employment under a bona fide seniority system, merit system, or an employee benefit plan, such as a retirement, pension, or insurance plan, that is not a subterfuge to evade Labor Code Chapter 21; or a system that measures earnings by quantity or quality of production. *Labor Code 21.102(a)*

Exception

An employee benefit plan may not excuse a failure to hire on the basis of age. A seniority system or employee benefit plan may not require or permit involuntary retirement on the basis of age except as permitted by Labor Code 21.103.

This section does not apply to standards of compensation or terms, conditions, or privileges of employment that are discriminatory on the basis of race, color, disability, religion, sex, national origin, or age.

Labor Code 21.102(b)–(c)

Additional
Considerations

*Pregnancy
Discrimination*

A provision in Labor Code Chapter 21 referring to discrimination because of sex or on the basis of sex includes discrimination because of or on the basis of pregnancy, childbirth, or a related medical condition. A woman affected by pregnancy, childbirth, or a related medical condition shall be treated for all purposes related to employment, including receipt of a benefit under a fringe benefit program, in the same manner as another individual not affected but similar in the individual's ability or inability to work. *Labor Code 21.106*

*Religious
Discrimination*

A provision in ~~Labor Code~~ Chapter 21 referring to discrimination because of religion or on the basis of religion applies to discrimination because of or on the basis of any aspect of religious observance, practice, or belief, unless an employer demonstrates that

the employer is unable reasonably to accommodate the religious observance or practice of an employee or applicant without undue hardship to the conduct of the employer's business. *Labor Code 21.108*

A government agency, including a college district, may not substantially burden a person's free exercise of religion. The prohibition does not apply if the government agency demonstrates that the application of the burden to the person is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that interest. *Civ. Prac. and Rem. Code 110.003(a)–(b)*

*Association with
a Religious
Organization*

Notwithstanding any other law, a governmental entity, including a college district, may not take any adverse action against any person, as defined by Government Code 2400.001(4), based wholly or partly on the person's membership in, affiliation with, or contribution, donation, or other support provided to a religious organization.

"Adverse action" means any action taken by a governmental entity to:

1. Withhold, reduce, exclude, terminate, or otherwise deny any grant, contract, subcontract, cooperative agreement, loan, scholarship, license, registration, accreditation, employment, or other similar status from or to a person;
2. Withhold, reduce, exclude, terminate, or otherwise deny any benefit provided under a benefit program from or to a person;
3. Alter in any way the tax treatment of, cause any tax, penalty, or payment assessment against, or deny, delay, or revoke a tax exemption of a person;
4. Disallow a tax deduction for any charitable contribution made to or by a person;
5. Deny admission to, equal treatment in, or eligibility for a degree from an educational program or institution to a person; or
6. Withhold, reduce, exclude, terminate, or otherwise deny access to a property, educational institution, speech forum, or charitable fundraising campaign from or to a person.

Gov't Code 2400.001(1), .002 [See GA]

*Age
Discrimination*

The provisions of Labor Code Chapter 21 referring to discrimination because of age or on the basis of age apply only to discrimination against an individual 40 years of age or older. *Labor Code 21.101*

<i>Discrimination Based on Lack of Disability</i>	Nothing in this chapter may be construed as the basis for a claim by an individual without a disability that the individual was subject to discrimination because of the individual's lack of a disability. <i>Labor Code 21.005(c)</i>
<i>Reasonable Accommodation</i>	It is an unlawful employment practice for a respondent covered under this chapter to fail or refuse to make a reasonable workplace accommodation to a known physical or mental limitation of an otherwise qualified individual with a disability who is an employee or applicant for employment, unless the respondent demonstrates that the accommodation would impose an undue hardship on the operation of the business of the respondent. A showing of undue hardship by the respondent is a defense to a complaint of discrimination made by an otherwise qualified individual with a disability. <i>Labor Code 21.128(a)–(b)</i>
Official Oppression	<p>A public servant acting under color of his office or employment commits an offense if he intentionally subjects another to sexual harassment.</p> <p>“Sexual harassment” means unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, submission to which is made a term or condition of a person’s exercise or enjoyment of any right, privilege, power, or immunity, either explicitly or implicitly. An offense under this section is a Class A misdemeanor.</p> <p><i>Penal Code 39.03(a), (c)–(d)</i></p>
<i>Sexual Harassment of Unpaid Interns</i>	<p>An employer commits an unlawful employment practice if sexual harassment of an unpaid intern occurs and the employer or the employer's agents or supervisors:</p> <ol style="list-style-type: none">1. Know or should have known that the conduct constituting sexual harassment was occurring; and2. Fail to take immediate and appropriate corrective action. <p>An individual is considered to be an unpaid intern of an employer if:</p> <ol style="list-style-type: none">1. The individual's internship, even though it includes engagement in the employer's operations or the performance of productive work for the employer, is similar to training that would be given in an educational environment;2. The individual's internship experience is for the individual's benefit;3. The individual does not displace the employer's regular employees but works under close supervision of the employer's existing staff;

4. The employer does not derive any immediate advantage from the individual's internship activities and on occasion the employer's operations may be impeded by those activities;
5. The individual is not entitled to a job at the conclusion of the internship; and
6. The individual is not entitled to wages for the time spent in the internship.

"Sexual harassment" means an unwelcome sexual advance, a request for a sexual favor, or any other verbal or physical conduct of a sexual nature if:

1. Submission to the advance, request, or conduct is made a term or condition of an individual's internship, either explicitly or implicitly;
2. Submission to or rejection of the advance, request, or conduct by an individual is used as the basis for a decision affecting the individual's internship;
3. The advance, request, or conduct has the purpose or effect of unreasonably interfering with an individual's work performance at the individual's internship; or
4. The advance, request, or conduct has the purpose or effect of creating an intimidating, hostile, or offensive working environment.

Labor Code 21.1065

Retaliation

An employer commits an unlawful employment practice if the employer, labor union, or employment agency retaliates or discriminates against a person who, under Labor Code Chapter 21 opposes a discriminatory practice; makes or files a charge; files a complaint; or testifies, assists, or participates in any manner in an investigation, proceeding, or hearing. *Labor Code 21.055; 40 TAC 819.12(e)*

Notices

Title VII

Every employer, including each college district, shall post and keep posted in conspicuous places upon its premises, where notices to employees, applicants for employment, and members are customarily posted, a notice to be prepared or approved by the Equal Employment Opportunity Commission (EEOC) setting forth excerpts from or, summaries of, the pertinent provisions of this subchapter and information pertinent to the filing of a complaint. *42 U.S.C. 2000e-10*

ADEA

Every employer shall post and keep posted in conspicuous places upon its premises a notice to be prepared or approved by the

EEOC setting forth information as the EEOC deems appropriate to effectuate the purposes of the ADEA. *29 U.S.C. 627*

Section 504 Notice

A recipient of federal funds that employs 15 or more persons shall take appropriate steps to notify applicants and employees, including those with impaired vision or hearing, that it does not discriminate on the basis of disability in violation of Section 504 of the Rehabilitation Act or 34 C.F.R. Part 104.

The notification shall state, where appropriate, that the recipient does not discriminate in employment in its program or activity. The notification shall also include an identification of the responsible employee designated pursuant to 34 C.F.R. 104.7(a) (Section 504 coordinator).

Methods of initial and continuing notification may include:

1. Posting of notices;
2. Publication in newspapers and magazines;
3. Placement of notices in recipients' publications; and
4. Distribution of memoranda or other written communications.

If a recipient publishes or uses recruitment materials or publications containing general information that it makes available to applicants or employees, it shall include in those materials or publications a statement of its nondiscrimination policy.

34 C.F.R. 104.8

**Former Board
Member Employment**

A public junior college may not employ or contract with an individual who was a member of the board of the junior college before the first anniversary of the date the individual ceased to be a member of the board of trustees. *Education Code 130.089*

**Employee
Information**

A person or entity, including a college district, that hires or recruits an individual for employment must ensure that the individual properly:

1. Completes section 1—"Employee Information and Verification"—on the Form I-9 at the time of hire and signs the attestation with a handwritten or electronic signature in accordance with 8 C.F.R. 274a.2(h), or if an individual is unable to complete the Form I-9 or needs it translated, someone may assist him or her in accordance with 8 C.F.R. 274a.2(b); and
2. Present to the employer or the recruiter or referrer for a fee documentation as set forth in 8 C.F.R. 274a.2(b)(1)(v) establishing his or her identity and employment authorization within the time limits set forth in 8 C.F.R. 274a.2(b)(1)(ii) through (b)(1)(v).

8 C.F.R. 274a.2(b)(1)(i)

**Verification of
Employment
Eligibility**

~~A person or entity, including a college district, must verify employment eligibility, pursuant to the Immigration Reform and Control Act, and complete Form I-9 by the following dates:~~

New Hire

An employer, his or her agent, or anyone acting directly or indirectly in the interest thereof, must within three business days of ~~initial hiring, the hire:~~

1. ~~An employer who hires an~~ Physically examine the documentation presented by the individual for establishing identity and employment for duration of less than authorization as set forth in 8 C.F.R. 274a.2(b)(1)(v) and ensure that the documents presented appear to be genuine and to relate to the individual; and
- ~~1.2.~~ Complete section 2 – "Employer Review and Verification" – on the Form I-9 within three business days ~~must comply at~~ of the time of hire, and sign the attestation with a handwritten signature or electronic signature in accordance with 8 C.F.R. 274a.2(i).

8 C.F.R. 274a.2(b)(1)(ii)

An employer will not be deemed to have hired an individual for employment if the individual is continuing in his or her employment

and has a reasonable expectation of employment at all times, ~~as described by 8 C.F.R. 274a.2(b)(1)(viii). 8 C.F.R. 274a.2(b)(1)(viii)~~

Exception

An employer who hires an individual for employment for a duration of less than three business days must comply with 8 C.F.R. 274a.2(b)(1)(ii)(A) and (b)(1)(ii)(B) at the time of the hire. An employer may not accept a receipt, as described in 8 C.F.R. 274a.2(b)(1)(vi), in lieu of the required document if the employment is for less than three business days. 8 C.F.R. 274a.2(b)(1)(iii)

Rehire

When an employer hires an individual whom that person or entity has previously employed, if the employer has previously completed the Form I-9 and complied with the verification requirements set forth in 8 C.F.R. 274a.2(b) with regard to the individual, the employer may (in lieu of completing a new Form I-9) inspect the previously completed Form I-9 and, if upon inspection of the Form I-9, the employer determines that the Form I-9 relates to the individual and that the individual is still eligible to work, that previously executed Form I-9 is sufficient if the individual is hired within three years of the date of the initial execution of the Form I-9 and the employer updates the Form I-9 to reflect the date of rehire. 8 C.F.R. 274a.2(c)

Existing Employee

If an ~~individual's~~individual's employment authorization expires, the employer, recruiter, or referrer for a fee must reverify on the Form I-9 to reflect that the individual is still authorized to work in the United States; otherwise, the individual may no longer be employed, recruited, or referred. Reverification on the Form I-9 must occur not later than the date work authorization expires. If an Employment Authorization Document (Form I-766) was presented for completion of the Form I-9 in combination with a Notice of Action (Form I-797C), stating that the original Employment Authorization Document has been automatically extended for up to 180 days, re-verification applies upon the expiration of the automatically extended validity period under 8 C.F.R. 274a.13(d) and not upon the expiration date indicated on the face of the individual's Employment Authorization Document.

In order to reverify on the Form I-9, the employee or referred individual must present a document that either shows continuing employment eligibility or is a new grant of work authorization. The employer or the recruiter or referrer for a fee must review this document, and if it appears to be genuine and relate to the individual, reverify by noting the document's identification number and expiration date, if any, on the Form I-9 and signing the attestation by a handwritten signature or electronic signature in accordance with 8 C.F.R. 274a.2(i).

~~8 C.F.R. 274a.2(b)(1)(ii)-(iii), (vii)-(viii)~~

E-Verify

State agencies and institutions of higher education, including college districts, shall register and participate in the federal electronic verification of employment authorization program, E-Verify, for all newly hired employees.

The Texas Workforce Commission (TWC) shall provide notice, registration information, and online forms for the E-Verify program to state agencies and may provide technical assistance, upon request.

Gov't Code 673.002; 40 TAC 843.3

New Hire Reporting

"Newly hired employee" means an employee who has not been previously employed by the employer or was previously employed by the employer but has been separated from that employment for at least 60 consecutive days.

Each Texas employer, including each college district, shall furnish to the State Directory of New Hires (Texas Attorney General's Office) in the state in which a newly hired employee works a report of all new hires that contains the following seven required data elements: the employee name, the employee address, the employee social security number, the employee's date of hire, the employer name, the employer address, and the federal employer identification number (FEIN).

Employers, at their option may also provide the following additional information in the report: the employee's date of birth and the employee's expected salary or wages, and employer payroll addresses for mailing of notice to withhold child support.

All employers shall report new hire information on a Form W-4 or an equivalent form by first class mail, telephonically, or electronically as determined by the employer and in a format acceptable to the Title IV-D agency. The Title IV-D agency reserves the right to decline any type of form that it deems as illegible or inappropriate for new hire report processing and requests employers who elect to submit new hire reports via hard copy to adopt the prescribed Employer New Hire Reporting Form (Form 1856e and 1856s) that can be obtained from the ~~-Child Support Division~~ [Texas Attorney General's Child Support Division](#)¹ website under Employer Portal.

42 U.S.C. 653a(b)-(c); Family Code 234.104; 1 TAC 55.303(a)-(c)

Deadline

Employer new hire reports are due:

1. Not later than 20 calendar days after the date the employer hires the employee; or

2. In the case of an employer transmitting reports electronically, by two monthly transmissions (if necessary) not less than 12 days nor more than 16 days apart.

Employer new hire reports shall be considered timely if postmarked by the due date or, if filed electronically, upon receipt by the agency.

1 TAC 55.303(d)

Penalties

An employer-~~college-district~~ that knowingly violates the new hire provisions may be liable for a civil penalty, as set forth at Family Code 234.105. *42 U.S.C. 653a(d); Family Code 234.105*

Social Security Numbers

It shall be unlawful for any federal, state or local government agency, including a college district, to deny to any individual any right, benefit, or privilege provided by law because of such individual's refusal to disclose his or her social security number. *5 U.S.C. 552a Note; PL 93-579, 7(b), 88 Stat. 1896 (1974)*

Exceptions

The above provision shall not apply with respect to:

1. Any disclosure which is required by federal statute.
2. The disclosure of a social security number to a federal, state, or local agency maintaining a system of records in existence and operating before January 1, 1975, if such disclosure was required under statute or regulation adopted before such date to verify the identity of an individual.

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

It is the policy of the United States that any state (or political subdivision thereof) may, in the administration of any tax, general public assistance, driver's license, or motor vehicle registration law within its jurisdiction, utilize the social security account numbers issued by the Commissioner of Social Security for the purpose of establishing the identification of individuals affected by such law, and may require any individual who is or appears to be so affected to furnish to such state (or political subdivision thereof) or any agency thereof having administrative responsibility for the law involved, the social security account number (or numbers, if he has more than one such number) issued to him by the Commissioner of Social Security. *42 U.S.C. 405(c)(2)(C)*

Statement of Uses

A federal, state, or local agency which requests an individual to disclose his social security account number shall inform that individual whether that disclosure is mandatory or voluntary, by what statutory or other authority such number is solicited, and what uses will

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

**Criminal History
Records of Certain
Applicants**

Each institution of higher education, including each college district, is entitled to obtain from the Department of Public Safety (DPS) criminal history record information maintained by DPS that relates to a person who is an applicant for a security-sensitive position at the institution. The institution may deny employment to an applicant for a security-sensitive position who fails to provide a complete set of fingerprints upon request.

“Security-sensitive position” means an employment position held by an employee who:

1. Handles currency;
2. Has access to a computer terminal;
3. Has access to the personal information or identifying information of another person;
4. Has access to the financial information of the college district or another person;
5. Has access to a master key; or
6. Works in a location designated as a security-sensitive area.

A security-sensitive position shall be so identified in the job description and advertisement for the position.

The criminal history record information may be used only for the purpose of evaluating applicants for employment in security-sensitive positions.

The criminal history record information may not be released or disclosed to any person except on court order or with the consent of the person who is the subject of the criminal history record information.

All criminal history record information shall be destroyed by the chief of police of the institution of higher education as soon as practicable after the individual becomes employed in a security-sensitive position and after the expiration of any probationary term of employment or, if the individual is not hired for a security-sensitive position, after the information is used for its authorized purpose.

Gov't Code 411.094; Education Code 51.215

A person, agency, department, political subdivision, or other entity that is authorized by Government Code Chapter 411, Subchapter F

or Subchapter E-1 to obtain from DPS criminal history record information maintained by DPS that relates to another person is authorized to:

1. Obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to that person; or
2. Obtain from any other criminal justice agency in this state criminal history record information maintained by that criminal justice agency that relates to that person.

Gov't Code 411.087(a)

Participation in the
Criminal History
Clearinghouse

The purpose of the criminal history clearinghouse is to:

1. Provide authorized entities with the Texas and FBI fingerprint-based criminal history results.
2. Provide authorized entities with subscription and notification service to disseminate updated criminal history information.

Entities shall only submit requests for criminal history record information on a person who has authorized the access of their information. "Request for criminal history record information" is the processing and entry of a person's complete set of fingerprints in DPS's tenprint database and the comparison of those prints to DPS's latent print database and if authorized the entry into FBI's tenprint and comparison to the FBI's latent print database.

Entities may subscribe to a person in the clearinghouse, if the entity has the authority to view the record. Entities shall unsubscribe from a person when it no longer has authority to view a record.

Entities shall validate their subscriptions in accordance with DPS policies. "Validation" is a process whereby the subscriber reviews a subscription to determine whether they are still authorized to receive criminal history record information on that individual and updates the subscription accordingly. Validations are required on a yearly basis.

Entities shall maintain compliance with the FBI Criminal Justice Information Services Security Policy. Entities shall allow DPS and FBI to conduct audits of their clearinghouse accounts to prevent any unauthorized access, use, or dissemination of the information.

37 TAC 27.171, .172(4), (8), .174

[Drug and Alcohol
Clearinghouse Pre-
Employment Inquiry](#)

[Employers must not employ a driver subject to controlled substances and alcohol testing under 49 C.F.R. Part 382 to perform a safety-sensitive function without first conducting a pre-employment](#)

[query of the Drug and Alcohol Clearinghouse \[see DHB\] to obtain information about whether the driver has a verified positive, adulterated, or substituted controlled substances test result; has an alcohol confirmation test with a concentration of 0.04 or higher; has refused to submit to a test in violation of 49 C.F.R. 382.211; or that an employer has reported actual knowledge, as defined at 49 C.F.R. 382.107, that the driver used alcohol on duty in violation of 49 C.F.R. 382.205, used alcohol before duty in violation of 49 C.F.R. 382.207, used alcohol following an accident in violation of 49 C.F.R. 382.209, or used a controlled substance, in violation of 49 C.F.R. 382.213.](#)

[The employer must conduct a full query under this section, which releases information in the Clearinghouse to an employer and requires that the individual driver give specific consent.](#)

[49 C.F.R. 382.701\(a\)](#)

Retirees

An institution of higher education, including a college district, may employ a person who has retired under the Teacher Retirement System (Government Code Title 8, Subtitle C) or the optional retirement program (Government Code Chapter 830) if:

1. The governing board of the institution determines that the employment is in the best interests of the institution; and
2. The person has been retired for at least 30 days before the effective date of the employment, except that a person retired under the optional retirement program may be rehired after retirement without a break in service.

The governing board may pay a person employed an amount considered by the governing board to be appropriate, notwithstanding any other provision of law.

Education Code 51.964

Report

An employer shall file a monthly certified statement of employment of a retiree in the form and manner required by the retirement system. *Gov't Code 824.6022; 34 TAC 31.2*

Employment Preference for Veterans

The following definitions shall apply to employment preferences for veterans.

Veteran

“Veteran” has the meaning assigned by Government Code 2308.251. *Gov't Code 657.001(2)*

Veteran with a Disability

“Veteran with a disability” means a veteran who is classified as disabled by the U.S. Department of Veterans Affairs or its successor

	<p>or the branch of the service in which the veteran served and whose disability is service connected. <i>Gov't Code 657.001(3)</i></p>
Eligibility	<p>The following individuals qualify for a veteran's employment preference:</p> <ol style="list-style-type: none"> 1. A veteran, including a veteran with a disability; 2. A veteran's surviving spouse who has not remarried; and 3. An orphan of a veteran if the veteran was killed while on active duty. <p><i>Gov't Code 657.002</i></p>
Application of the Preference	<p>An individual who qualifies for a veteran's employment preference is entitled to a preference in employment with or appointment to a state agency, including a college district, over other applicants for the same position who do not have a greater qualification.</p> <p>A state agency shall provide to an individual entitled to a veteran's employment preference for employment or appointment over other applicants for the same position who do not have a greater qualification a veteran's employment preference, in the following order of priority:</p> <ol style="list-style-type: none"> 1. A veteran with a disability; 2. A veteran; 3. A veteran's surviving spouse who has not remarried; and 4. An orphan of a veteran if the veteran was killed while on active duty. <p>If a state agency requires a competitive examination under a merit system or civil service plan for selecting or promoting employees, an individual entitled to a veteran's employment preference who otherwise is qualified for that position and who has received at least the minimum required score for the test is entitled to have a service credit of ten points added to the test score. A veteran with a disability is entitled to have a service credit of five additional points added to the individual's test score.</p> <p>An individual entitled to a veteran's employment preference is not disqualified from holding a position with a state agency because of age or an established service-connected disability if the age or disability does not make the individual incompetent to perform the duties of the position.</p> <p><i>Gov't Code 657.003</i></p>

Veteran Employment Goal	Each state agency shall establish a goal of hiring, in full-time positions at the agency, a number of veterans equal to at least 20 percent of the total number of employees of the state agency. A state agency may establish a veteran employment goal that is greater than the required percentage. <i>Gov't Code 657.004</i>
Designation of Open Position	A state agency may designate an open position as a veteran's position and only accept applications for that position from individuals who are entitled to a veteran's employment preference under Government Code 657.003. Notwithstanding any other law, a state agency may hire or appoint for an open position within the agency an individual entitled to a veteran's employment preference under Section 657.003 without announcing or advertising the position if the agency uses the automated labor exchange system administered by the TWC to identify an individual who qualifies for a veteran's employment preference and determines the individual meets the qualifications required for the position. <i>Gov't Code 657.0045</i>
Interviews	<p>For each announced open position at a state agency, the state agency shall interview:</p> <ol style="list-style-type: none"> 1. If the total number of individuals interviewed for the position is six or fewer, at least one individual qualified for a veteran's employment preference under Government Code 657.003; or 2. If the total number of individuals interviewed for the position is more than six, a number of individuals qualified for a veteran's employment preference under Section 657.003 equal to at least 20 percent of the total number interviewed. <p>A state agency that does not receive any applications from individuals who qualify for a veteran's employment preference under Section 657.003 is not required to comply.</p> <p><i>Gov't Code 657.0047</i></p>
Employment Investigation	The individual whose duty is to appoint or employ an applicant for a position with a state agency or an officer or the chief administrator of the agency who receives an application for appointment or employment by an individual entitled to a veteran's employment preference, before appointing or employing any individual, shall investigate the qualifications of the applicant for the position. An applicant who is a veteran with a disability shall furnish the official records to the individual whose duty is to fill the position. <i>Gov't Code 657.005</i>
Federal Law and Grants	To the extent that this chapter conflicts with federal law or a limitation provided by a federal grant to a state agency, Government Code Chapter 657 shall be construed to operate in harmony with

	<p>the federal law or limitation of the federal grant. <i>Gov't Code 657.006</i></p> <p>Reporting A state agency shall file quarterly with the comptroller a report that states:</p> <ol style="list-style-type: none"> 1. The percentage of the total number of employees hired or appointed by the agency during the reporting period who are persons entitled to a preference under Government Code Chapter 657; 2. The percentage of the total number of the agency's employees who are persons entitled to a preference under Chapter 657; and 3. The number of complaints filed with the executive director of the agency under Government Code 657.010 during that quarter and the number of those complaints resolved by the executive director. <p>The comptroller shall make each quarterly report available to the public on the comptroller's internet website.</p> <p><i>Gov't Code 657.008</i></p>
<p>Posting Requirements</p>	<p>A public entity or public work shall provide information to the TWC regarding any open position subject to the veterans' preferences as specified in Government Code 657.009.</p> <p>A public entity or public work shall provide information by one or more of the methods indicated in 40 Administrative Code 843.1(b)(1)–(3) relating to the employer postings of job openings and submit basic information regarding the opening to the TWC as soon as practical, including the following:</p> <ol style="list-style-type: none"> 1. The name of the public entity; 2. The location where the job is to be performed including city and state; 3. A description of the job opening; 4. The minimum educational and work experience required for the position; and 5. Contact information regarding the opening. <p>TWC shall make available to the public the information provided by a state agency.</p> <p><i>Gov't Code 657.009(a)–(b); 40 TAC 843.2</i></p>

Complaint Procedures	An individual entitled to a veteran's employment preference under Government Code Chapter 657 who is aggrieved by a decision of a state agency to which Chapter 657 applies relating to hiring or appointing the individual, or relating to retaining the individual if the state agency reduces its workforce, may appeal the decision by filing a written complaint with the executive director of the state agency. The executive director of a state agency that receives a written complaint shall respond to the complaint not later than the 15th business day after the date the executive director receives the complaint. The executive director may render a different hiring or appointment decision than the decision that is the subject of the complaint if the executive director determines that the veteran's preference was not applied. <i>Gov't Code 657.010</i>
Employment Preference for Former Foster Children	An individual who was under the permanent managing conservatorship of the Department of Family and Protective Services on the day preceding the individual's 18th birthday is entitled to preference in employment with a state agency, including a college district, over other applicants for the same position who does not have a greater qualification. An individual is entitled to an employment preference under this chapter only if the individual is 25 years of age or younger. <i>Gov't Code 672.002(a), .005</i>
Exceptions	This section does not apply to the position of private secretary or deputy of an official or department, or to an individual holding a strictly confidential relation to the employing officer. <i>Gov't Code 672.002(b)</i>
Conflict with Federal Law or Grant	To the extent that this preference conflicts with federal law or a limitation provided by a federal grant to a state agency, this section shall be construed to operate in harmony with federal law or limitation of the federal grant. <i>Gov't Code 672.003</i>
Grievance Process	An individual entitled to an employment preference under this section who is aggrieved by a decision of a state agency to which this section applies relating to hiring the individual, or relating to retaining the individual if the state agency reduces its workforce, may appeal the decision by filing a written complaint with the governing body of the state agency. The governing body of a state agency that receives a written complaint shall respond to the complaint not later than the 15th business day after the date the governing body receives the complaint. The governing body may render a different hiring decision than the decision that is the subject of the complaint if the governing body determines that the employment preference under this section was not applied. <i>Gov't Code 672.004</i>
Campus Programs for Minors	A program operator may not employ an individual in a position involving contact with campers at a campus program for minors unless:

1. The individual submits to the program operator or the campus program for minors has on file documentation that verifies the individual within the preceding two years successfully completed the training and examination program on sexual abuse and child molestation; or
2. The individual successfully completes the campus program for minors' training and the examination program on sexual abuse and child molestation, which must be approved by the department, during the individual's first five days of employment by the campus program for minors, and the campus program issues and files documentation verifying successful completion.

The requirement does not apply to an individual who is a student enrolled at the institution of higher education or a private or independent institution of higher education or at which the campus program is conducted and whose contact with campers is limited to a single class of short duration.

A program operator must:

1. Submit to the Texas Department of State Health Services (DSHS), on the form and within the time prescribed by DSHS, verification that each employee of the campus program for minors has complied with the training and examination requirements and the fee assessed by DSHS; and
2. Retain in the operator's records a copy of the required documentation for each employee until the second anniversary of the examination date.

"Campus program for minors" means a program that:

1. Is operated by or on the campus of an institution of higher education or a private or independent institution of higher education;
2. Offers recreational, athletic, religious, or educational activities for at least 20 campers who are not enrolled at the institution; and attend or temporarily reside at the camp for all or part of at least four days; and
3. Is not a day camp or youth camp as defined by Health and Safety Code 141.002 or a facility or program required to be licensed by the Department of Family and Protective Services.

Education Code 51.976(a)(2), (b)-(d)

**Consumer Credit
Reports**

Definitions

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

“Consumer report” includes any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer’s credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer’s eligibility for employment purposes.

“Consumer reporting agency” means any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly assembles or evaluates consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.

“Employment purposes,” when used in connection with a consumer report, means a report used for the purpose of evaluating a consumer for employment, promotion, reassignment, or retention as an employee.

15 U.S.C. 1681a(d), (f), (h), (k)

Obtaining Reports

A person may not procure a consumer report, or cause a consumer report to be procured, for employment purposes with respect to any consumer, unless:

1. A clear and conspicuous disclosure has been made in writing to the consumer at any time before the report is procured or caused to be procured, in a document that consists solely of the disclosure, that a consumer report may be obtained for employment purposes; and
2. The consumer has authorized in writing (which authorization may be made on the document referred to in item 1) the procurement of the report by that person.

15 U.S.C. 1681b(b)(2)(A)

Exception

If a consumer described in 15 U.S.C. 1681b(2)(C) applies for employment by mail, telephone, computer, or other similar means, at any time before a consumer report is procured or caused to be procured in connection with that application the person who procures the consumer report on the consumer for employment purposes shall provide to the consumer, by oral, written, or electronic means, notice that a consumer report may be obtained for employment

purposes, and a summary of the consumer's rights under 15 U.S.C. 1681m(a)(3); and the consumer shall have consented orally, in writing, or electronically to the procurement of the report by that person. *15 U.S.C. 1681b(b)(2)(B)*

Adverse Action

In using a consumer report for employment purposes, before taking any adverse action based in whole or in part on the report, the person intending to take such adverse action shall provide the consumer to whom the report relates a copy of the report and a description in writing of the person's rights under the Fair Credit Reporting Act, as prescribed by the Federal Trade Commission. *15 U.S.C. 1681b(b)(3)*

Note: The following provisions apply to a college district that uses consumer reports.

Address
Discrepancies

"Notice of address discrepancy" means a notice sent to a user by a consumer reporting agency described in 15 U.S.C. 1681a(p) pursuant to 15 U.S.C. 1681c(h)(1) that informs the user of a substantial difference between the address for the consumer that the user provided to request the consumer report and the address(es) in the agency's file for the consumer.

A user, including a college district, must develop and implement reasonable policies and procedures designed to enable the user to form a reasonable belief that a consumer report relates to the consumer about whom it has requested the report, when the user receives a notice of address discrepancy.

~~If a college district regularly and in the ordinary course of business furnishes information to the consumer reporting agency from which it received the notice of address discrepancy,~~ A user must develop and implement reasonable policies and procedures for furnishing an address for the consumer that the user has reasonably confirmed is accurate to the consumer reporting agency from whom it received the notice of address discrepancy when the user can form a reasonable belief that the consumer report relates to the consumer about whom the user requested the report, establishes a continuing relationship with the consumer, and regularly and in the ordinary course of business furnishes information to the consumer reporting agency from which the notice of address discrepancy relating to the consumer was obtained.

16 C.F.R. 641.1(b), (c)(1), (d)(1)

Disposal of Records

Any person, including a college district, who maintains or otherwise possesses consumer information for a business purpose must properly dispose of such information by taking reasonable

measures to protect against unauthorized access to or use of the information in connection with its disposal.

“Consumer information” means any record about an individual, whether in paper, electronic, or other form, that is a consumer report or is derived from a consumer report. Consumer information also means a compilation of such records. Consumer information does not include information that does not identify individuals, such as aggregate information or blind data.

“Dispose,” “disposing,” or “disposal” means discarding or abandoning of consumer information, or the sale, donation, or transfer of any medium, including computer equipment, upon which consumer information is stored.

Reasonable measures to protect against unauthorized access to or use of consumer information in connection with its disposal include the following examples. These examples are illustrative only and are not exclusive or exhaustive methods for complying with the rule in 16 C.F.R. Part 682:

1. Implementing and monitoring compliance with policies and procedures that require the burning, pulverizing, or shredding of papers containing consumer information so the information cannot practicably be read or reconstructed;
2. Implementing and monitoring compliance with policies and procedures that require the destruction or erasure of electronic media containing a consumer report so that the information cannot practicably be read or reconstructed; or
3. After due diligence, entering into and monitoring compliance with a contract with another party engaged in the business of record destruction to dispose of material, specifically identified as consumer information, in a manner consistent with this rule.

16 C.F.R. 682.1(b)–(c), .3

¹ Texas Attorney General’s Child Support Division: <https://www.texasattorneygeneral.gov/child-support>

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), 38 U.S.C. 4301-4335, and its regulations at 20 C.F.R. Part 1002 if:

1. Unless notice is precluded by military necessity or is otherwise unreasonable or impossible, 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 such person's employer;
2. The cumulative length of the absence and of all previous absences from a position of employment with that employer by reason of service in the uniformed services does not exceed five years, calculated in accordance with 38 U.S.C. 4312(c); and
3. The person reports to or submits an application for reemployment to such employer in accordance with the provisions of 38 U.S.C. 4312(e) and (f) and 20 C.F.R. Part 1002, Subpart C.

38 U.S.C. 4312(a)–(c); 20 C.F.R. 1002.5(1)

For purposes of federal military leave, [the term](#) “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; [the commissioned officer corps of the National Oceanic and Atmospheric Administration \(NOAA\); system members of the National Urban Search and Rescue Response System during a period of appointment into federal service under Section 327 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act](#); and any other category of persons designated by the president in time of war or emergency. ~~38 U.S.C. 4303(16)~~

The term “service in the uniformed services” means the performance of duty on a voluntary or involuntary basis in a uniformed

service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty, a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person to perform any such duty, and a period for which a person is absent from employment for the purpose of performing funeral honors duty. ~~38 U.S.C. 4303(13)~~

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.

38 U.S.C. [4303\(13\)](#), [\(16\)](#), 4316(a)

Exceptions

An employer, including a college district, is not required to reemploy a person if:

1. The employer's circumstances have so changed as to make reemployment impossible or unreasonable;
2. The person is entitled to reemployment under 38 U.S.C. 4313(a)(3), 4313(a)(4), or 4313(b)(2)(B), and the reemployment of the person would impose an undue hardship on the employer; or
3. The employment from which the person leaves to serve in the uniformed services is for a brief, nonrecurrent period and there is no reasonable expectation that such employment will continue indefinitely or for a significant period.

38 U.S.C. 4312(d)

A person's entitlement to the benefits of 38 U.S.C. Chapter 43 by reason of the service of such person in one of the uniformed services terminates upon the occurrence of any of the following events:

1. A separation of such person from such uniformed service with a dishonorable or bad conduct discharge.
2. A separation of such person from such uniformed service under other than honorable conditions, as characterized pursuant to regulations prescribed by the U.S. Secretary concerned.
3. A dismissal of such person permitted under or a dropping of such person from the rolls pursuant to 10 U.S.C. 1161(a) (dismissal of commissioned officers).

38 U.S.C. 4304

Notice

Each employer shall provide to persons entitled to rights and benefits under 38 U.S.C. Chapter 43 a notice of the rights, benefits, and obligations of such persons and such employers. The requirement for the provision of notice may be met by the posting of the notice where employers customarily place notices for employees. The U.S. Secretary of Labor shall provide to employers the text of the notice. *38 U.S.C. 4334*

**State Protections for
Member of Military or
Rescue Team**

Paid Leave of
Absence

A person who is an officer or employee of the state, a municipality, a county, or another political subdivision of the state, including a college district, and who is a member of the state military forces, a reserve component of the armed forces, or a member of a state or federally authorized urban search and rescue team is entitled to a paid leave of absence from the person's duties on a day on which the person is engaged in authorized training or duty ordered or authorized by proper authority for not more than 15 workdays in a fiscal year. During a leave of absence, the person may not be subjected to loss of time, efficiency rating, personal time, sick leave, or vacation time. *Gov't Code 437.202(a)*

Notice

This state, a municipality, a county, or another political subdivision of this state shall provide written notice of the number of workdays of paid leave to which an officer or employee ~~described by Government Code 437.202(a)~~ is entitled each fiscal year under Government Code 437.202(a) on employment, in the case of an employee or as soon as practicable after appointment or election, in the case of an officer.

This state, a municipality, a county, or another political subdivision of this state shall, on the request of an officer or employee described by ~~Government Code~~ [Section](#) 437.202(a), provide to that officer or employee a statement that contains the number of workdays for which the officer or employee claimed paid leave under ~~Government Code~~ [Section](#) 437.202(a) in that fiscal year.

Gov't Code 437.202(e)-(f)

Return to
Employment

An employee of this state or a municipality, a county, or another political subdivision of this state with at least five full-time employees who is a member of the Texas military forces, a reserve component of the armed forces, or a member of a state or federally authorized urban search and rescue team and who is ordered to duty by proper authority is entitled, when relieved from duty, to be restored to the position that the employee held when ordered to duty. An employer, including a college district, may not terminate the employment of an employee who is a member of the state military

forces of this state or any other state because the employee is ordered to authorized training or duty by a proper authority. The employee is entitled to return to the same employment held when ordered to training or duty and may not be subjected to loss of time, efficiency rating, vacation time, or any benefit of employment during or because of the absence. The employee, as soon as practicable after release from duty, must give written or actual notice of intent to return to employment.

Gov't Code 437.202(d), 204(a)

Reemployment

A public employee, other than a temporary employee, who leaves a state position or a position with a local governmental entity, including a college district, to enter active military service is entitled to be reemployed by the state or the local governmental entity; in the same department, office, commission, or board of this state, a state institution, or local governmental entity in which the employee was employed at the time of the employee's induction or enlistment in, or order to, active military service; and 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.

“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)–(3), .002

Exception

A public employee who cannot perform the duties of the position because of a disability sustained during military service is entitled to reemployment in the department, office, commission, or board of the state, a state institution, or a local governmental entity in a position that the employee can perform and that has like seniority, status, and pay as the former position or the nearest possible seniority, status, and pay. *Gov't Code 613.003*

Application

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. The application must be made in writing to the head of the department, office, commission, or board of this state, the state institution, or the local governmental entity 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*

Discharge

A person reemployed under Government Code Chapter 613 shall not be discharged without cause before the first anniversary of the date of the reemployment. *Gov't Code 613.005*

Application of
Federal Laws to
Texas Military
Members Called to
Duty

A service member of the Texas military forces who is ordered to state active duty or to state training or other duty by the governor, the adjutant general, or another proper authority under the law of this state is entitled to the same benefits and protections provided to persons:

1. Performing service in the uniformed services as provided by 38 U.S.C. 4301–4313 and 4316–4319 (USERRA); and
2. In the military service of the United States as provided by 50 U.S.C. 3901-3959, 3991, and 4011-4026 (Servicemembers Civil Relief Act).

Gov't Code 437.213

Searches— General Rule

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated. *U.S. Const. Amend. IV; Tex. Const. Art. I, Sec. 9*

A governmental entity, including a college district, may search an employee or an employee's property if:

1. The governmental entity has reasonable grounds to believe that the search will turn up evidence that the employee is guilty of work-related misconduct or that the search is necessary for a non-investigatory, work-related purpose; and
2. The search is reasonably related in scope to the circumstances that justified the interference in the first place.

City of Ontario, Cal. v. Quon, 130 S. Ct. 2619 (2010); *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

A governmental entity, ~~including a 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 governing board of a governmental entity 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 who operates a commercial motor vehicle and is subject to commercial driver's license requirements in accordance with federal regulations.

Testing of Drivers

An employer, including a college district, shall conduct testing, in accordance with federal regulations, of commercial motor vehicle

	<p>operators for use of alcohol or a controlled substance that violates law or federal regulation. <i>49 U.S.C. 31306; 49 C.F.R. Part 382</i></p>
Commercial Motor Vehicle	<p>A “commercial motor vehicle” means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the vehicle:</p> <ol style="list-style-type: none">1. Has a gross combination weight rating or gross combination weight of 11,794 kilograms or more (26,001 pounds or more), whichever is greater, inclusive of a towed unit(s) with a gross vehicle weight rating or gross vehicle weight of more than 4,536 kilograms (10,000 pounds), whichever is greater; or2. Has a gross vehicle weight rating or gross vehicle weight of 11,794 or more kilograms (26,001 or more pounds), whichever is greater; or3. Is designed to transport 16 or more passengers, including the driver; or4. 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, 49 U.S.C. 5103(b), and which require the motor vehicle to be placarded under the Hazardous Materials Regulations, 49 C.F.R. Part 172, Subpart F. <p><i>49 C.F.R. 382.107</i></p>
Testing Procedures	<p>Each employer shall ensure that all alcohol or controlled substances testing conducted under 49 C.F.R. Part 382 complies with the procedures set forth in 49 C.F.R. Part 40. <i>49 C.F.R. 382.105</i></p>
Tests Required	<p>No driver shall refuse to submit to a preemployment controlled substance test required under 49 C.F.R. 382.301, a post-accident alcohol or controlled substances test required under 49 C.F.R. 382.303, a random alcohol or controlled substances test required under 49 C.F.R. 382.305, a reasonable suspicion alcohol or controlled substances test required under 49 C.F.R. 382.307, a return-to-duty alcohol or controlled substances test required under 49 C.F.R. 382.309, or follow-up alcohol or controlled substances test required under 49 C.F.R. 382.311. No employer shall permit a driver who refuses to submit to such tests to perform or continue to perform safety-sensitive functions. <i>49 C.F.R. 382.211</i></p>
Education and Treatment	<p>As an employer, a college district is not required to provide a substance abuse professional (SAP) evaluation or any subsequent recommended education or treatment for an employee who has violated a U.S. Department of Transportation (DOT) drug and alcohol regulation.</p>

However, if a college district offers that employee an opportunity to return to a DOT safety-sensitive duty following a violation, the college district must, before the employee again performs that duty, ensure that the employee receives an evaluation by a SAP and that the employee successfully complies with the SAP's evaluation recommendations. Payment for SAP evaluations and services is left for employers and employees to decide and may be governed by existing management-labor agreements and health care benefits.

49 C.F.R. 40.289

Return-to-Duty
Testing

As the employer, if a college district decides that it wants to permit the employee to return to the performance of safety-sensitive functions, the college district must ensure that the employee takes a return-to-duty test. This test cannot occur until after the SAP has determined that the employee has successfully complied with prescribed education and/or treatment. The employee must have a negative drug test result and/or an alcohol test with an alcohol concentration of less than 0.02 before resuming performance of safety-sensitive duties. *49 C.F.R. 40.305(a)*

As an employer, a college district must not return an employee to safety-sensitive duties until the employee meets the conditions of 49 C.F.R. 40.305(a). However, the college district is not required to return an employee to safety-sensitive duties because the employee has met these conditions. That is a personnel decision that the college district has the discretion to make, subject to legal requirements. *49 C.F.R. 40.305(b)*

Drug and Alcohol
Clearinghouse

The U.S. Secretary of Transportation shall establish, operate, and maintain a national clearinghouse for records relating to alcohol and controlled substances testing of commercial motor vehicle operators. The clearinghouse shall function as a repository for records relating to the positive test results and test refusals of commercial motor vehicle operators and violations by such operators of prohibitions set forth in 49 C.F.R. Part 382, Subpart B or any subsequent corresponding regulations. 49 U.S.C. 31306a(a)(1), (3)

Annual Query

In accordance with 49 C.F.R 382.701(b), employers must conduct a query of the clearinghouse at least once per year for information for all employees subject to controlled substance and alcohol testing under 49 C.F.R. Part 382 to determine whether information exists in the clearinghouse about those employees. 49 C.F.R. 382.701(b)(1)

Prohibition

Except as described by 49 C.F.R. 382.701(d), no employer may allow a driver to perform any safety-sensitive function if the results of a clearinghouse query demonstrate that the driver has a verified

positive, adulterated, or substituted controlled substances test result; has an alcohol confirmation test with a concentration of 0.04 or higher; has refused to submit to a test in violation of 49 C.F.R. 382.211; or that an employer has reported actual knowledge, as defined at 49 C.F.R. 382.107, that the driver used alcohol on duty in violation of 49 C.F.R. 382.205, used alcohol before duty in violation of 49 C.F.R. 382.207, used alcohol following an accident in violation of 49 C.F.R. 382.209, or used a controlled substance in violation of 49 C.F.R. 382.213. 49 C.F.R. 382.701(d)

Recordkeeping

Employers must retain for three years a record of each query and all information received in response to each query. As of January 6, 2023, an employer who maintains a valid registration fulfills this requirement. 49 C.F.R. 382.701(e)

Educational
Materials

Each employer shall provide educational materials that explain the requirements of 49 C.F.R. Part 382 and the employer's policies and procedures with respect to meeting these requirements. The employer shall ensure that a copy of these materials is distributed to each driver prior to the start of alcohol and controlled substances testing under Part 382 and to each driver subsequently hired or transferred into a position requiring driving a commercial motor vehicle. Each employer shall provide written notice to representatives of employee organizations of the availability of this information. The materials to be made available to drivers shall include detailed discussion of at least the items listed at 49 C.F.R. 382.601. Each employer shall ensure that each driver is required to sign a statement certifying that he or she has received a copy of these materials. Each employer shall maintain the original of the signed certificate and may provide a copy of the certificate to the driver. 49 C.F.R. 382.601

Reports

Federal

Employers must report the following information about a driver to the clearinghouse by the close of the third business day following the date on which they obtained that information:

1. An alcohol confirmation test result with an alcohol concentration of 0.04 or greater;
2. A negative return-to-duty test result;
3. A refusal to take an alcohol test pursuant to 49 C.F.R. 40.261;
4. A refusal to test determination made in accordance with 49 C.F.R. 40.191(a)(1) through (4), (a)(6), (a)(8) through (11), or (d)(1), but in the case of a refusal to test under 49 C.F.R. 40.191(a)(11), the employer may report only those admissions made to the specimen collector; and

5. A report that the driver has successfully completed all follow-up tests as prescribed in the SAP report in accordance with 49 C.F.R. 40.307, 40.309, and 40.311.

An employer must report the following violations by the close of the third business day following the date on which the employer obtains actual knowledge, as defined at 49 C.F.R. 382.107, of:

1. On-duty alcohol use pursuant to 49 C.F.R. 382.205;
2. Pre-duty alcohol use pursuant to 49 C.F.R. 382.207;
3. Alcohol use following an accident pursuant to 49 C.F.R. 382.209; and
4. Controlled substance use pursuant to 49 C.F.R. 382.213.

The reports must contain the information described by 49 C.F.R. 382.705(b).

Any employer may designate a consortium/third-party administrator (C/TPA) to perform the employer reporting requirements. Regardless of whether it uses a C/TPA to perform its requirements, the employer retains ultimate responsibility for compliance with the reporting requirements.

49 C.F.R. 382.107, .705(b)–(c)

State

An employer required to conduct alcohol and drug testing of an employee who holds a commercial driver's license under Transportation Code Chapter 522 under federal safety regulations as part of the employer's drug testing program or consortium, as defined by 49 C.F.R. Part 382, shall report the following information to the Department of Public Safety:

1. A valid positive result on an alcohol or drug test performed 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 C.F.R. 40.87 on a confirmation drug test. "Dilute specimen" means a urine 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 those terms are defined by 49 C.F.R. 40.3, on an alcohol or drug test performed.

For purposes of this requirement, "employee" means any person who is designated in a U.S. Department of Transportation (DOT)

agency regulation as subject to drug testing and/or alcohol testing. The term includes individuals currently performing safety-sensitive functions designated in DOT agency regulations and applicants for employment subject to preemployment testing.

Transp. Code 644.251–.252; 49 C.F.R. 40.3

Training Programs	A state agency, including a college district, may use public funds to provide training and education for its administrators and employees. The training or education must be related to the duties or prospective duties of the administrator or employee. <i>Gov't Code 656.044</i>
Required Training	A state agency, including a college district, may require an administrator or employee of the agency to attend, as all or part of the administrator's or employee's duties, a training or education program if the training or education is related to the administrator's or employee's duties or prospective duties. <i>Gov't Code 656.045</i>
Program Content	A state agency's training and educational program may include: <ol style="list-style-type: none"> 1. Preparing for technological and legal developments; 2. Increasing work capabilities; 3. Increasing the number of qualified employees in areas designated by institutions of higher education as having an acute faculty shortage; and 4. Increasing the competence of state employees. <i>Gov't Code 656.046</i>
<i>Employment Discrimination Training</i>	Each state agency, including each college district, shall provide to employees of the agency an employment discrimination training program. The training program must provide the employee with information regarding the agency's policies and procedures relating to employment discrimination, including employment discrimination involving sexual harassment. <i>Labor Code 21.010(a)–(b)</i>
Standard Training	Each state agency shall provide its employees with standard employment discrimination training no later than the 30th day after the date the employee is hired by the agency, with supplemental training every two years thereafter. The Texas Workforce Commission (TWC) shall develop or approve the materials for use by state agencies in providing standard employment discrimination training. The minimum standards for the content of standard employment discrimination training shall include, but not be limited to, requiring participants to: <ol style="list-style-type: none"> 1. Identify an unlawful employment practice according to the Civil Rights Act; 2. Apply knowledge of the applicable laws by correctly identifying whether individual case studies would be considered violations; 3. Identify the protected classes under federal and state law;

4. List a complainant's rights and remedies;
5. Identify the agency personnel to whom a complaint shall be addressed; and
6. Describe the general stages involved in processing a complaint.

Labor Code 21.010(c)–(d); 40 TAC 819.24

Compliance
Training

State agencies receiving three or more complaints with merit within a fiscal year shall provide compliance employment discrimination training. The training may be provided by TWC or by another entity or person approved by TWC.

TWC Civil Rights Division's (CRD) minimum standards for the content of compliance employment discrimination training shall include, but not be limited to, requiring participants to:

1. Distinguish between disparate treatment and disparate impact;
2. Identify the elements of a complaint involving disparate treatment and disparate impact;
3. Explain the defenses available to an employer resulting from both statute and case law involving disparate treatment and disparate impact;
4. Explain the burden of proof requirements for disparate treatment and disparate impact;
5. Identify criteria for accurately measuring compliance with applicable laws;
6. Define the different types of employment discrimination;
7. Identify the appropriate action to be taken in a situation involving a potential case of employment discrimination; and
8. Describe strategies for prevention of employment discrimination.

The term "complaint with merit" shall mean a complaint that is resolved, either by a cause finding or through withdrawal of the complaint with a remedy favorable to the complainant, such as a negotiated settlement, withdrawal with benefits, or conciliation.

40 TAC 819.25

Training
Delivery

The minimum standards for the delivery of standard and compliance employment discrimination training shall include, but not be limited to:

1. A determination of the effectiveness of the training;
2. The use of training that takes advantage of technological advances, such as videos, CDs, and web-based delivery systems; and
3. The documentation of training that shall be provided to CRD, including the date the training was provided, description of the training program used, names of participants, and the agency contact person. Web-based training records may be retained electronically.

In addition to the minimum standards set forth above, the delivery of compliance employment discrimination training shall be highly interactive to ensure the engagement of the trainee.

40 TAC 819.26

Verification of Attendance

Each state agency shall require an employee of the agency who attends a training program required by this provision to sign a statement verifying the employee's attendance at the training program. The agency shall file the statement in the employee's personnel file. *Labor Code 21.010(e)*

Purchasing and Contract Management Training

Provided by the Comptroller

The comptroller shall develop training programs provided by the comptroller under Government Code Chapter 656, Subchapter C to meet the needs of state agencies.

Each year a state agency shall estimate the number of employees requiring purchasing or contract management training and report the anticipated training needs of the state agency to the comptroller in the manner and form prescribed by the comptroller.

On an annual basis the comptroller shall assess the number of employees requiring purchasing or contract management training and shall maintain a regular schedule of classes to accommodate that number.

The comptroller may assess a fee for a training program, including continuing education and certification, in an amount sufficient to recover the costs incurred by the comptroller to provide the training program.

Gov't Code 656.054

Provided by the College District

A state agency, in consultation with the comptroller, may develop agency-specific purchasing and contract management training programs to be administered by the agency to the agency's employees instead of or as a supplement to training programs developed by the comptroller under Government Code Chapter 656, Subchapter C.

An employee who participates in an agency-specific training program under this section remains subject to any other applicable certification requirements established for training programs under this subchapter, including written or oral examinations administered by the comptroller.

Gov't Code 656.055

*Training in
Contract
Negotiation for
Purchases of
Information
Resources
Technologies*

"Information resources technologies" means data processing and telecommunications hardware, software, services, supplies, personnel, facility resources, maintenance, and training.

The Department of Information Resources (DIR) with the cooperation of the comptroller and other appropriate state agencies, shall develop and implement a program to train state agency personnel in effectively negotiating contracts for the purchase of information resources technologies.

~~The department~~ [DIR](#) shall make the training available to state agency personnel who are directly or indirectly involved in contract negotiations, such as senior or operational management, purchasers, users of the purchased technologies, and personnel with relevant technical, legal, or financial knowledge. State agency personnel directly involved in contract negotiations for the purchase of information resources technologies shall complete the training developed by the department.

Gov't Code 656.050(a)–(b), 2054.003(8)

*Training and
Certification of
Purchasing
Personnel and
Vendors*

The comptroller shall establish and administer a system of training, continuing education, and certification for state agency purchasing personnel. The training and continuing education for state agency purchasing personnel must include ethics training. The comptroller may establish and offer appropriate training to vendors on a cost recovery basis.

Notwithstanding Government Code 656.051(i), all state agency purchasing personnel, including agencies exempted from the purchasing authority of the comptroller, must receive the training and continuing education to the extent required by the comptroller. A state agency employee who is required to receive the training may not participate in purchases by the employing agency unless the employee has received the required training or received equivalent training from a national association recognized by the comptroller.

The comptroller may provide training, continuing education, and certification under this section to purchasing personnel employed by a political subdivision or other public entity of the state. Political subdivision purchasing personnel may receive, but are not required

to receive, the training, continuing education, or certification provided under this section.

The comptroller shall certify a state agency employee as a state agency purchaser when the employee has completed the training required by this section or as prescribed by rule and passed a written examination. The comptroller shall require a reasonable number of hours of continuing education to maintain certification.

Gov't Code 656.051(a), (c)–(d), (g)–(h)

Program Rules

A state agency shall adopt rules relating to:

1. The eligibility of the agency's administrators and employees for training and education supported by the agency; and
2. The obligations assumed by the administrators and employees on receiving the training and education.

A state agency shall adopt rules requiring that before an administrator or employee of the agency may be reimbursed under Government Code 656.047(b), the executive head of the agency must authorize the tuition reimbursement payment.

Gov't Code 656.048

Payment of
Expenses

Except as provided by Government Code 656.047 or other law, a state agency may spend public funds as appropriate to pay the salary, tuition and other fees, travel and living expenses, training stipend, expense of training materials, and other necessary expenses of an instructor, student, or other participant in a training or education program.

For an administrator or employee of a state agency who seeks reimbursement for a training or education program offered by an institution of higher education or private or independent institution of higher education, the agency may only pay the tuition expenses for a program course successfully completed by the administrator or employee at an accredited institution of higher education.

Gov't Code 656.047(a)–(b)

Report

A state agency that spends more than \$5,000 in a state fiscal year for a training or education program for any individual administrator or employee shall, not later than August 31 of that year, submit to the Legislative Budget Board a report including:

1. A list of the administrators and employees participating in a training or education program;
2. The amount spent on each administrator or employee; and

3. The certification earned by each administrator or employee through the training or education program.

Gov't Code 656.047(c)

Contracts for
Training or
Education

A state agency may contract with another state, local, or federal department, agency, or institution, including a state-supported college or university, to train or educate its administrators and employees or may join in presenting a training or educational program.
Gov't Code 656.049

Cybersecurity
Training

Each state agency, including each college district, shall identify state employees who use a computer to complete at least 25 percent of the employees' required duties. At least once each year, an employee identified by the state agency and each elected or appointed officer of the agency shall complete a cybersecurity training program certified under Government Code 2054.519.

A state agency may select the most appropriate cybersecurity training program certified under Government Code 2054.519 for employees of the state agency. The executive head of each state agency shall verify completion of a cybersecurity training program by employees of the state agency in a manner specified by DIR.

Gov't Code 2054.5191(a), (c) [\[See also BBD\]](#)

Note: [For more information on cybersecurity training, including a list of certified cybersecurity training programs and compliance reporting requirements, see DIR's website at Certified Cybersecurity Training Programs.](#)¹

**Faculty Members'
Use of English**

The governing board of each institution of higher education, including each college district, shall establish a program or a short course the purpose of which is to assist faculty members whose primary language is not English to become proficient in the use of English and ensure that courses offered for credit at the institution are taught in the English language and that all faculty members are proficient in the use of the English language, as determined by a satisfactory grade on the "Test of Spoken English" of the Educational Testing Service or a similar test approved by the board.

A faculty member may use a foreign language to conduct foreign language courses designed to be taught in a foreign language. This section does not prohibit a faculty member from providing individual assistance during course instruction to a non-English-speaking student in the native language of the student.

The cost of such English proficiency course as determined by the Coordinating Board shall be paid by the faculty member lacking

proficiency in English. A faculty member must take the course until deemed proficient in English by his or her supervisor. The cost will be deducted from said faculty member's salary.

Education Code 51.917

Note: For training regarding child abuse, see DHC.

¹ Certified Cybersecurity Training Programs: <https://dir.texas.gov/View-About-DIR/Information-Security/Pages/Content.aspx?id=154>

An institution of higher education, including a college district, may offer off-campus courses for credit within the state or distance learning courses only with specific prior approval of the Coordinating Board. An institution must certify to the Coordinating Board that a course offered for credit outside the state meets the Coordinating Board's academic criteria. An institution shall include the certification in submitting any other reports required by the Coordinating Board. *Education Code 61.0512(g)*

Definitions

Continuing
Education Course

A “continuing education course” is a non-credit higher education technical course offered for continuing education units, has specific occupational and/or apprenticeship training objectives, and provides a quick and flexible response to business, industry, and student needs for intensive preparatory, supplemental, or upgrade training and education. *19 TAC 4.257(5)*

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)

Non-credit Course

A “non-credit course” is a course that results in the award of continuing education units (CEUs) as specified by International Association for Continuing Education and Training (IACET) criteria. Only courses that result in the award of CEUs may be submitted for state funding. *19 TAC 4.257(17)*

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 4.257(24)*

Workforce
Continuing
Education Course

A “workforce continuing education course” is a course offered for CEUs with an occupationally specific objective and supported by state funding. A career technical/workforce continuing education course differs from a community service course offered for recreational or avocational purposes which is not supported by state funding. *19 TAC 4.257(26)*

**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 all public institutions of higher education, including college districts, and formula-funded workforce credit courses and continuing education provided by a public community college, Lamar State College, or public technical college. These provisions do not apply to non-formula-funded continuing education provided by a public community college, Lamar State College, or public technical college. *19 TAC 4.258*

**Standards and
Criteria**

Generally

The following provisions apply to all institutions covered by 19 Administrative Code Chapter 4, Subchapter P, unless otherwise specified:

1. Institutions shall comply with the standards and criteria of the Southern Association of Colleges and Schools Commission on Colleges (SACSCOC).
2. Institutions shall adhere to criteria outlined in Principles of Good Practice for Academic Degree and Certificate Programs and Credit Courses Offered Electronically.
3. Students shall be provided academic support services appropriate for distance education, such as advising, career counseling, library, and other learning resources.
4. Institutions shall report enrollments, courses, and graduates associated with distance education offerings as required by the commissioner.
5. 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 institution, the institution may report that student’s fully distance education or hybrid/blended courses for formula-funding enrollments.

19 TAC 4.260

Out-of-State

If an institution offers postsecondary education through distance education or correspondence courses to students located in a state

in which the institution is not physically located or in which the institution is otherwise subject to that state's jurisdiction as determined by that state, the institution must meet any of that state's requirements for it to be legally offering postsecondary distance education or correspondence courses in that state. The institution must, upon request, document the state's approval to the U.S. Secretary of Education. *34 C.F.R. 600.9(c)(1)(i)*

Exception

If an institution offers postsecondary education through distance education or correspondence courses in a state that participates in a state authorization reciprocity agreement, and the institution is covered by such agreement, the institution is considered to meet state requirements for it to be legally offering postsecondary distance education or correspondence courses in that state, subject to any limitations in that agreement and to any additional requirements of that state not relating to state authorization of distance education. The institution must, upon request, document its coverage under such an agreement to the U.S. Secretary of Education. *34 C.F.R. 600.9(c)(1)(i)(ii)*

Location

For purposes of this 34 C.F.R. 600.9, an institution must make a determination, in accordance with the institution's policies or procedures, regarding the state in which a student is located, which must be applied consistently to all students. The institution must, upon request, provide the U.S. Secretary of Education with written documentation of its determination of a student's location, including the basis for such determination. An institution must make a determination regarding the state in which a student is located at the time of the student's initial enrollment in an educational program and, if applicable, upon formal receipt of information from the student, in accordance with the institution's procedures, that the student's location has changed to another state. *34 C.F.R. 600.9(c)(2)*

Definitions

[Distance Education](#)

For purposes of the federal distance education provisions, "distance education" ~~means~~ is education that uses one or more of the technologies listed below at items 1 through 4 to deliver instruction to students who are separated from the instructor and to support regular and substantive interaction between the students and the instructor, either synchronously or asynchronously. The technologies that may be used to offer distance education include:

1. The internet;
2. One-way and two-way transmissions through open broadcast, closed circuit, cable, microwave, broadband lines, fiber optics, satellite, or wireless communications devices;
3. Audio conferencing; or

4. ~~Video cassettes, DVDs, and CD-ROMs, if the cassettes, DVDs, or CD-ROMs are~~ Other media used in a course in conjunction with any of the technologies listed at 1 through 3, above.

An instructor is an individual responsible for delivering course content and who meets the qualifications for instruction established by an institution's accrediting agency.

An institution ensures regular interaction between a student and an instructor or instructors by, prior to the student's completion of a course or competency:

1. Providing the opportunity for substantive interactions with the student on a predictable and scheduled basis commensurate with the length of time and the amount of content in the course or competency; and
2. Monitoring the student's academic engagement, as defined by 34 C.F.R. 600.2, and success and ensuring that an instructor is responsible for promptly and proactively engaging in substantive interaction with the student when needed on the basis of such monitoring, or upon request by the student.

Substantive interaction is engaging students in teaching, learning, and assessment, consistent with the content under discussion, and also includes at least two of the following:

1. Providing direct instruction;
2. Assessing or providing feedback on a student's coursework;
3. Providing information or responding to questions about the content of a course or competency;
4. Facilitating a group discussion regarding the content of a course or competency; or
5. Other instructional activities approved by the institution's or program's accrediting agency.

34 C.F.R. 600.2

Correspondence Course

A "correspondence course" is a course provided by an institution under which the institution provides instructional materials, by mail or electronic transmission, including examinations on the materials, to students who are separated from the ~~instructor~~ instructors. Interaction between ~~the instructor~~ instructors and ~~the student~~ students is limited, is not regular and substantive, and is primarily initiated by the ~~student~~. ~~Correspondence courses are typically self-paced~~ students. A correspondence course is not distance education.

If a course is part correspondence and part residential training, the U.S. Secretary of Education considers the course to be a correspondence course.

34 C.F.R. 600.2

State
Authorization
Reciprocity
Agreement

State Authorization Reciprocity Agreement (SARA) is an agreement among its member states, districts, and U.S. territories that establishes comparable national standards for interstate offering of postsecondary distance education courses and programs. [19 TAC 4.312\(11\)](#)

[Eligible
Institutions](#)

Any public degree granting institution of higher education, including a college district, may apply to participate in SARA if its principle campus is located in Texas. All distance education content provided by SARA participants must originate in the United States or a U.S. territory. The institution must be accredited by an accrediting body recognized by the U.S. Department of Education. [19 TAC 4.313](#)

[Application](#)

All eligible institutions may apply to the Coordinating Board for admission to SARA under the signature of the institution's chief academic officer ~~as described by 19 Administrative Code 4.314.~~ [Within the application, an institution shall make assurances that it:](#)

~~19 TAC 4.312(11), .313–314~~

- [1. Agrees to abide by the Council of Regional Accrediting Commissions \(C-RAC\) Guidelines for the Evaluation of Distance Education.](#)
- [2. Agrees to be responsible for the actions of any third-party providers used by the institution to engage in operations under SARA ~~participants must comply.~~](#)
- [3. Agrees to notify the Coordinating Board of any negative changes to its accreditation status.](#)
- [4. Agrees to provide data requested by the Coordinating Board.](#)
- [5. Agrees to cooperate with the Coordinating Board in the investigation of any complaints arising from the students it serves in other states through SARA and to abide by investigating authority's resolution of any such complaint.](#)
- [6. All complaints must follow the institution's customary resolution procedure prior to being referred to the Coordinating Board. Grade appeals and student conduct appeals will be resolved at the institutional level without further appeal through SARA.](#)

7. Agrees to notify all students in a course or program that customarily leads to professional licensure, or which a student could reasonably believe leads to such licensure, whether or not the course or program meets requirements of for licensure in the state where the student resides. If an institution does not know whether the course or program meets licensure requirements in the student's state of residence, the institution may meet this SARA requirement by informing the student in writing and providing the student the contact information for the appropriate state licensing board(s). An email dedicated solely to this purpose and sent to the student's best known email address meets this requirement.
8. Agrees, in cases where the institution cannot fully deliver the instruction for which a student has contracted, to provide a reasonable alternative for delivering the instruction or reasonable financial compensation for the education the student did not receive.
9. Agrees to pay an annual fee to the National Council for State Authorization Reciprocity Agreements (NC-SARA). This fee replaces any state fees that the institution would normally pay to other SARA member states. If an institution offers distance education to students in non-SARA participating states, it must pay required state fees.

19 TAC 4.312(4), (10), .314

Maintaining
Eligibility

To remain eligible for participation in SARA, an institution must renew its participation agreement with the Coordinating Board and pay its required SARA fees annually. At the time of renewal, Coordinating Board staff will determine whether the institution still meets SARA requirements. An institution may be removed at any time by the Coordinating Board for violation of SARA standards. 19 Administrative Code Chapter 4, Subchapter S. TAC 4.315

Complaints

Institutions operating under SARA shall make their resolution policies and procedures readily available to students taking courses under SARA provisions.

Complaints against an institution operating under SARA must first go through the institution's own procedures for resolution grievances. If a person bringing a complaint is not satisfied with the outcome of the institutional process for handling complaints, the complainant may appeal, within two years of the incident, to the Coordinating Board.

19 TAC 4.316

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 institution 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 an institution may offer programs in certain subject area disciplines or under other conditions specified by the Coordinating Board or the commissioner.
3. An institution offering 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 an institution's governing board or the board's institutional designee. Certification of approval shall be submitted to the Coordinating Board upon request.
5. An institution shall require that students, except for students in out-of-country programs, enrolled in a distance education degree program satisfy the same requirements for admission to the institution and the program as required of regular on-campus students. Students in degree programs to be offered collaboratively shall meet the admission standards of their home institution.
6. 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

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 institution 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. Institutions 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. The instructor of record shall bear responsibility for the delivery of instruction and for evaluation of student progress.
6. Prior Coordinating Board approval may be required before an institution may offer programs in certain subject area disciplines or under other conditions specified by the Coordinating Board or the commissioner.

19 TAC 4.262

**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 institution to select and evaluate faculty responsible for on-campus courses.
2. Institutions shall provide training and support to enhance the added skills required of the faculty teaching 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

Institutional Plan

Prior to offering any distance education courses or programs for the first time, institutions of higher education, including college districts, 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.

Institutional academic and administrative policies shall reflect a commitment to maintain the quality of distance education courses and programs in accordance with the provisions of 19 Administrative Code Chapter 4, Subchapter P. An Institutional Plan for Distance Education shall conform to Coordinating Board guidelines and criteria of the SACSCOC 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; and
5. Distance education facilities and support.

19 TAC 4.259

Funding

Formula Funding

Institutions, including 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 19 Administrative Code Chapter 4, Subchapter P.

Institutions 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.

Institutions 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.

19 TAC 4.264(a)–(c)

Fees

For courses not submitted for formula funding, institutions 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.

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(d)

Note: For more information regarding distance education, including related approval processes, reporting deadlines, and forms, visit the Coordinating Board's [Distance Education Modifications and Requests](#)¹ website.

¹ Distance Education Modifications and Requests:
<https://www.highered.texas.gov/institutional-resources-programs/public-universities-health-related-institutions/academic-program-development-modifications/distance-education-resources/distance-education-modifications-requests/>

“Developmental education” includes pre-college, non-degree credit courses, interventions, tutorials, laboratories, and other means of assistance that are included in a plan to ensure the success of a student in performing entry-level academic coursework. ~~19 TAC 4.53(10)~~

An institution of higher education, including a college district, may refer a student to developmental coursework, including basic academic skills education, as considered necessary by the institution to address a student's deficiencies in the student's readiness to perform freshman-level academic coursework, except that the institution may not require enrollment in developmental coursework with respect to a student previously determined under Education Code 51.338(d) or by any institution of higher education to have met college-readiness standards. An institution of higher education that requires a student to enroll in developmental coursework must offer a range of developmental coursework, including online coursework, or instructional support that includes the integration of technology to efficiently address the particular developmental needs of the student.

Education Code 51.336(a)–(b), 19 TAC 4.53(10) [See EI for information on the Texas Success Initiative]

Corequisite Model

Each institution of higher education, including each college district, shall develop and implement for developmental coursework, other than adult basic education or basic academic skills education, developmental education using a corequisite model under which a student concurrently enrolls in a developmental education course and a freshman-level course in the same subject area for each subject area for which the student is referred to developmental coursework. Each institution shall ensure that at least 75 percent of the institution's students enrolled in developmental coursework other than adult basic education or basic academic skills education are enrolled in developmental coursework.

If a student fails to satisfactorily complete a freshman-level course described above, the institution of higher education shall:

1. Review the plan developed for the student under Education Code 51.335(a) and, if necessary, work with the student to revise the plan; and
2. Offer to the student a range of competency-based education programs to assist the student in becoming ready to perform freshman-level academic coursework in the applicable subject area.

Each institution of higher education shall develop and implement corequisite model(s) for developmental mathematics and integrated reading/writing (IRW) courses and interventions, and each institution must ensure that a minimum percentage of its undergraduate students other than those exempt as outlined below must be enrolled in such corequisite model(s).

Each public institution of higher education must ensure that the institution's developmental courses and interventions comply with the requirements of this section according to the following schedule:

1. For the 2018–19 academic year, at least 25 percent of the institution's non-exempt students enrolled by subject area in developmental education must be enrolled in corequisite model(s);
2. For the 2019–20 academic year, at least 50 percent of the institution's non-exempt students enrolled by subject area in developmental education must be enrolled in corequisite model(s); ~~and~~
3. For the 2020–21 academic year, at least 75 percent of the institution's non-exempt students enrolled by subject area in developmental education must be enrolled in corequisite model(s); and
- ~~3.~~4. For the 2021–22 academic year and thereafter, 100 percent of the institution's non-exempt students enrolled by subject area in developmental education must be enrolled in corequisite model(s).

The following students are exempt by subject area(s) from this requirement:

1. Students assessed at ABE Diagnostic levels 1–4 on the TSI Assessment;
2. Students who are college ready;
3. Students enrolled in adult education;
4. Students enrolled in degree plans not requiring a freshman-level academic mathematics course; and
5. Students who meet one or more of the exemptions as outlined in 19 Administrative Code 4.54.

Education Code 51.336(c)–(d); 19 TAC 4.62(a)(8)

**Research-Based
Best Practices**

An institution of higher education must base developmental coursework on research-based best practices that include all of the following components:

1. Assessment;
2. Differentiated placement and instruction;
3. Faculty development;
4. Support services;
5. Program evaluation;
6. Integration of technology with an emphasis on instructional support programs;
7. Non-course-based developmental education interventions;
and
8. Subject to the requirements of Education Code 51.336(c), course pairing of developmental education courses/interventions with entry-level freshman courses, also known as mainstreaming or co-enrollment of developmental education and entry-level freshman courses as defined in 19 Administrative Code 4.53(12).

As part of item 2, above, an institution shall offer an Integrated Reading and Writing (IRW) course/intervention at the highest level (just below college-readiness as determined by the institution) by spring 2015.

As part of item 7, above, an institution shall offer at least one section of non-course competency-based intervention (NCBO) per developmental education subject area by spring 2015.

Education Code 51.336(e); 19 TAC 4.62

Funding

Public community colleges shall not submit for formula funding any hours for remedial and developmental courses and/or interventions for which a student has exceeded 18 semester credit hours, or 27 semester credit hours if the developmental coursework is English for speakers of other languages. *Education Code 51.340(a); 19 TAC 4.62(a)(8), 13.107(b)*

Texas Success Initiative (TSI)

An institution of higher education, including a college district, shall assess, by an instrument approved in 19 Administrative Code 4.56, the academic skills of each entering, non-exempt undergraduate student as defined in 19 Administrative Code 4.53(24) to determine the student's readiness to enroll in freshman-level academic coursework prior to enrollment of the student. An institution may not use the assessment or the results of the assessment as a condition of admission to the institution.

An institution offering collegiate-level credit to students via a Multi-Institution Teaching Center (MITC) or a university system center, or to in-state students by distance learning delivery systems shall ensure that students are assessed as required by this policy.

Education Code 51.333; 19 TAC 4.55(a), (d)–(e)

Definitions

Basic Academic Skills Education

“Basic academic skills education” means non-course competency-based developmental education programs and interventions designed for students whose performance falls significantly below college readiness standards. *Education Code 51.331(b)(1)*

Corequisite

“Corequisite,” also known as corequisite or mainstreaming, is an instructional strategy whereby undergraduate students as defined in 19 Administrative Code 4.53(24) are co-enrolled or concurrently enrolled in a developmental education course or NCBO, as defined in 19 Administrative Code 4.53(18), below, and the entry-level freshman course of the same subject matter within the same semester. The developmental component provides support aligned directly with the learning outcomes, instruction, and assessment of the entry-level freshman course, and makes necessary adjustments as needed in order to advance students' success in the entry-level freshman course. Participation in the entry-level freshman course is not contingent upon performance in the developmental education component of the corequisite. *19 TAC 4.53(7)*

Course Pairing

“Course pairing” is an instructional strategy whereby students are co-enrolled in a developmental education course and the entry-level freshman course of the same subject matter within the same semester. The developmental component provides support aligned directly with the learning outcomes, instruction, and assessment of the entry-level freshman course, and makes necessary adjustments as needed in order to advance students' success in the entry-level freshman course. *19 TAC 4.53(8)*

Developmental Coursework and / or Intervention

“Developmental coursework and/or intervention” means non-degree-credit coursework and/or activity designed to address a student's strengths and needs in the areas of reading, writing, integrated reading and writing (IRW), mathematics, and student success. *19 TAC 4.53(9)*

<i>Entry-Level Course</i>	“Entry-level course” (sometimes referred to as entry-level freshman coursework or freshman-level academic coursework) means any course for academic credit in which a freshman student typically enrolls and comprises college-level content. The course shall not have prerequisites and is open to any student meeting TSI standards as defined in 19 Administrative Code 4.57, below, and/or meeting at least one of the exemptions or waivers as defined in 19 Administrative Code 4.54, below. These courses (or their local equivalent in the Texas Common Core Numbering System) may include, but are not limited to: ENGL 1301, HIST 1301, PSYC 2301, GOVT 2305/2306, MATH 1314/1414/1324/1332/1342, SOCI 1301, PHIL 1301, SPCH 1311/1315, COSC 1301, HUMA 1301, ARTS 1301, and BIOL 1306/1406. <i>19 TAC 4.53(13)</i>
<i>Mathematics Pathway Models</i>	“Mathematics Pathway Models” are developmental and basic academic skills coursework/interventions that prepare students for academic/workforce training programs and careers. <i>19 TAC 4.53(15)</i>
<i>Non-Course-Competency-Based Developmental Education Interventions</i>	“Non-course-competency-based developmental education interventions,” also known as non-semester-length interventions or NCBO, are interventions that use learning approaches designed to address a student’s identified weaknesses and effectively and efficiently prepare the student for college-level work. These interventions must be overseen by an instructor of record, must not fit traditional course frameworks, and cannot include advising or learning support activities already connected to a traditional course; interventions may include, but are not limited to, tutoring, supplemental instruction, or labs. <i>19 TAC 4.53(18)</i>
Exceptional Circumstances	Under exceptional circumstances, an institution may permit a student to enroll in freshman-level academic coursework without assessment but shall require the student to be assessed not later than the end of the first semester of enrollment in entry-level freshman coursework. <i>19 TAC 4.55(a)</i>
Pre-Assessment	<p>Prior to the administration of an approved instrument, a test administrator shall provide to the student a pre-assessment activity(ies) that addresses at a minimum the following components in an effective and efficient manner, such as through workshops, orientations, and/or online modules:</p> <ol style="list-style-type: none"> 1. Importance of assessment in students’ academic career. 2. Assessment process and components, including practice with feedback of sample test questions in all disciplinary areas. 3. Developmental education options including corequisite, course-pairing, non-course-based, modular, and other non-conventional interventions.

4. Institutional and/or community student resources (e.g., supplemental instruction, tutoring, transportation, childcare, and financial aid).

19 TAC 4.55(b)

Assessment
Instruments

~~Beginning with the institution's first class day of the academic year (fall) 2013, an institution of higher education, including a college district, shall use the TSI assessment offered by the College Board as the only Coordinating Board-approved assessment instrument under Administrative Code Title 19. Any previously employed assessments (ACCUPLACER, Compass, THEA, Asset, Compass ESL, ACCUPLACER ESL) can no longer be used for entering students who initially enroll in any course on or after the institution's first class day in fall 2013 or for any students retesting for TSI purposes.~~ Effective fall 2013, the Texas Success Initiative Assessment (TSIA) is the only Coordinating Board-approved assessment instrument used under Administrative Code Title 19. The TSIA, Version 2.0 (TSIA2) will replace the TSIA on January 11, 2021, at which time the TSIA2 will be the only Coordinating Board-approved assessment instrument offered under Administrative Code Title 19. Test administrators of the TSI assessment must follow the requirements and processes for test administration as set forth by the Coordinating Board and the test vendor. *Education Code 51.334(a); 19 TAC 4.56*

Minimum Standards

[TSIA Standards](#)

Effective the institution's first class day of fall 2017, the following minimum ~~passing college readiness~~ standards (also known as "cut scores") for reading, mathematics, and writing on the ~~TSI assessment~~ TSIA shall be used by an institution to determine a student's readiness to enroll in freshman-level academic coursework:

1. Reading 351;
2. Mathematics 350; and
3. Writing:
 - a. A placement score of at least 340, and an essay score of at least 4; or
 - b. A placement score of less than 340 and an ABE Diagnostic level of at least 4 and an essay score of at least 5.

[Education Code 51.334\(b\)-\(c\); 19 TAC 4.57\(a\)](#)

[TSIA2 Standards](#)

Effective January 11, 2021, the following minimum college readiness standards (also known as "cut scores") for English Language Arts Reading (ELAR) and mathematics on the TSIA2 shall be used

by an institution to determine a student's readiness to enroll in entry-level freshman coursework:

1. Mathematics (for college-level coursework with mathematics-intensive designation by the offering institution):
 - a. A College Readiness Classification (CRC) score of at least 950; or
 - b. A CRC score below 950 and a Diagnostic level of 6.
2. ELAR (for college-level coursework with reading, writing, or reading and writing-intensive designation by the offering institution):
 - a. A CRC score of at least 945 and an essay score of at least 5; or
 - b. A CRC score below 945 and a Diagnostic level of 5 or 6 and an essay score of at least 5.

Education Code 51.334(b)–(c); 19 TAC 4.57(b)

Application of Standards

Institutions should use the TSI Assessment (TSIA or TSIA2) diagnostic results, along with other holistic factors, in their consideration of courses and/or interventions addressing the educational and training needs of undergraduate students not meeting the college readiness standards above.

An institution shall not require higher or lower college readiness standards on any or all portions of the TSI assessment (TSIA or TSIA2) to determine a student's readiness to enroll in any entry-level freshman coursework.

For a student with an existing plan for academic success as required in 19 Administrative Code 4.58, the institution must revise the plan as needed to align with the college readiness standards as defined above.

Both TSI assessment (TSIA or TSIA2) results are valid for the purposes of Administrative Code Title 19 for five years from the date of testing.

Education Code 51.334(b)–(c); 19 TAC 4.57(c)–(f)

Advising Program

Each institution of higher education shall establish a program to advise students regarding coursework and other means by which students can develop the academic skills required to successfully complete college-level work. *Education Code 51.335(b)*

Failure to Meet Minimum Standards

For holistic placement of non-exempt undergraduate students not meeting standards as defined in 19 Administrative Code 4.57(a)

(relating to College Ready Standards), above, institutions shall use for determination of appropriate courses and/or interventions the TSI assessment results and accompanying Diagnostic Profile, along with consideration of one or more of the following:

1. High school grade point average/class ranking;
2. Prior academic coursework and/or workplace experiences;
3. Non-cognitive factors (e.g., motivation, self-efficacy); and
4. Family-life issues (e.g., job, childcare, transportation, finances).

For each undergraduate student who fails to meet the minimum passing standards described in 19 Administrative Code 4.57, above, an institution shall establish a program to advise the student regarding developmental education necessary to ensure the readiness of that student in performing freshman-level academic coursework and determine a plan, working with the student, for academic success, which shall include developmental education and may include provisions for enrollment in appropriate non-developmental coursework. Institutions must ensure developmental education courses and interventions meet at minimum the criteria set forth in the Lower Division Academic Course Guide Manual (ACGM).

For undergraduate students enrolled in a corequisite model who fail to satisfactorily complete the freshman-level course, the institution of higher education must:

1. Review the plan developed for the student under this section and, if necessary, work with the student to revise the plan; and
2. Offer to the student a range of competency-based education programs to assist the student in becoming ready to perform freshman-level academic coursework in the applicable subject area(s).

Students enrolled in a mathematics pathway model (e.g., New Mathways Project, modular/Emporium models, etc.) must be clearly informed of the consequences of successful completion of this model which will result in meeting the mathematics college readiness standard only for specific college credit courses and that changing degree plans may require additional developmental education coursework/interventions.

19 TAC 4.55(c), .58(a)–(b), (d), (f)

Readiness
Education Plan

If a student fails to meet the assessment standards described above, the institution of higher education shall work with the student to develop a plan to assist the student in becoming ready to perform freshman-level academic coursework. The plan must be designed on an individual basis to provide the best opportunity for each student to attain that readiness.

The institution of higher education may refer a student to developmental coursework as considered necessary by the institution to address a student's deficiencies in the student's readiness to perform freshman-level academic coursework [see EFAC].

The commissioner may by rule require a college district to adopt uniform standards for the placement of a student under Education Code 51.336.

Each plan for academic success shall:

1. Be designed on an individual basis to provide the best opportunity for each student to succeed in obtaining his or her career and/or academic goals. At a minimum, the individual plan shall address:
 - a. Career advising;
 - b. Course-based and/or non-course-based developmental education options;
 - c. Campus and/or community student-support services/resources;
 - d. Degree plan or plan of study;
 - e. Regular interactions between student and designated point of contact (e.g., adviser, faculty member, peer and/or community mentor, and the like);
 - f. Registration for next semester/next steps; and
 - g. Differentiated placement.
2. Provide to the student a description of the appropriate developmental education considered necessary to ensure the readiness of that student to perform freshman-level academic coursework.
3. Provide to the student an appropriate measure for determining readiness to perform freshman-level academic coursework, as described in 19 Administrative Code 4.59, below.

Education Code 51.335(a), .336(a); 19 TAC 4.58(b)

Determination of
Readiness

An institution shall determine when a student is ready to perform entry-level freshman coursework using:

1. Developmental education coursework and/or intervention learning outcomes developed by the Coordinating Board based on the Texas College and Career Readiness Standards;
2. Student performance on one or more appropriate assessments, including scores resulting from a student's retaking of the TSI assessment; and
3. Student qualification for one or more TSI exemptions as outlined in 19 Administrative Code 4.54.

As indicators of readiness, institutions shall consider, as appropriate:

1. Performance in developmental education.
2. Performance in appropriate nondevelopmental coursework, including successfully completed college-level coursework in a related field using AP scores, IB scores, CLEP scores, and/or grades earned through dual credit, as determined by the receiving institution.

An institution may enroll a non-exempt, undergraduate student who has not met the college readiness standard on the TSI assessment and is not otherwise exempt in an entry-level freshman course if the student is co-enrolled in developmental education, as defined in 19 Administrative Code 4.53(7). Successful completion of the entry-level freshman course is demonstration of the student's college readiness, independent of his/her performance in co-enrolled developmental education.

A student may retake an assessment instrument, subject to availability, at any time to determine readiness to perform entry-level freshman coursework.

An institution shall, as soon as practicable and feasible, indicate a student's readiness in reading, mathematics, and writing on the transcript of each student. Student readiness in mathematics is indicated as either:

1. Ready for any entry-level freshman mathematics coursework;
or
2. Ready only for non-Algebra intensive courses, including MATH 1332/1342/1442 or their local equivalent.

Education Code 51.337; 19 TAC 4.59

Reporting

At the end of each semester, the institution shall report to the Coordinating Board the following information for undergraduate students: social security number, semester credit hours, grade points earned, ethnicity, gender, date of birth, TSI status, initial assessment instrument, score on initial assessment, type of developmental education received for each area (reading, mathematics, writing), and grade in first related nondevelopmental course. ~~19 TAC 4.60(b)~~

Institutions shall analyze and report to the Coordinating Board on the annual Developmental Education Program Survey (DEPS) the fiscal and/or instructional impacts of the following on student outcomes, along with other success-related topics as requested:

1. Technological delivery of developmental education courses that allows students to complete coursework;
2. Diagnostic assessments to determine a student's specific educational needs to allow for appropriate developmental instruction;
3. Modular developmental education course materials;
4. Use of tutors and instructional aides to supplement developmental education course instruction as needed for particular students;
5. Internal monitoring mechanisms used to identify a student's area(s) of academic difficulty; and
6. Periodic updates of developmental education course materials.

~~19 TAC 4.60(a)~~

An institution of higher education that administers an assessment instrument to students under Education Code Chapter 51, Subchapter F-1 shall report to each school district from which assessed students graduated high school all available information regarding student scores and performance on the assessment instrument and student demographics. ~~Education Code 51.342~~

[Education Code 51.342; 19 TAC 4.60\(a\)-\(b\)](#)

Exemptions for
Certain Students

Any student who has been determined to be exempt in mathematics, reading, and/or writing shall not be required to enroll in developmental coursework and/or interventions in the corresponding area of exemption.

The following students shall be exempt from the requirements of Administrative Code Title 19, including the TSI, whereby exempt

students shall not be required to provide any additional demonstration of college readiness and shall be allowed to enroll in any entry-level freshman course as defined in 19 Administrative Code 4.53(12):

*SAT or ACT
Scores*

1. For a period of five years from the date of testing, a student who is tested and performs at or above the following standards that cannot be raised by institutions:
 - a. ACT: composite score of 23 with a minimum of 19 on the English test shall be exempt for both the reading and writing sections of the TSI assessment, and/or 19 on the mathematics test shall be exempt for the mathematics section of the TSI assessment; or
 - b. SAT:
 - (1) SAT administered prior to March 5, 2016: a combined critical reading (formerly “verbal”) and mathematics score of 1070 with a minimum of 500 on the critical reading test shall be exempt for both reading and writing sections of the TSI assessment; a combined critical reading (formerly “verbal”) and mathematics score of 1070 with a minimum of 500 on the mathematics test shall be exempt for the mathematics section of the TSI assessment.
 - (2) SAT administered on or after March 5, 2016: a minimum score of 480 on the Evidenced-Based Reading and Writing (EBRW) test shall be exempt for both reading and writing sections of the TSI Assessment; a minimum score of 530 on the mathematics test shall be exempt for the mathematics section of the TSI Assessment. There is no combined score.
 - (3) Mixing or combining scores from the SAT administered prior to March 5, 2016, and the SAT administered on or after March 5, 2016, is not allowable.

Education Code 51.338(b); 19 TAC 4.54(a), (d)

*State
Assessments*

TAKS

2. For a period of five years from the date of testing, a student who is tested and performs at or above the following standards that cannot be raised by institutions:
 - a. On the eleventh grade exit-level Texas Assessment of Knowledge and Skills (TAKS) with a minimum scale score of 2200 on the mathematics section and/or a minimum scale score of 2200 on the English language arts

section with a writing subsection score of at least 3, shall be exempt from the TSI assessment required under Title 19 for those corresponding sections; or

End-of-Course
Assessments

- b. STAAR end-of-course (EOC) with a minimum Level 2 score of 4000 on the English III shall be exempt from the TSI assessment required under this title for both reading and writing, and a minimum Level 2 score of 4000 on the Algebra II EOC shall be exempt from the TSI assessment required under this title for the mathematics section.

Education Code 51.338(c)–(d); 19 TAC 4.54(a)(3)

*College-Level
Experience*

3. A student who has graduated with an associate or baccalaureate degree from an institution of higher education.
4. A student who transfers to an institution from a public, private, or independent institution of higher education or an accredited out-of-state institution of higher education and who has satisfactorily completed college-level coursework as determined by the receiving institution.
5. A student who has previously attended any institution and has been determined to have met readiness standards by that institution. For students meeting non-Algebra intensive readiness standards in mathematics as defined in 19 Administrative Code 4.59 (relating to determination of readiness to perform entry-level freshman coursework), institutions may choose to require additional preparatory coursework/interventions for Algebra intensive courses, including MATH 1314/1324/1414 or their local equivalent. It is the institution's responsibility to ensure that students are clearly informed of the consequences of successful completion of a mathematics pathways model which results in meeting the mathematics college readiness standard only for specific entry-level freshman mathematics courses.
6. A student who is enrolled in a certificate program of one year or less (Level-One certificates, 42 or fewer semester credit hours or the equivalent) at a public junior college, a public technical institute, or a public state college.

Education Code 51.332(1)–(3); 19 TAC 4.54(a)

*College Prep
Courses*

7. A student who successfully completes a college preparatory course under Education Code 28.014 is exempt for a period of 24 months from the date of high school graduation with respect to the content area of the course. The student must enroll in the student's first college-level course in the exempted

content area in the student's first year of enrollment in an institution of higher education. This exemption applies only at the institution of higher education that partners with the school district in which the student is enrolled to provide the course. Additionally, an institution of higher education may enter into a Memorandum of Understanding with a partnering institution of higher education to accept the exemption for the college preparatory course.

Students with a TSI exemption for a college preparatory course who earn less than a C in the students' first college-level course in the exempted content area must be advised of non-course-based options for becoming college ready, such as tutoring or accelerated learning.

Education Code 51.338(e)–(f); 19 TAC 4.54(a), .58(e)

*Military
Experience*

8. A student who is serving on active duty as a member of the armed forces of the United States, the Texas National Guard, or for at least the three-year period preceding enrollment, as a member of a reserve component of the armed forces of the United States; or
9. A student who on or after August 1, 1990, was honorably discharged, retired, or released from active duty as a member of the armed forces of the United States or the Texas National Guard or service as a member of a reserve component of the armed forces of the United States.

Education Code 51.332(4)–(5); 19 TAC 4.54(a)

*Not Seeking a
Credential*

An institution of higher education may exempt a non-degree-seeking or non-certificate-seeking student. *Education Code 51.338(a); 19 TAC 4.54(b)*

*High School
Equivalency
Examination*

A student who has achieved a score set by the board on a high school equivalency examination administered under Education Code 7.111 is exempt from the requirements of Education Code Chapter 51, Subchapter F-1. The commissioner ~~of higher education~~ by rule shall establish the period for which an exemption under this provision is valid. *Education Code 51.338(h)*

ESOL Waiver

An institution may grant a temporary waiver from the required assessment for students with demonstrated limited English proficiency in order to provide appropriate English Speakers of Other Languages/English as a Second Language (ESOL/ESL) coursework and interventions. The waiver must be removed after the student attempts 15 credit hours of developmental ESOL coursework at a public junior college or prior to enrolling in entry-level freshman coursework, whichever comes first, at which time the student

would be administered the TSI assessment. Funding limits as defined in Education Code 51.340 for developmental education still apply. Developmental education is not available for high school students. *19 TAC 4.54(c)*

Student Privacy

Institutions of higher education must ensure that the Texas Success Initiative is administered in a manner that complies with federal law regarding confidentiality of student medical or educational information, including the Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. 1320d et seq., the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g, and any state law relating to the privacy of student information. *19 TAC 4.63*

**Federal Work-Study
Program**

The purpose of the federal work-study program (FWS) is to stimulate and promote the part-time employment of students who are enrolled as undergraduate, graduate, or professional students and who are in need of earnings from employment to pursue courses of study at eligible institutions, and to encourage students receiving federal student financial assistance to participate in community service activities that will benefit the nation and engender in the students a sense of social responsibility and commitment to the community. The program shall be administered by the U.S. Department of Education and participating institutions of higher education in accordance with 20 U.S.C. Chapter 28, Subchapter IV, Part C and 34 C.F.R. 675.1-.28. *20 U.S.C. 1087-51, -53(a); 34 C.F.R. 675.1-.28*

Eligible Student

A student at an institution of higher education is eligible to receive part-time employment under the FWS program for an award year if the student:

1. Meets the relevant eligibility requirements contained in 34 C.F.R. 668.32;
2. Is enrolled or accepted for enrollment as an undergraduate, graduate, or professional student at the institution; and
3. Has financial need as determined in accordance with Part F of Title IV of the Higher Education Act (HEA). A member of a religious order (an order, community, society, agency, or organization) who is pursuing a course of study at an institution of higher education is considered to have no financial need if that religious order has as its primary objective the promotion of ideals and beliefs regarding a Supreme Being; requires its members to forego monetary or other support substantially beyond the support it provides; and directs the members to pursue the course of study or provides subsistence support to its members.

34 C.F.R. 675.9

Eligible Employer

A student may be employed under the FWS program by the institution in which the student is enrolled; a federal, state, or local public agency; a private nonprofit organization; or a private for-profit organization.

Regardless of the student's employer, the student's work must be governed by employment conditions, including pay, that are appropriate and reasonable in terms of type of work; geographical region; employee proficiency; and any applicable federal, state, or local law.

FWS employment may not:

1. Impair existing service contracts;
2. Displace employees;
3. Fill jobs that are vacant because the employer's regular employees are on strike;
4. Involve the construction, operation, or maintenance of any part of a facility used or to be used for religious worship or sectarian instruction; or
5. Include employment for the U.S. Department of Education.

34 C.F.R. 675.20(a)–(c)

Academic Credit

A student may be employed under the FWS program and also receive academic credit for the work performed. Those jobs include, but are not limited to, work performed when the student is enrolled in an internship; enrolled in a practicum; or employed in a research, teaching, or other assistantship.

A student employed in an FWS job and receiving academic credit for that job may not be:

1. Paid less than he or she would be if no academic credit were received;
2. Paid for receiving instruction in a classroom, laboratory, or other academic setting; and
3. Paid unless the employer would normally pay the person for the same position.

34 C.F.R. 675.20(d)

**Notice of
Employment
Opportunities**

To participate in the FWS program, an institution of higher education shall enter into a participation agreement with the U.S. Secretary of Education. The agreement provides that, among other things, the institution shall inform all eligible students of the opportunity to perform community services and consult with local non-profit, governmental, and community-based organizations to identify those opportunities. *34 C.F.R. 675.8*

**Texas College Work-
Study Program**

Any public, private, or independent institution of higher education, including a college district, is eligible to participate in the Texas College Work-Study Program in accordance with Education Code Chapter 36, Subchapter E and 19 Administrative Code Chapter 22, Subchapter G. *19 TAC 22.128(3), .129(a)(1)*

**Mentorship
Program**

In accordance with Education Code 56.079 and 19 Administrative Code Chapter 22, Subchapter G, the Coordinating Board shall administer a work-study student mentorship program under which

students who are enrolled at participating eligible institutions and who meet the eligibility requirements for employment in the Texas College Work-Study Program may be employed by participating entities under the Texas College Work-Study Program to:

1. Mentor students at participating eligible institutions or high school students in participating school districts;
2. Counsel high school students at GO Centers or similar high school-based recruiting centers designed to improve student access to higher education; or
3. Support student interventions at participating eligible institutions that are focused on increasing completion of degrees or certificates, such as interventions occurring through advising or supplemental instruction.

A "participating entity" is an eligible institution, a school district, or a nonprofit organization that has filed a memorandum of understanding with the Coordinating Board under 19 Administrative Code Chapter 22, Subchapter G to participate in the mentorship program.

Education Code 56.079; 19 TAC 22.128(6)

Institution
Requirements
Generally

To participate in the program, an institution must:

1. Provide part-time employment to an eligible student in non-partisan and nonsectarian activities;
2. Provide, insofar as is practicable, employment to an eligible student that is related to the student's academic interests;
3. Use program positions only to supplement and not supplant positions normally filled by persons not eligible to participate in the work-study program; and
4. Provide not less than 25 percent of an employed student's wages and 100 percent of other employee benefits for the employed student from sources other than federal college work-study program funds. Institutions eligible to receive Title III funds from the U.S. Department of Education are exempted from the program requirement to provide 25 percent of an employed student's wages, if they provide the Coordinating Board with a copy of a current Title III eligibility letter from the U.S. Department of Education.

Education Code 56.074(b); 19 TAC 22.129(c)

*Mentorship
Program*

To participate in the mentorship program:

1. An institution must file with the Coordinating Board a memorandum of understanding detailing the roles and responsibilities of each participating entity.
2. An institution must provide not less than ten percent of an employed mentor's wages and 100 percent of other employee benefits for the employed student from sources other than federal college work-study program funds. Institutions eligible to receive Title III funds from the U.S. Department of Education are exempted from the mentorship program requirement to provide ten percent of an employed student's wages, if they provide the Coordinating Board with a copy of a current Title III eligibility letter from the U.S. Department of Education.
3. A participating entity, other than an institution of higher education, benefiting from the services of the mentor must provide funding in an amount at least equal to the amount of the institution's contribution. The participating entity's contribution may be satisfied through in-kind contributions, if acceptable by the institution. Participating entities benefiting from the service of mentors enrolled at institutions eligible to receive Title III funds from the U.S. Department of Education are exempted from the mentorship program requirement to provide matching funds, if the institution has provided the Coordinating Board with a copy of a current Title III eligibility letter from the U.S. Department of Education.

Additional criteria for participation and program requirements for the mentorship program shall be determined and set forth in commissioner's policies.

19 TAC 22.129(d)–(e)

Eligible Student

To be eligible for employment in the program, a person must:

1. Be a Texas resident as defined by Coordinating Board rules;
2. Be enrolled for at least the number of hours required of a half-time student, and be seeking a degree or certification in an eligible institution;
3. Establish financial need in accordance with Coordinating Board procedures;
4. Have a statement on file with the institution of higher education indicating the student is registered with the Selective Service System as required by federal law or is exempt from Selective Service registration under federal law; and

5. If participating in the Mentorship Program, receive appropriate training and supervision as determined by the commissioner or Coordinating Board staff.

A person is not eligible to participate in the program if the person concurrently receives an athletic scholarship.

Education Code 56.075; 19 TAC 22.130

Eligible Off-Campus
Employer

An eligible institution may enter into agreements with off-campus employers that participate in the program. To be eligible to participate, an off-campus employer must:

1. Provide part-time employment to an eligible student in non-partisan and nonsectarian activities;
2. Provide, insofar as is practicable, employment to an eligible student that is related to the student's academic interests;
3. Use program positions only to supplement and not to supplant positions normally filled by persons not eligible to participate in the work-study program; and
4. Unless eligible for a waiver of matching funds under 19 Administrative Code 22.131, provide not less than 25 percent of an employed student's wages and 100 percent of other employee benefits for the employed student from sources other than federal college work-study program funds, if the employer is a nonprofit entity; or
5. Provide not less than 50 percent of an employed student's wages and 100 percent of other employee benefits for the employed student, if the employer is a profit-making entity.

Institutions eligible to receive Title III funds from the U.S. Department of Education are exempted from the program requirement to provide 25 percent of an employed student's wages, if they provide the Coordinating Board with a copy of a current Title III eligibility letter from the U.S. Department of Education.

For the mentorship program, an eligible institution must file, in conjunction with the participating school district(s) or nonprofit organization(s), a memorandum of understanding with the Coordinating Board.

Education Code 56.076; 19 TAC 22.131

Approval

Each approved institution must enter into an agreement with the Coordinating Board, the terms of which shall be prescribed by the commissioner. An institution must be approved by April 1 in order

for qualified students enrolled in that institution to be eligible to receive grants in the following fiscal year. 19 TAC 22.129(b)

List of Work-Study
Employment
Opportunities

~~Each institution of higher education shall~~ [Institutions participating in the program must](#) establish and maintain an online list of work-study employment opportunities available ~~to students on the institution's~~ [on](#) campus, sorted by department as appropriate.

~~Each institution of higher education shall, and~~ ensure that the list is easily accessible to the public ~~through a clearly identifiable link that appears in a prominent place~~ [and prominently displayed](#) on the ~~financial aid page of the~~ institution's ~~internet~~ website. Education Code 56.080; 19 TAC ~~4.229~~, 22.129(f)

Funds

~~Distribution of Funds~~

Texas College
Work-Study
Program Funds

At the beginning of each year or upon request by the institution, the year's full allocation of funds needed for immediate disbursement to students will be provided to each participating institution for use in reimbursing students for their work. Institutions will have until February 20 or the first workday thereafter if it falls on a holiday or a weekend to encumber all funds allocated to them.

Unless given specific permission by the Coordinating Board to use funds for summer awards, schools will be required to utilize their original state work-study allocation of funds for employment during the nine-month academic year (fall and spring terms). However, institutions may use reallocated funds for summer awards, but the funds must be expended by August 31 of the fiscal year.

19 TAC 22.2, .133(c)-(e)

Mentorship
Program Funds

The Coordinating Board shall allocate program funds to participating institutions according to criteria established by the commissioner. At the beginning of each academic year, the year's full allocation will be provided to each participating institution. Institutions shall have until a date specified by the commissioner to encumber all funds allocated.

Program funds may be used during any academic period for which mentorship opportunities are needed by participating entities as long as student mentors meet eligibility requirements.

19 TAC 22.134

Transfer

[Institutions participating in the Texas Educational Opportunity Grant and Texas College Work-Study Programs, in accordance with instructions from the Coordinating Board, may transfer current fiscal year funds up to the lesser of ten percent or \\$20,000 between these programs. This threshold applies to the program from which the funds are transferred. Such transfers must occur by July 1 of the current fiscal year.](#)

Institutions participating in both the Texas College Work-Study Program and the Work-Study Student Mentorship Program, in accordance with instructions from the Coordinating Board, may transfer current fiscal year funds up to 25 percent between the two programs. This threshold applies to the program from which the funds are transferred. Such transfers must occur by July 1 of the current fiscal year.

19 TAC 22.11(b)

**Discrimination on
the Basis of Sex**

A recipient of federal funding that assists any agency, organization, or person in making employment available to any of its students shall assure itself that such employment is made available without discrimination on the basis of sex; and shall not render such services to any agency, organization, or person that discriminates on the basis of sex in its employment practices.

A recipient that employs any of its students shall not do so in a manner that violates 34 C.F.R. Part 106, Subpart E.

34 C.F.R. 106.38

LobbyingRestrictions on Use
of State Funds*Generally*

A political subdivision, including a college district, or private entity that receives state funds may not use the funds to pay:

1. Lobbying expenses incurred by the recipient of the funds;
2. A person or entity that is required to register with the Texas Ethics Commission under Government Code Chapter 305;
3. Any partner, employee, employer, relative, contractor, consultant, or related entity of a person or entity described by item 2; or
4. A person or entity that has been hired to represent associations or other entities for the purpose of affecting the outcome of legislation, agency rules, ordinances, or other government policies.

Gov't Code 556.0055(a)

*To Employ
Lobbyists*

A state agency, including a college district, may not use appropriated money to employ, as a regular full-time or part-time or contract employee, a person who is required by Government Code Chapter 305 to register as a lobbyist. Except for an institution of higher education ~~as defined by Education Code 61.003~~, including a ~~community~~ college district, a state agency may not use any money under its control to employ or contract with an individual who is required by Government Code Chapter 305 to register as a lobbyist.

A state agency may not use appropriated money to pay, on behalf of the agency or an officer or employee of the agency, membership dues to an organization that pays part or all of the salary of a person who is required by Chapter 305 to register as a lobbyist. This provision does not apply to the payment by a state agency of membership fees under Government Code Chapter 81.

Gov't Code 556.005(a)-(b)

*To Influence
Passage or
Defeat of a
Measure*

A state agency may not use appropriated money to attempt to influence the passage or defeat of a legislative measure. This restriction does not prohibit a state officer or employee from using state resources to provide public information or to provide information responsive to a request. A state employee who causes an employee to be discharged, demoted, or otherwise discriminated against for providing permitted information is subject to immediate termination of employment. *Gov't Code 556.006-.007*

*To Compensate
an Officer or
Employee*

A state agency may not use appropriated money to compensate a state officer or employee who violates Government Code 556.005 or 556.006(a) or who is subject to termination under Government Code 556.007. *Gov't Code 556.008*

<i>Exception</i>	Government Code Chapter 556 does not prohibit the payment of reasonable dues to an organization that represents student interests before the legislature or the U.S. Congress from that portion of mandatory student service fees that is allocated to the student government organization at an institution of higher education. A mandatory student service fee may not be used to influence the outcome of an election. <i>Gov't Code 556.002(b)</i>
<i>Information on Restrictions</i>	A state agency shall provide each officer and employee of the agency a copy of Government Code 556.004 [see BBBB], 556.005, 556.006, 556.007, and 556.008 and require a signed receipt on delivery. A new copy and receipt are required if one of those provisions is changed. A state agency shall maintain receipts collected from current officers and employees under this section in a manner accessible for public inspection. <i>Gov't Code 556.009</i>
Disclosure and Itemization of Lobbying Expenditures	<p>A political subdivision that enters or has entered into a contract for consulting services with a state agency, regardless of whether the term of the contract has expired, shall prominently display on the political subdivision's internet website the following regarding contracts for services that would require a person to register as a lobbyist under Government Code Chapter 305:</p> <ol style="list-style-type: none"> 1. The execution dates; 2. The contract duration terms, including any extension options; 3. The effective dates; 4. The final amount of money the political subdivision paid in the previous fiscal year; and 5. A list of all legislation advocated for, on, or against by all parties and subcontractors to the contract, including the position taken on each piece of legislation in the prior fiscal year. <p>In lieu of displaying the items described above that would require a person to register as a lobbyist under Government Code Chapter 305, a political subdivision may post on the political subdivision's internet website the contract for those services.</p> <p><i>Gov't Code 2254.030(a)–(b)</i></p>
Disclosure of Federal-Level Lobbyists	<p>An agency or political subdivision of the state, including a college district, shall report to the Office of Federal-State Relations any contract between the agency or political subdivision and a federal-level government relations consultant.</p> <p>A state agency or political subdivision shall submit one report not later than the 30th day after the contract is executed and a second report not later than the 30th day after the contract is terminated.</p>

The report must include:

1. The name of the consultant or consulting firm;
2. The issue on which the consultant was hired to consult; and
3. The amount of compensation paid or to be paid to the consultant under the contract.

This section does not apply to a political subdivision whose federal-level government relations consultant is required by other law to disclose, report, and make available the required information to the public and a federal or state entity.

Gov't Code 751.016

**Dual Usage
Educational
Complex**

In accordance with Education Code 130.0103, the board of trustees of a junior college district may establish and operate a dual usage educational complex to provide a shared facility for the educational activities of the district and other participating entities, including counties and municipalities located in whole or in part in the service area of the junior college district. [See GH and GI] *Education Code 130.0103(a)*

**Cybersecurity
Training for
Contractors**

A state agency, including a college district, shall require any contractor who has access to a state computer system or database to complete a cybersecurity training program certified under Government Code 2054.519 as selected by the agency. The cybersecurity training program must be completed by a contractor during the term of the contract and during any renewal period. The cybersecurity training program must be included in the terms of a contract awarded by a state agency to a contractor.

“Contractor” includes a subcontractor, officer, or employee of the contractor.

Gov't Code 2054.5192(a)–(d)

Verification of
Completion

A contractor required to complete a cybersecurity training program under this section shall verify completion of the program to the contracting state agency. The person who oversees contract management for the agency shall:

1. Report the contractor's completion to the Department [of Information Resources \(DIR\)](#); and
2. Periodically review agency contracts to ensure compliance with this section.

Gov't Code 2054.5192(e)

Note: [For more information on cybersecurity training, including a list of certified cybersecurity training programs and compliance reporting requirements, see DIR's website at Certified Cybersecurity Training Programs.](#)¹

¹ Certified Cybersecurity Training Programs: <https://dir.texas.gov/View-About-DIR/Information-Security/Pages/Content.aspx?id=154>

**Conference Center in
or Near a State Park**

The Texas Parks and Wildlife Commission may enter into a joint agreement with the governing board of an institution of higher education, including a college district, to finance and build a conference center and other appropriate related facilities to be located in or near a state park. A facility built under this section must be operated cooperatively to provide benefits to the department and the institution of higher education in accomplishing the purposes of the department and the institution. The commission and an institution of higher education may use any funds, property, or other assets available to finance and build a facility under this section. *Parks and Wildlife Code 13.0046*

**Notice to ~~LBB~~the
State Regarding
Contracts ~~Exceeding~~
\$50,000**

Definition

"Contract" includes a contract ~~or~~ grant or agreement, including a revenue generating contract, an interagency grant or ~~agreement or~~ an interlocal grant or agreement, purchase order, or other written expression of terms of agreement or an amendment, modification, renewal, or extension of such for the purchase or sale of goods or services that was entered into or paid for, either in whole or in part, by a state agency or institution of higher education, including a college district. ~~A contract does not include a contract that has been reported to the Legislative Budget Board (LBB) under Government Code Section 2054.008, 2166.2551, 2254.006, or 2254.0301 or a contract with a value of less than or equal to \$50,000.~~

"Contract" includes an amendment, modification, renewal, or extension which increases a contract's value from a value less than or equal to \$50,000 to a value greater than \$50,000.

"Contract" does not include a contract with a value of less than or equal to \$50,000.

General Appropriations Act, 86th Leg., R.S., H.B. 1, IX-35

Contracts
Exceeding \$50,000

Before ~~October 1 of each fiscal year~~ the 30th calendar day after awarding a contract or granting an amendment, modification, renewal, or extension, a state agency or institution of higher education shall report to the Legislative Budget Board (LBB) in the manner prescribed by the LBB all contracts, amendments, modifications, renewals, and extensions to which the agency or institution was a party ~~during the prior fiscal year~~.

~~General Appropriations Act, 84th~~ A state agency or institution of higher education receiving an appropriation under the General Appropriations Act shall report a contract pursuant to this section without regard to source of funds or method of finance associated with the expenditure, including a contract for which only non-appropriated funds will be expended.

General Appropriations Act, 86th Leg., R.S., H.B. 1, IX-35

Additional Notice
Regarding
Contracts for
Services Exceeding
\$1 Million

For contracts with an initial award value greater than \$1 million, a state agency or institution of higher education shall provide notice of a contract for services for which the expected total value of the contract subsequent to amendment or renewal exceeds the total value of the initial contract award by ten percent or more, in accordance with procedures established by the LBB, to:

1. The governor;
2. The lieutenant governor; and
3. The speaker of the house of representatives.

A state agency or institution of higher education must provide the notice required under this provision not later than the 30th day after the date of the disclosure or discovery that the expected total value of the contract subsequent to amendment or renewal exceeds the total value of the initial contract award by ten percent. The notice must include:~~38~~

1. The amount of the cost increase;
2. The reason for the cost increase; and
3. Any opportunity the state agency had to lessen the cost or to purchase the service from another vendor after the first dollar of the increased cost was discovered or disclosed to the agency or institution.

General Appropriations Act, 86th Leg., R.S., H.B. 1, IX-35

Note: For information regarding required cybersecurity training for contractors, see GG.

Restriction on Contracting with a Business Entity

Definitions

Business Entity

Controlling Interest

“Business entity” includes an entity through which business is conducted with a governmental entity or state agency, regardless of whether the entity is a for-profit or nonprofit entity. The term does not include a governmental entity or state agency. *Gov’t Code 2252.908(a)(1); 1 TAC 46.3(b)*

“Controlling interest” means:

1. An ownership interest or participating interest in a business entity by virtue of units, percentage, shares, stock, or otherwise that exceeds ten percent;
2. Membership on the board of directors or other governing body of a business entity of which the board or other governing body is composed of not more than ten members; or
3. Service as an officer of a business entity that has four or fewer officers, or service as one of the four officers most highly compensated by a business entity that has more than four officers. This paragraph does not apply to an officer of a publicly held business entity or its wholly owned subsidiaries.

1 TAC 46.3(c)

Interested Party

“Interested party” means a person who has a controlling interest in a business entity with whom a governmental entity or state agency contracts or an intermediary. *Gov’t Code 2252.908(a)(3), 1 TAC 46.3(d)*

Intermediary

“Intermediary” means, a person who actively participates in the facilitation of the contract or negotiating the contract, including a broker, adviser, attorney, or representative of or agent for the business entity who:

1. Receives compensation from the business entity for the person’s participation;
2. Communicates directly with the governmental entity or state agency on behalf of the business entity regarding the contract; and
3. Is not an employee of the business entity or of an entity with a controlling interest in the business entity.

1 TAC 46.3(e)

Qualifying Contract This section applies only to a contract of a governmental entity or state agency, including a college district, that requires an action or vote by the governing body of the entity or agency before the contract may be signed, has a value of at least \$1 million, or is for services that would require a person to register as a lobbyist under Government Code Chapter 305. This section does not apply to:

1. A sponsored research contract of an institution of higher education;
2. An interagency contract of a state agency or an institution of higher education;
3. A contract related to health and human services if:
 - a. The value of the contract cannot be determined at the time the contract is executed; and
 - b. Any qualified vendor is eligible for the contract;
4. A contract with a publicly traded business entity, including a wholly owned subsidiary of the business entity;
5. A contract with an electric utility, as that term is defined by Utilities Code 31.002; or
6. A contract with a gas utility, as that term is defined by Utilities Code 121.001.

A contract does not require an action or vote by the governing body of a governmental entity or state agency if:

1. The governing body has legal authority to delegate to its staff the authority to execute the contract;
2. The governing body has delegated to its staff the authority to execute the contract; and
3. The governing body does not participate in the selection of the business entity with which the contract is entered into.

Gov't Code 2252.908(b)-(c); 1 TAC 46.1

Contract Changes

Government Code 2252.908 does not apply to a change made to an existing contract, including an amendment, change order, or extension of a contract. *1 TAC 46.4(a)*

Exceptions

Section 2252.908 applies to a change made to an existing contract, including an amendment, change order, or extension of a contract, if a disclosure of interested parties form was not filed for the existing contract; and either:

1. The changed contract requires an action or vote by the governing body of the entity or agency; or

2. The value of the changed contract is at least \$1 million.

Section 2252.908 applies to a change made to an existing contract, including an amendment, change order, or extension of a contract, if the business entity submitted a disclosure of interested parties form to the governmental entity or state agency that is a party to the existing contract; and either:

1. There is a change to the disclosure of interested parties;
2. The changed contract requires an action or vote by the governing body of the entity or agency; or
3. The value of the changed contract is at least \$1 million greater than the value of the existing contract.

1 TAC 46.4(b)–(c)

Prohibition

A governmental entity or state agency may not enter into a contract described by Government Code 2252.908(b) with a business entity unless the business entity, in accordance with this section and rules adopted by the Texas Ethics Commission (TEC) under this section, submits a disclosure of interested parties to the governmental entity or state agency at the time the business entity submits the signed contract to the governmental entity or state agency.

Gov't Code 2252.908(d)

Disclosure

A disclosure of interested parties form must be filed on an electronic form prescribed by the TEC that contains the following:

1. The name of the business entity filing the form and the city, state, and country of the business entity's place of business;
2. The name of the governmental entity or state agency that is a party to the contract for which the form is being filed;
3. The name of each interested party and the city, state, and country of the place of business of each interested party;
4. The identification number used by the governmental entity or state agency to track or identify the contract for which the form is being filed and a short description of the services, goods, or other property used by the governmental entity or state agency provided under the contract; and
5. An indication of whether each interested party has a controlling interest in the business entity, is an intermediary in the contract for which the disclosure is being filed, or both.

The certification of filing and the completed disclosure of interested parties form generated by the TEC's electronic filing application must be printed, signed by an authorized agent of the contracting

business entity, and submitted to the governmental entity or state agency that is the party to the contract for which the form is being filed.

A governmental entity or state agency that receives a completed disclosure of interested parties form and certification of filing shall notify the TEC, in an electronic format prescribed by the TEC, of the receipt of those documents not later than the 30th day after the date the governmental entity or state agency receives the disclosure.

The TEC shall make each disclosure of interested parties form filed with the TEC available to the public on the commission's Internet website not later than the seventh business day after the date the TEC receives the required notice.

Gov't Code 2252.908(e)-(f); 1 TAC 46.5

**Prohibited
Transactions with
Abortion Providers**

A governmental entity may not enter into a taxpayer resource transaction with an abortion provider or an affiliate of an abortion provider. [Gov't Code 2272.003\(a\)](#)

Exceptions

This section does not apply to a taxpayer resource transaction that is subject to a federal law in conflict with Government Code 2272.003(a) as determined by the executive commissioner of the Health and Human Services Commission and confirmed in writing by the attorney general.

~~*Gov't Code 2272.003*~~

Government Code Chapter 2272 does not apply to:

1. A hospital licensed under Health and Safety Code Chapter 241;
2. The office of a physician licensed under Occupations Code Subtitle B, Title 3, that performs 50 or fewer abortions in any 12-month period;
3. A state hospital as defined by Health and Safety Code 552.0011;
4. A teaching hospital of a public or private institution of higher education; or
5. An accredited residency program providing training to resident physicians.

A facility is not considered to be an abortion provider solely based on the performance of an abortion at the facility during a medical emergency as defined by Health and Safety Code 171.002.

Gov't Code 2272.002, [.003\(b\)](#)

Definitions

*Taxpayer
Resource
Transaction*

“Taxpayer resource transaction” means a sale, purchase, lease, donation of money, goods, services, or real property or any other transaction between a governmental entity and a private entity that provides to the private entity something of value in return. The term does not include the provision of basic public services, including fire and police protection and utilities, by a governmental entity to an abortion provider or affiliate in the same manner as the entity provides the services to the general. The term includes advocacy or lobbying by or on behalf of a governmental entity on behalf of the interests of an abortion provider or affiliate, but does not include:

1. An officer or employee of a governmental entity providing information to a member of the legislature or appearing before a legislative committee at the request of the member or committee;
2. An elected official advocating for or against or otherwise influencing or attempting to influence the outcome of legislation pending before the legislature while acting in the capacity of an elected official; or
3. An individual speaking as a private citizen on a matter of public concern.

Gov’t Code 2272.001(5)

Abortion Provider

“Abortion provider” means a facility licensed under Health and Safety Code Chapter 245, or an ambulatory surgical center licensed under Health Safety Code Chapter 243, that is used to perform more than 50 abortions in any 12-month period. *Gov’t Code 2272.001(2)*

**Contractual
Agreements for
Instruction**

Generally

General enrollment or contract training courses that are noncredit and do not result in the award of continuing education units (CEUs) are not eligible for any state apportionment funding, but a two-year college is free to market such noncredit or non-CEU training to business, industry, and government at whatever rate can be negotiated with the contracting organization. Exceptions regarding programs serving incarcerated students must be submitted to the Coordinating Board staff for review and approval.

Courses earning CEUs shall be subject to the guidelines published by the Southern Association of Colleges and Schools Commission on Colleges (SACSCOC) as a condition of eligibility for state appropriations.

All student enrollments for semester hour credit are subject to the provisions of the Texas Success Initiative as applicable.

Public two-year colleges providing courses to organizations for which semester hour credits or CEUs are earned must charge out-of-state tuition to nonresident students who are brought from out-of-state for such contract courses.

19 TAC 9.123

Nonaccredited
Organizations

Contractual agreements for instruction by public two-year colleges with non-SACSCOC accredited organizations must comply with all current guidelines of SACSCOC. Courses and programs offered under contractual agreements must be consistent with the educational purpose, mission, and goals of the institution. Courses and programs offered and eligible for state appropriations must remain under the sole and direct control of the sponsoring public two-year college.

All programs and courses must be approved through the established procedures of the Coordinating Board.

Courses offered must remain under the sole and direct control of the sponsoring public two-year college, which exercises ultimate and continuing responsibility for the performance of the functions reflected in the contract. Instructors of courses must meet qualifications as stipulated by the public two-year college. The public two-year college must employ at least one full-time faculty member per degree program and specify in the contract the institutional procedures by which the contracted courses or programs meet the standards of regular programs as disclosed fully in the publications of the institution, specifically including the following:

1. Recruitment and counseling of students;
2. Admission of students to courses and/or to the sponsoring institution where certificate and associate degree programs are pursued;
3. Development and evaluation of the curriculum;
4. Evaluation of student progress;
5. Recordkeeping;
6. Tuition and/or fee charges, receipts and disbursement of funds, and refund policy;
7. Appointment, supervision, and evaluation of faculty; and
8. Instruction and learning resources.

The contractual agreement must be executed by designated officers of the public two-year college and their counterparts in the contracting organization. The contractual agreement shall establish a

definite understanding between the public two-year college and the contracting agency to include each of the items required by 19 Administrative Code 9.124(b), above. The agreement shall specify the work to be performed, the period of the agreement, and the conditions under which any renewal or renegotiation must occur.

19 TAC 9.124

State Funding

Contact hours for contract instruction eligible for state appropriations must be determined and reported in compliance with state law and Coordinating Board rules and policy.

No funds appropriated to any public two-year college may be expended for any course which has not been approved by the commissioner, even if such course is taught under a contractual agreement.

19 TAC 9.127–.128

Skills Development Fund

In accordance with Labor Code 303.003 and 40 Administrative Code 803.3, the skills development fund may be used by public community and technical colleges, community-based organizations, local workforce development boards, and the Texas A&M Engineering Extension Service as start-up or emergency funds for the following job-training purposes:

1. Developing customized training programs for businesses and trade unions; and
2. Sponsoring small and medium-sized business networks and consortiums.

Labor Code 303.003(b); 40 TAC 803

[The Texas Workforce Commission may use the Skills Development Fund to award grants to a public junior college or public technical institute providing workforce training and related support services to employers who commit to establishing a place of business in this state. In accordance with Labor Code 303.0031 and 40 Administrative Code 803.4, a grant awarded under Labor Code 303.0031 may be used only for:](#)

1. [Developing:](#)
 - a. [Customized workforce training programs for an employer's specific business needs;](#)
 - b. [Fast-track curriculum;](#)
 - c. [Workforce training-related support services for employers; or](#)

d. Instructor certification necessary to provide workforce training; and

2. Acquiring training equipment necessary for instructor certification and employment.

Labor Code 303.0031(c)(2)–(d); 40 TAC 803

Workforce Training and Services

A public community college shall promptly provide workforce training and services that are requested:

1. By a local workforce development board if the need for the training and services is based on the labor market information system available for the area;
2. By employers located in the college's taxing district when the request is presented directly to the college by the employers or through the local workforce development board; or
3. As part of economic development incentives designed to attract or retain an employer, including incentives offered under the skills development fund program under Labor Code Chapter 303.

Gov't Code 2308.308

Child Welfare Providers

A governmental entity, including a college district, may not discriminate or take any adverse action against a child welfare services provider on the basis, wholly or partly, that the provider:

1. Has declined or will decline to provide, facilitate, or refer a person for child welfare services, as defined by Human Resources Code 45.002(3) that conflict with, or under circumstances that conflict with, the provider's sincerely held religious beliefs;
2. Provides or intends to provide children under the control, care, guardianship, or direction of the provider with a religious education, including through placing the children in a private or parochial school or otherwise providing a religious education in accordance with the laws of this state;
3. Has declined or will decline to provide, facilitate, or refer a person for abortions, contraceptives, or drugs, devices, or services that are potentially abortion-inducing; or
4. Refuses to enter into a contract that is inconsistent with or would in any way interfere with or force a provider to surrender the rights created by Human Resources Code Chapter 45.

Human Resources Code 45.004



MINUTE ORDER

To: Board of Trustees
From: Dr. Warren Nichols, President
Date: May 12, 2021
Subject: Approval – 2020 Racial Profiling Report

Presented for recommended acceptance to Board of Trustees on the same date.

MINUTE ORDER

Motion to be acted upon: “I move the Board of Trustees acceptance of the 2020 Racial Profile Report.

PURPOSE

The purpose of accepting the racial profiling report is to maintain compliance with the law.

BACKGROUND

Texas Occupation Code 1701.164 specifies that the Texas Commission on Law Enforcement collect incident-based data in accordance with the Texas Code of Criminal Procedure Article 2.131-2.138. Chief Administrators of law enforcement agencies that meet the criteria must submit racial profiling reports to their governing body as well as TCOLE annually.

IMPLICATIONS

Financial: N/A

Strategic Goal #5: COM will provide services/processes that enhance the integrity/safety/quality of the institution and that enhance the quality of the faculty and staff.

Human Resources: N/A

Attachments

1. 2020 Racial Profiling Report
2. 2020 Racial Profiling Analysis

College of the Mainland Police Department Analysis

01. Total Traffic Stops		2	
02. Location of Stop			
a. City Street		0	0.00%
b. US Highway		0	0.00%
c. County Road		0	0.00%
d. State Highway		0	0.00%
e. Private Property or Other		2	100.00%
03. Was Race known prior to Stop			
a. NO		0	0.00%
b. YES		2	100.00%
04. Race or Ethnicity			
a. Alaska/ Native American/ Indian		0	0.00%
b. Asian/ Pacific Islander		0	0.00%
c. Black		0	0.00%
d. White		1	50.00%
e. Hispanic/ Latino		1	50.00%
05. Gender:			
a. Female		1	50.00%
i. Alaska/ Native American/ Indian		0	0.00%
ii. Asian/ Pacific Islander		0	0.00%
iii. Black		0	0.00%
iv. White		1	0.00%
v. Hispanic/ Latino		0	0.00%
b. Male		1	50.00%
i. Alaska/ Native American/ Indian		0	0.00%
ii. Asian/ Pacific Islander		0	0.00%
iii. Black		0	0.00%
iv. White		0	0.00%
v. Hispanic/ Latino		1	0.00%

06. Reason for Stop:

a.	Violation of Law	0	0.00%	
	i. Alaska/ Native American/ Indian	0	0	#DIV/0!
	ii. Asian/ Pacific Islander	0	0	#DIV/0!
	iii. Black	0	0	#DIV/0!
	iv. White	0	0	#DIV/0!
	v. Hispanic/ Latino	0	0	#DIV/0!
b.	Pre-Existing Knowledge	0	0.00%	
	i. Alaska/ Native American/ Indian	0	0	#DIV/0!
	ii. Asian/ Pacific Islander	0	0	#DIV/0!
	iii. Black	0	0	#DIV/0!
	iv. White	0	0	#DIV/0!
	v. Hispanic/ Latino	0	0	#DIV/0!
c.	Moving Traffic Violation	1	50.00%	
	i. Alaska/ Native American/ Indian	0	0	0.00%
	ii. Asian/ Pacific Islander	0	0	0.00%
	iii. Black	0	0	0.00%
	iv. White	1	0	0.00%
	v. Hispanic/ Latino	0	0	0.00%
d.	Vehicle Traffic Violation	1	50.00%	
	i. Alaska/ Native American/ Indian	0	0	0.00%
	ii. Asian/ Pacific Islander	0	0	0.00%
	iii. Black	0	0	0.00%
	iv. White	0	0	0.00%
	v. Hispanic/ Latino	1	0	0.00%

07. Was a Search Conducted

a.	NO	2	100.00%	
	i. Alaska/ Native American/ Indian	0	0	0.00%
	ii. Asian/ Pacific Islander	0	0	0.00%
	iii. Black	0	0	0.00%
	iv. White	1	0	0.00%
	v. Hispanic/ Latino	1	0	0.00%
b.	YES	0	0.00%	
	i. Alaska/ Native American/ Indian	0	0	#DIV/0!
	ii. Asian/ Pacific Islander	0	0	#DIV/0!
	iii. Black	0	0	#DIV/0!
	iv. White	0	0	#DIV/0!
	v. Hispanic/ Latino	0	0	#DIV/0!

08. Reason for Search

a.	Consent	0	0.00%	
	i. Alaska/ Native American/ Indian	0	0	#DIV/0!
	ii. Asian/ Pacific Islander	0	0	#DIV/0!
	iii. Black	0	0	#DIV/0!
	iv. White	0	0	#DIV/0!
	v. Hispanic/ Latino	0	0	#DIV/0!
b.	Contraband in Plain View	0	0.00%	
	i. Alaska/ Native American/ Indian	0	0	#DIV/0!
	ii. Asian/ Pacific Islander	0	0	#DIV/0!
	iii. Black	0	0	#DIV/0!
	iv. White	0	0	#DIV/0!
	v. Hispanic/ Latino	0	0	#DIV/0!
c.	Probable Cause	0	0.00%	
	i. Alaska/ Native American/ Indian	0	0	#DIV/0!
	ii. Asian/ Pacific Islander	0	0	#DIV/0!
	iii. Black	0	0	#DIV/0!
	iv. White	0	0	#DIV/0!
	v. Hispanic/ Latino	0	0	#DIV/0!
d.	Inventory	0	0.00%	
	i. Alaska/ Native American/ Indian	0	0	#DIV/0!
	ii. Asian/ Pacific Islander	0	0	#DIV/0!
	iii. Black	0	0	#DIV/0!
	iv. White	0	0	#DIV/0!
	v. Hispanic/ Latino	0	0	#DIV/0!
e.	Incident to Arrest	0	0.00%	
	i. Alaska/ Native American/ Indian	0	0	#DIV/0!
	ii. Asian/ Pacific Islander	0	0	#DIV/0!
	iii. Black	0	0	#DIV/0!
	iv. White	0	0	#DIV/0!
	v. Hispanic/ Latino	0	0	#DIV/0!

09. Was Contraband Discovered

a.	YES	0	0.00%	
	i. Alaska/ Native American/ Indian	0	0	#DIV/0!
	Finding resulted in arrest - YES	0	0	
	Finding resulted in arrest - NO	0	0	
	ii. Asian/ Pacific Islander	0	0	#DIV/0!
	Finding resulted in arrest - YES	0	0	
	Finding resulted in arrest - NO	0	0	
	iii. Black	0	0	#DIV/0!
	Finding resulted in arrest - YES	0	0	
	Finding resulted in arrest - NO	0	0	
	iv. White	0	0	#DIV/0!
	Finding resulted in arrest - YES	0	0	
	Finding resulted in arrest - NO	0	0	
	v. Hispanic/ Latino	0	0	#DIV/0!
	Finding resulted in arrest - YES	0	0	
	Finding resulted in arrest - NO	0	0	
b.	NO	2	100.00%	
	i. Alaska/ Native American/ Indian	0	0	0.00%
	ii. Asian/ Pacific Islander	0	0	0.00%
	iii. Black	0	0	0.00%
	iv. White	1	0	0.00%
	v. Hispanic/ Latino	1	0	0.00%

10. Description of Contraband

a.	Drugs	0	0.00%	
	i. Alaska/ Native American/ Indian	0	0	#DIV/0!
	ii. Asian/ Pacific Islander	0	0	#DIV/0!
	iii. Black	0	0	#DIV/0!
	iv. White	0	0	#DIV/0!
	v. Hispanic/ Latino	0	0	#DIV/0!
b.	Currency	0	0.00%	
	i. Alaska/ Native American/ Indian	0	0	#DIV/0!
	ii. Asian/ Pacific Islander	0	0	#DIV/0!
	iii. Black	0	0	#DIV/0!
	iv. White	0	0	#DIV/0!
	v. Hispanic/ Latino	0	0	#DIV/0!
c.	Weapons	0	0.00%	
	i. Alaska/ Native American/ Indian	0	0	#DIV/0!
	ii. Asian/ Pacific Islander	0	0	#DIV/0!
	iii. Black	0	0	#DIV/0!
	iv. White	0	0	#DIV/0!
	v. Hispanic/ Latino	0	0	#DIV/0!
d.	Alcohol	0	0.00%	
	i. Alaska/ Native American/ Indian	0	0	#DIV/0!
	ii. Asian/ Pacific Islander	0	0	#DIV/0!
	iii. Black	0	0	#DIV/0!
	iv. White	0	0	#DIV/0!
	v. Hispanic/ Latino	0	0	#DIV/0!
e.	Stolen Property	0	0.00%	
	i. Alaska/ Native American/ Indian	0	0	#DIV/0!
	ii. Asian/ Pacific Islander	0	0	#DIV/0!
	iii. Black	0	0	#DIV/0!
	iv. White	0	0	#DIV/0!
	v. Hispanic/ Latino	0	0	#DIV/0!
f.	Other	0	0.00%	
	i. Alaska/ Native American/ Indian	0	0	#DIV/0!
	ii. Asian/ Pacific Islander	0	0	#DIV/0!
	iii. Black	0	0	#DIV/0!
	iv. White	0	0	#DIV/0!
	v. Hispanic/ Latino	0	0	#DIV/0!

11. Result of Stop

a.	Verbal Warning	0	0.00%	
	i. Alaska/ Native American/ Indian	0	0	#DIV/0!
	ii. Asian/ Pacific Islander	0	0	#DIV/0!
	iii. Black	0	0	#DIV/0!
	iv. White	0	0	#DIV/0!
	v. Hispanic/ Latino	0	0	#DIV/0!
b.	Written Warning	2	100.00%	
	i. Alaska/ Native American/ Indian	0	0	0.00%
	ii. Asian/ Pacific Islander	0	0	0.00%
	iii. Black	0	0	0.00%
	iv. White	1	0	0.00%
	v. Hispanic/ Latino	1	0	0.00%
c.	Citation	0	0.00%	
	i. Alaska/ Native American/ Indian	0	0	#DIV/0!
	ii. Asian/ Pacific Islander	0	0	#DIV/0!
	iii. Black	0	0	#DIV/0!
	iv. White	0	0	#DIV/0!
	v. Hispanic/ Latino	0	0	#DIV/0!
d.	Written Warning and Arrest	0	0.00%	
	i. Alaska/ Native American/ Indian	0	0	#DIV/0!
	ii. Asian/ Pacific Islander	0	0	#DIV/0!
	iii. Black	0	0	#DIV/0!
	iv. White	0	0	#DIV/0!
	v. Hispanic/ Latino	0	0	#DIV/0!
e.	Citation and Arrest	0	0.00%	
	i. Alaska/ Native American/ Indian	0	0	#DIV/0!
	ii. Asian/ Pacific Islander	0	0	#DIV/0!
	iii. Black	0	0	#DIV/0!
	iv. White	0	0	#DIV/0!
	v. Hispanic/ Latino	0	0	#DIV/0!
f.	Arrest	0	0.00%	
	i. Alaska/ Native American/ Indian	0	0	#DIV/0!
	ii. Asian/ Pacific Islander	0	0	#DIV/0!
	iii. Black	0	0	#DIV/0!
	iv. White	0	0	#DIV/0!
	v. Hispanic/ Latino	0	0	#DIV/0!

12. Arrest Based On

a.	Violation of Penal Code	0	0.00%	
	i. Alaska/ Native American/ Indian	0	0	#DIV/0!
	ii. Asian/ Pacific Islander	0	0	#DIV/0!
	iii. Black	0	0	#DIV/0!
	iv. White	0	0	#DIV/0!
	v. Hispanic/ Latino	0	0	#DIV/0!
b.	Violation of Traffic Law	0	0.00%	
	i. Alaska/ Native American/ Indian	0	0	#DIV/0!
	ii. Asian/ Pacific Islander	0	0	#DIV/0!
	iii. Black	0	0	#DIV/0!
	iv. White	0	0	#DIV/0!
	v. Hispanic/ Latino	0	0	#DIV/0!
c.	Violation of City Ordinance	0	0.00%	
	i. Alaska/ Native American/ Indian	0	0	#DIV/0!
	ii. Asian/ Pacific Islander	0	0	#DIV/0!
	iii. Black	0	0	#DIV/0!
	iv. White	0	0	#DIV/0!
	v. Hispanic/ Latino	0	0	#DIV/0!
d.	Outstanding Warrant	0	0.00%	
	i. Alaska/ Native American/ Indian	0	0	#DIV/0!
	ii. Asian/ Pacific Islander	0	0	#DIV/0!
	iii. Black	0	0	#DIV/0!
	iv. White	0	0	#DIV/0!
	v. Hispanic/ Latino	0	0	#DIV/0!

13. Was Physical Force Used

a.	NO	2	100.00%	
	i. Alaska/ Native American/ Indian	0	0	0.00%
	ii. Asian/ Pacific Islander	0	0	0.00%
	iii. Black	0	0	0.00%
	iv. White	1	0	0.00%
	v. Hispanic/ Latino	1	0	0.00%
b.	YES	0	0.00%	
	i. Alaska/ Native American/ Indian	0	0	#DIV/0!
	ii. Asian/ Pacific Islander	0	0	#DIV/0!
	iii. Black	0	0	#DIV/0!
	iv. White	0	0	#DIV/0!
	v. Hispanic/ Latino	0	0	#DIV/0!
13 b 1.	YES: Physical Force Resulting in Bodily Injury to Suspect	0	0	#DIV/0!
13 b 2.	YES: Physical Force Resulting in Bodily Injury to Officer	0	0	#DIV/0!
13 b 3.	YES: Physical Force Resulting in Bodily Injury to Both	0	0	#DIV/0!

14. Total Number of Racial Profiling Complaints Received

0

REPORT DATE COMPILED

March 22, 2021

Racial Profiling Report | Full

Agency Name: COLLEGE OF THE MAINLAND POLICE DEPT.
Reporting Date: 01/26/2021
TCOLE Agency Number: 167005

Chief Administrator: SYLVIA A. CHAPA

Agency Contact Information:
Phone: (409) 933-8403
Email: schapa@com.edu

Mailing Address:
CAMPUS POLICE
1200 AMBURN Rd.
TEXAS CITY, TX 77591

This Agency filed a full report

COLLEGE OF THE MAINLAND POLICE DEPT. has adopted a detailed written policy on racial profiling. Our policy:

- 1) clearly defines acts constituting racial profiling;
- 2) strictly prohibits peace officers employed by the COLLEGE OF THE MAINLAND POLICE DEPT. from engaging in racial profiling;
- 3) implements a process by which an individual may file a complaint with the COLLEGE OF THE MAINLAND POLICE DEPT. if the individual believes that a peace officer employed by the COLLEGE OF THE MAINLAND POLICE DEPT. has engaged in racial profiling with respect to the individual;
- 4) provides public education relating to the agency's complaint process;
- 5) requires appropriate corrective action to be taken against a peace officer employed by the COLLEGE OF THE MAINLAND POLICE DEPT. who, after an investigation, is shown to have engaged in racial profiling in violation of the COLLEGE OF THE MAINLAND POLICE DEPT. policy;
- 6) requires collection of information relating to motor vehicle stops in which a warning or citation is issued and to arrests made as a result of those stops, including information relating to:
 - a. the race or ethnicity of the individual detained;
 - b. whether a search was conducted and, if so, whether the individual detained consented to the search;
 - c. whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual;
 - d. whether the peace officer used physical force that resulted in bodily injury during the stop;
 - e. the location of the stop;
 - f. the reason for the stop.
- 7) requires the chief administrator of the agency, regardless of whether the administrator is elected, employed, or appointed, to submit an annual report of the information collected under Subdivision (6) to:
 - a. the Commission on Law Enforcement; and
 - b. the governing body of each county or municipality served by the agency, if the agency is an agency of a county, municipality, or other political subdivision of the state.

The COLLEGE OF THE MAINLAND POLICE DEPT. has satisfied the statutory data audit requirements as prescribed in Article 2.133(c), Code of Criminal Procedure during the reporting period.

Executed by: Sylvia Chapa
Chief of Police

Date: 01/26/2021

Total stops: 2

Street address or approximate location of the stop

City street	0
US highway	0
County road	0
State highway	0
Private property or other	2

Was race or ethnicity known prior to stop?

Yes	0
No	2

Race / Ethnicity

Alaska Native / American Indian	0
Asian / Pacific Islander	0
Black	0
White	1
Hispanic / Latino	1

Gender

Female	1
Alaska Native / American Indian	0
Asian / Pacific Islander	0
Black	0
White	1
Hispanic / Latino	0
Male	1
Alaska Native / American Indian	0
Asian / Pacific Islander	0
Black	0
White	0
Hispanic / Latino	1

Reason for stop?

Violation of law	0
Alaska Native / American Indian	0
Asian / Pacific Islander	0
Black	0
White	0

Hispanic / Latino	0
Preexisting knowledge	0
Alaska Native / American Indian	0
Asian / Pacific Islander	0
Black	0
White	0
Hispanic / Latino	0
Moving traffic violation	1
Alaska Native / American Indian	0
Asian / Pacific Islander	0
Black	0
White	1
Hispanic / Latino	0
Vehicle traffic violation	1
Alaska Native / American Indian	0
Asian / Pacific Islander	0
Black	0
White	0
Hispanic / Latino	1
Was a search conducted?	
Yes	0
Alaska Native / American Indian	0
Asian / Pacific Islander	0
Black	0
White	0
Hispanic / Latino	0
No	2
Alaska Native / American Indian	0
Asian / Pacific Islander	0
Black	0
White	1
Hispanic / Latino	1
Reason for Search?	
Consent	0
Alaska Native / American Indian	0
Asian / Pacific Islander	0
Black	0
White	0

Hispanic / Latino	0		
Contraband	0		
Alaska Native / American Indian	0		
Asian / Pacific Islander	0		
Black	0		
White	0		
Hispanic / Latino	0		
Probable	0		
Alaska Native / American Indian	0		
Asian / Pacific Islander	0		
Black	0		
White	0		
Hispanic / Latino	0		
Inventory	0		
Alaska Native / American Indian	0		
Asian / Pacific Islander	0		
Black	0		
White	0		
Hispanic / Latino	0		
Incident to arrest	0		
Alaska Native / American Indian	0		
Asian / Pacific Islander	0		
Black	0		
White	0		
Hispanic / Latino	0		
Was Contraband discovered?			
Yes	0	Did the finding result in arrest?	
		(total should equal previous column)	
Alaska Native / American Indian	0	Yes 0	No 0
Asian / Pacific Islander	0	Yes 0	No 0
Black	0	Yes 0	No 0
White	0	Yes 0	No 0
Hispanic / Latino	0	Yes 0	No 0
No	2		
Alaska Native / American Indian	0		
Asian / Pacific Islander	0		
Black	0		
White	1		
Hispanic / Latino	1		

Description of contraband	
Drugs	0
Alaska Native / American Indian	0
Asian / Pacific Islander	0
Black	0
White	0
Hispanic / Latino	0
Weapons	0
Alaska Native / American Indian	0
Asian / Pacific Islander	0
Black	0
White	0
Hispanic / Latino	0
Currency	0
Alaska Native / American Indian	0
Asian / Pacific Islander	0
Black	0
White	0
Hispanic / Latino	0
Alcohol	0
Alaska Native / American Indian	0
Asian / Pacific Islander	0
Black	0
White	0
Hispanic / Latino	0
Stolen property	0
Alaska Native / American Indian	0
Asian / Pacific Islander	0
Black	0
White	0
Hispanic / Latino	0
Other	0
Alaska Native / American Indian	0
Asian / Pacific Islander	0
Black	0
White	0
Hispanic / Latino	0
Result of the stop	
Verbal warning	0

Alaska Native / American Indian	0
Asian / Pacific Islander	0
Black	0
White	0
Hispanic / Latino	0
Written warning	2
Alaska Native / American Indian	0
Asian / Pacific Islander	0
Black	0
White	1
Hispanic / Latino	1
Citation	0
Alaska Native / American Indian	0
Asian / Pacific Islander	0
Black	0
White	0
Hispanic / Latino	0
Written warning and arrest	0
Alaska Native / American Indian	0
Asian / Pacific Islander	0
Black	0
White	0
Hispanic / Latino	0
Citation and arrest	0
Alaska Native / American Indian	0
Asian / Pacific Islander	0
Black	0
White	0
Hispanic / Latino	0
Arrest	0
Alaska Native / American Indian	0
Asian / Pacific Islander	0
Black	0
White	0
Hispanic / Latino	0
Arrest based on	
Violation of Penal Code	0
Alaska Native / American Indian	0
Asian / Pacific Islander	0

Black	0
White	0
Hispanic / Latino	0
Violation of Traffic Law	0
Alaska Native / American Indian	0
Asian / Pacific Islander	0
Black	0
White	0
Hispanic / Latino	0
Violation of City Ordinance	0
Alaska Native / American Indian	0
Asian / Pacific Islander	0
Black	0
White	0
Hispanic / Latino	0
Outstanding Warrant	0
Alaska Native / American Indian	0
Asian / Pacific Islander	0
Black	0
White	0
Hispanic / Latino	0

Was physical force resulting in bodily injury used during stop?

Yes	0
Alaska Native / American Indian	0
Asian / Pacific Islander	0
Black	0
White	0
Hispanic / Latino	0
No	2
Alaska Native / American Indian	0
Asian / Pacific Islander	0
Black	0
White	1
Hispanic / Latino	1

Number of complaints of racial profiling

Total	0
Resulted in disciplinary action	0
Did not result in disciplinary action	0

Submitted electronically to the



The Texas Commission on Law Enforcement



PRESIDENT'S OFFICE

MINUTE ORDER

To: Board of Trustees
From: Dr. Warren Nichols President
Date: May 18, 2021
Subject: Order Authorizing the Issuance, Sale and Delivery of College of the Mainland Limited Tax General Obligation Refunding Bonds, Series 2021

MINUTE ORDER

Motion to be acted upon: “I move the Board of Trustees Approve the Order Authorizing the Issuance, Sale and Delivery of College of the Mainland Limited Tax General Obligation Refunding Bonds, Series 2021; Authorizing a Pricing Officer to Approve the Amount, the Interest Rates, Price, Redemption Provisions and Terms Thereof and Certain Other Procedures and Provisions Related Thereto; and Containing Other Matters Related Thereto.”

PURPOSE

This bond order authorizes the issuance, sale and delivery of the College's Limited Tax General Obligation Refunding Bonds, Series 2021 (the “Bonds”) which were approved by the College's voters, the proceeds of which will be used to refund the College's Maintenance Tax Notes, Series 2017 (the “Notes”).

BACKGROUND

The College held a bond election on May 1, 2021 (the “Election”) to ask the College's voters to authorize the refunding of the College's Maintenance Tax Notes, Series 2017 (the “Notes”). This refunding would allow the College to pay debt service on the Bonds from the College's interest and sinking fund debt service tax levy as opposed to and in place of the current source of repayment of the Notes, which is the College's maintenance and operations tax levy. The College's voters approved the measure presented in the Election, and this bond order implements the voter authorized refunding. The issuance of the Bonds will not result in an increase in the College's current overall tax rate.

ORDER AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF COLLEGE OF THE MAINLAND LIMITED TAX GENERAL OBLIGATION REFUNDING BONDS, SERIES 2021; AUTHORIZING A PRICING OFFICER TO APPROVE THE AMOUNT, THE INTEREST RATES, PRICE, REDEMPTION PROVISIONS AND TERMS THEREOF AND CERTAIN OTHER PROCEDURES AND PROVISIONS RELATED THERETO; AND CONTAINING OTHER MATTERS RELATED THERETO

WHEREAS, the College of the Mainland (the “College”) has heretofore issued its Maintenance Tax Notes, Series 2017 (the “Refunded Notes”);

WHEREAS, the Board of Trustees (the “Board”) of the College called an election to be held on May 1, 2021 (the “Election”) for the purpose of obtaining the approval of the resident, qualified electors in the College of the issuance of an aggregate of \$13,950,000 to issue refunding bonds for the purpose of refunding Refunded Notes that the College desires to refund in advance of their maturities.

WHEREAS, the Election was held on May 1, 2021, in accordance with the Constitution and laws of the State of Texas, including the Texas Election Code;

WHEREAS, the Board canvassed the Election returns and found that the resident, qualified electors in the College authorized the issuance of \$13,950,000 in bonds, as a result of which the College is authorized by the Constitution and laws of the State of Texas, to issue such authorized amount of Bonds in accordance with the Election for the purpose of refunding the Refunded Notes; and

WHEREAS, the Board deems it necessary and advisable to authorize, issue and deliver the bonds herein in an amount not to exceed \$13,950,000;

WHEREAS, the College is authorized by Chapter 1207, Texas Government Code, as amended, to issue refunding bonds for the purpose of refunding the Refunded Notes in advance of their maturities and to accomplish such refunding by (i) depositing directly with any place of payment for the Refunded Notes or with any trust company or commercial bank that does not act as a depository for the College and is named by the College as the Escrow Agent (as herein defined), or (ii) depositing directly with the paying agent for the Refunded Notes, proceeds from the sale of such refunding bonds, together with any other available funds, in an amount sufficient to provide for the payment or redemption of the Refunded Notes, and pursuant to such chapter such deposit shall constitute the making of firm banking and financial arrangements for the discharge and final payment or redemption of the Refunded Notes;

WHEREAS, the College desires to either (i) enter into an escrow agreement with the Escrow Agent (hereinafter defined), as authorized in Chapter 1207, Texas Government Code, as amended, or (ii) make a deposit with the paying agent for the Refunded Notes, pursuant to which proceeds of the refunding bonds herein authorized, together with any other available funds, will be deposited, invested and applied in a manner sufficient to provide for the full and timely payment of all principal of, premium, if any, and interest on the Refunded Notes;

WHEREAS, upon the issuance of the refunding bonds herein authorized and the deposit with the paying agent for the Refunded Notes or the creation of the escrow referred to above, the Refunded Notes shall no longer be regarded as being outstanding, except for the purpose of being paid pursuant to such Escrow Agreement, if any, and the pledges, liens, trusts and all other covenants, provisions, terms and conditions of the order authorizing the issuance of the Refunded Notes shall be, with respect to the Refunded Notes, discharged, terminated and defeased;

WHEREAS, it is hereby found and determined that the refunding of the Refunded Notes is sufficient consideration and constitutes the public purpose for the issuance of the Bonds (as herein defined) and the refunding of the Refunded Notes, and such refunding is in the best interests of the College; and

WHEREAS, pursuant to Section 1207.007, Texas Government Code, as amended, the College wishes to authorize the Pricing Officers herein designated to act on behalf of the College as herein provided;

NOW, THEREFORE, BE IT ORDERED BY THE BOARD OF TRUSTEES OF THE COLLEGE OF THE MAINLAND:

1. Definitions. Throughout this Order the following terms and expressions as used herein shall have the meanings set forth below:

The term “Accreted Value” shall mean the original principal amount of a Premium Capital Appreciation Bond plus the initial premium, if any, paid therefor with interest thereon compounded semiannually on the dates established by a Pricing Officer (each such date being an “Accretion Date”) as the case may be, next preceding the date of such calculation (or the date of calculation, if such calculation is made on an Accretion Date), at the stated yield shown therefor in the Table of Accreted Values set forth in the Pricing Certificate. For any date other than an Accretion Date, the Accreted Value shall be determined by a straight-line interpolation between the values for the applicable semi-annual compounding dates, based on 30-day months.

The term “Attorney General” shall mean the Attorney General of Texas.

The term “Board” shall mean the Board of Trustees of the College.

The term “Bond Purchase Agreement” shall mean the agreement between the College and the Purchasers providing for the sale of Bonds at such price, with and subject to such terms as determined by a Pricing Officer pursuant to Section 21 of this Order.

The term “Bonds” shall mean the College of the Mainland Limited Tax General Obligation Refunding Bonds, Series 2021, authorized in this Order, unless the context clearly indicates otherwise.

The term “Business Day” shall mean any day which is not a Saturday, Sunday, a day on which the Paying Agent/Registrar is authorized by law or executive order to remain closed or a legal holiday.

The term “Code” shall mean the Internal Revenue Code of 1986, as amended.

The term “College” shall mean the College of the Mainland, and any successor to its duties and functions.

The term “Comptroller” shall mean the Comptroller of Public Accounts of the State of Texas.

The term “Current Interest Bonds” shall mean those Bonds maturing on the dates, in each of the years and in the principal amounts set forth in the Pricing Certificate.

The term “Debt Service Fund” shall mean the interest and sinking fund established by the College pursuant to Section 20 of this Order.

The term “DTC” shall mean The Depository Trust Company of New York, New York, or any successor securities depository.

The term “DTC Participant” shall mean brokers and dealers, banks, trust companies, clearing corporations and certain other organizations on whose behalf DTC was created to hold securities to facilitate the clearance and settlement of securities transactions among DTC Participants.

“Election” shall have the meaning ascribed thereto in the recitals hereof.

The term “Escrow Agent” shall mean a trust company or commercial bank as described in Section 1207.061, Texas Government Code, as amended, as determined by the Pricing Officer in the Pricing Certificate, serving in the capacity of escrow agent for the Refunded Notes, and its successors in the capacity of escrow agent for the Refunded Notes.

The term “Escrow Agreement” shall mean the Escrow Agreement, if any, between the Board and the Escrow Agent, substantially in the form attached hereto as Exhibit C and approved by the College and as approved by a Pricing Officer pursuant to Section 24 of this Order.

The term “Interest Payment Date”, when used with respect to the Current Interest Bonds, shall mean the date(s) determined by a Pricing Officer and set forth in the Pricing Certificate.

“Investor Letter” shall mean the letter agreement between the College and the Purchaser providing for the sale of Bonds at such price, with and subject to such terms as determined by a Pricing Officer pursuant to Section 21 of this Order.

The term “Issuance Date” shall mean the date on which the Bonds are delivered to and paid for by the Purchaser.

The term “Maturity Amount,” as used with respect to any Premium Capital Appreciation Bond, shall mean the amount paid to the Owner thereof at maturity, which shall include both principal and accrued interest.

The term “MSRB” shall mean the Municipal Securities Rulemaking Board.

The term “Maximum Rate” shall mean the maximum “net effective interest rate” allowable under Section 1204.006, Texas Government Code, as amended, currently 15%.

The term “Order” as used herein and in the Bonds shall mean this order authorizing the Bonds.

The term “Outstanding,” when used with respect to the Bonds, shall mean, as of a particular date, all Bonds theretofore and thereupon delivered pursuant to this Order except: (a) any Bond canceled by or on behalf of the College at or before such date; (b) any Bond defeased pursuant to the defeasance provisions of this Order or otherwise defeased as permitted by applicable law; and (c) any Bond in lieu of or in substitution for which a replacement Bond shall have been delivered pursuant to this Order.

The term “Owner” or “Registered Owner” shall mean any person who shall be the registered owner of any outstanding Bond.

The term “Paying Agent/Registrar” shall mean a person, including a trust company or commercial bank, authorized to serve as paying agent and registrar for the Bonds under Texas law, as determined by the Pricing Officer in the Pricing Certificate, serving in the capacity of paying agent and registrar for the Bonds, and its successors in the capacities of paying agent and registrar for the Bonds.

The term “Premium Capital Appreciation Bonds” shall mean those Bonds issued in the principal amounts maturing on the dates, in each of the years and in the Maturity Amounts set forth in the Pricing Certificate.

The term “Pricing Certificate” shall mean the certificate of a Pricing Officer provided in accordance with Section 21 of this Order.

The term “Pricing Officer” shall mean one or more of the following: the Chair or the Secretary or Assistant Secretary of the Board of Trustees, the President of the College or the College’s Vice President for Fiscal Affairs.

The term “Purchaser” shall mean either: (i) the underwriting syndicate named on the cover page of the Official Statement authorized pursuant to Section 30 hereof; (ii) the winning bidder of any competitive sale as described in Section 21 hereof; or (iii) the purchasers of the Bonds pursuant to a private placement as described in Section 21 hereof.

The term “Record Date” shall mean the last business day of the month next preceding each Interest Payment Date.

The term “Refunded Notes” shall mean the Refunded Notes identified in the recitals hereto, which are deemed to be paid, retired and no longer outstanding as a result of the deposit of the proceeds of the Bonds, together with other available funds of the College, if any, in an amount sufficient to defease such Refunded Notes, as authorized by Chapter 1207, the Election and the resolution authorizing the Refunded Notes.

The term “Register” shall mean the books of registration kept by the Paying Agent/Registrar in which are maintained the names and addresses of, and the principal amounts of the Bonds registered to, each Owner.

The term “Report” shall have the meaning assigned in the Escrow Agreement.

The term “Rule” shall mean SEC Rule 15c2-12, as amended from time to time.

The term “SEC” shall mean the United States Securities and Exchange Commission.

All terms defined herein and all pronouns used in this Order shall be deemed to apply equally to singular and plural and to all genders. The titles and headings of the sections are for convenience of reference only and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms and provisions hereof. This Order and all the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein and to sustain the validity of the Bonds and the validity of the levy of ad valorem taxes to pay the principal of and interest on the Bonds.

2. Name, Amount, Purpose and Authorization.

(a) The Bonds, to be known and designated as the COLLEGE OF THE MAINLAND LIMITED TAX GENERAL OBLIGATION REFUNDING BONDS, SERIES 2021 (unless otherwise designated by a pricing Officer in a Pricing Certificate), shall be issued in fully registered form, without coupons, in an aggregate principal amount not to exceed THIRTEEN MILLION NINE HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$13,950,000) for the purposes of (i) providing funds to refund the Refunded Notes and (ii) paying costs of issuance of the Bonds and of refunding the Refunded Notes. The Bonds are issued pursuant to Chapter 1207, Texas Government Code, as amended, the Election and all other applicable law.

(b) The principal amount of the Bonds shall be established by a Pricing Officer in an amount necessary to provide funds sufficient to refund the Refunded Notes and pay the costs associated with the refunding of the Refunded Notes and the issuance of the Bonds; provided, however, that the following conditions shall be met for the issuance of the Bonds: (i) in establishing the aggregate principal amount of the Bonds, a Pricing Officer shall establish the principal amount of the Bonds (including the aggregate principal amount of Bonds to be issued as Current Interest Bonds and the aggregate principal amount of Bonds to be issued as Premium Capital Appreciation Bonds) in an aggregate principal amount not to exceed the amount authorized in subsection (a) of this Section, which amount shall be sufficient to provide for the defeasance of the Refunded Notes (as determined by a Pricing Officer), (ii) the net effective interest rate on the Bonds shall not exceed the maximum rate allowed by Chapter 1204, Texas Government Code, as

amended and (iii) which results in the latest maturity date of the Bonds will not exceeding the latest maturity date of the Refunded Notes.

In exercising the authority granted to a Pricing Officer to sell Bonds for the purpose of refunding the Refunded Notes, such Pricing Officer, acting severally and individually, may exercise any authority granted under Chapter 1207, Texas Government Code (as in effect on the date a Pricing Officer effectuates the sale of the Bonds), including, without limitation, (i) the selection of the particular maturities and principal amounts of the Refunded Notes to be refunded (including the execution and delivery of any notices of redemption required in connection therewith) and (ii) establishing the terms and details related to the issuance and sale of the Bonds, including whether the Bonds shall be sold by means of a negotiated sale, a competitive sale or a private placement.

3. Date, Denomination, Interest Rate and Maturities.

(a) Interest on the Current Interest Bonds shall be payable on each Interest Payment Date until maturity or prior redemption. Interest on the Premium Capital Appreciation Bonds shall accrete on each Accretion Date until maturity or prior redemption. The Bonds shall bear interest at the fixed rate or rates of interest per annum (which interest rate shall not exceed the Maximum Rate), calculated on the basis of a 360-day year composed of twelve 30-day months, determined in accordance with the procedures for the sale of the Bonds set forth in Section 21 of this Order. The Bonds shall mature and become payable on the dates and in each of the years and amounts (either through serial maturities or mandatory redemptions of term bonds) as determined by a Pricing Officer pursuant to Section 21 of this Order; provided that no Bond shall mature more than forty (40) years after the dated date thereof or otherwise as provided herein.

(b) The Initial Current Interest Bond and each Current Interest Bond authenticated prior to the first Record Date for the Bonds shall bear interest from the date thereof. Each Current Interest Bond authenticated on or after the first Record Date for the Current Interest Bonds shall bear interest from the Interest Payment Date immediately preceding the date of authentication, unless such Current Interest Bond is authenticated after any Record Date but on or before the next following Interest Payment Date, in which case such Current Interest Bond shall bear interest from such next following Interest Payment Date; provided, however, that if at the time of delivery of any exchange or replacement Current Interest Bond the interest on the Current Interest Bond that it replaces or for which it is being exchanged is due but has not been paid, then such Current Interest Bond shall bear interest from the date to which such interest has been paid in full. The Current Interest Bonds will be dated as of the date determined by a Pricing Officer pursuant to Section 21 of this Order, and shall be issued initially in denominations equal to the entire principal amount of each scheduled maturity of the Current Interest Bonds. The Current Interest Bonds shall initially be evidenced by an Initial Current Interest Bond numbered IR-1, and thereafter by definitive bonds numbered in sequence beginning with R-1. Any Current Interest Bond delivered on transfer of or in exchange for a Current Interest Bond or Current Interest Bonds shall be numbered in order of its authentication by the Paying Agent/Registrar, shall be in the denomination of \$5,000 or an integral multiple thereof (or such other denomination as determined by a Pricing Officer at the time of the sale of the Bonds), and shall mature on the same date and bear interest at the same rate as the Current Interest Bond or Current Interest Bonds in lieu of which it is delivered.

Interest on the Current Interest Bonds shall be payable in the manner provided in the Form of Current Interest Bond attached hereto in Exhibit A.

(c) The Premium Capital Appreciation Bonds shall bear interest from the Issuance Date. The Premium Capital Appreciation Bonds will be dated as of the date determined by a Pricing Officer pursuant to Section 21 of this Order, and shall be issued initially in denominations equal to the entire principal amount of each scheduled maturity of the Premium Capital Appreciation Bonds. The Premium Capital Appreciation Bonds shall initially be evidenced by an Initial Premium Capital Appreciation Bond numbered ICR-1, and thereafter by definitive bonds numbered in sequence beginning with CR-1. Any Premium Capital Appreciation Bond delivered on transfer of or in exchange for a Premium Capital Appreciation Bond or Premium Capital Appreciation Bonds shall be numbered in order of its authentication by the Paying Agent/Registrar, shall be in the Maturity Amount of \$5,000 or any integral multiple thereof (or such other denomination as determined by a Pricing Officer at the time of the sale of the Bonds), and shall mature on the same date and bear interest at the same rate as the Premium Capital Appreciation Bond or Premium Capital Appreciation Bonds in lieu of which it is delivered. Interest on the Premium Capital Appreciation Bonds shall be payable in the manner provided in the Form of Premium Capital Appreciation Bond attached hereto in Exhibit A.

4. Execution of Bonds; Seal. The Bonds shall be signed by the Chair or the Vice Chair of the Board and countersigned by the Secretary or Assistant Secretary of the Board, by their manual, lithographed or facsimile signatures, and the official seal of the College shall be impressed or placed in facsimile thereon. Such facsimile signatures on the Bonds shall have the same effect as if each of the Bonds had been signed manually and in person by each of such officers, and such facsimile seal on the Bonds shall have the same effect as if the official seal of the College had been manually impressed upon each of the Bonds. If any officer of the College whose manual or facsimile signature shall be on the Bonds shall cease to be such officer before the authentication of such Bonds or before the delivery of such Bonds, such manual or facsimile signature shall nevertheless be valid and sufficient for all purposes as if such officer had remained in such office.

5. Approval by Attorney General; Registration by Comptroller. The Bonds to be initially issued shall be delivered to the Attorney General for approval and shall be registered by the Comptroller. The Chair or the Vice Chair and the Secretary or Assistant Secretary of the Board are authorized hereby to have control and custody of the Bonds and all necessary records and proceedings pertaining thereto pending their delivery, and the Chair or the Vice Chair and the Secretary or Assistant Secretary and other officers and employees of the College are hereby authorized and directed to make such certifications and to execute such instruments as may be necessary to accomplish the delivery of the Bonds and to assure the investigation, examination and approval thereof by the Attorney General and the registration of the initial Bonds by the Comptroller. Upon registration of the Bonds, the Comptroller (or the Comptroller's bond clerk, or an assistant bond clerk lawfully designated in writing to act for the Comptroller) shall manually execute the registration certificate of the Comptroller substantially in the form provided in Exhibit A of this Order, and such certificate shall be affixed or attached to the Bonds to be initially issued, and the seal of the Comptroller shall be impressed, or placed in facsimile, thereon.

6. Authentication. Except for the Bonds to be initially issued, which need not be authenticated by the Paying Agent/Registrar, only such Bonds as shall bear thereon a certificate of

authentication, substantially in the form provided in Exhibit A to this Order, manually executed by an authorized representative of the Paying Agent/Registrar, shall be entitled to the benefits of this Order or shall be valid or obligatory for any purpose. Such duly executed certificate of authentication shall be conclusive evidence that the Bond so authenticated was delivered by the Paying Agent/Registrar hereunder.

7. Payment of Principal and Interest. The Paying Agent/Registrar is hereby appointed as the registrar and paying agent for the Bonds pursuant to the terms and provisions of the Paying Agent/Registrar Agreement, a substantial copy of which is attached hereto as Exhibit C, which is hereby authorized and approved by the Board and which the appropriate officials of the College are hereby authorized to execute. The Pricing Officers of the College, acting severally and individually, are each hereby authorized to execute, attest and affix the College's seal to the Paying Agent/Registrar Agreement, the terms and provisions of which are hereby approved. Such initial registrar and paying agent and any successor, by undertaking the performance of the duties of the registrar and paying agent hereunder, and in consideration of the payment of any fees pursuant to the terms of the agreement between the Paying Agent/Registrar and the College and/or the deposits of money pursuant to this Order, shall be deemed to accept and agree to abide by the terms of this Order. All money transferred to the Paying Agent/Registrar in its capacity as registrar or paying agent for the Bonds under this Order (except any sums representing registrar or paying agent fees) shall be held in trust for the benefit of the College, shall be the property of the College and shall be disbursed in accordance with this Order. Subject to the provisions of Section 16 of this Order, all matured Bonds presented to the Paying Agent/Registrar for payment shall be paid without the necessity of further instructions from the College. Such Bonds shall be canceled as provided herein.

The principal and Maturity Amount of the Bonds shall be payable, without exchange or collection charges, in any coin or currency of the United States of America which, on the date of payment, is legal tender for the payment of debts due the United States of America, upon their presentation and surrender as they respectively become due and payable at the principal payment office of the Paying Agent/Registrar. The interest on each Current Interest Bond shall be payable by check on the Interest Payment Date and mailed by the Paying Agent/Registrar on or before each Interest Payment Date to the Owner of record as of the Record Date to the address of such Owner as shown on the Register. Any accrued interest payable at maturity or redemption on a Current Interest Bond shall be paid upon presentation and surrender of such Bond at the principal payment office of the Paying Agent/Registrar.

If the date for payment of the principal or Maturity Amount of or interest on any Bond is not a Business Day, then the date for such payment shall be the next succeeding Business Day with the same force and effect as if made on the date payment was originally due.

8. Successor Paying Agent/Registrars. The College covenants that at all times while any Bonds are outstanding it will provide a legally qualified bank, trust company, financial institution or other agency to act as Paying Agent/Registrar for the Bonds. The College reserves the right to change the Paying Agent/Registrar for the Bonds on not less than sixty (60) days' written notice to the Paying Agent/Registrar, as long as any such notice is effective not less than 60 days prior to the next succeeding principal or interest payment date on the Bonds. Promptly upon the appointment of any successor Paying Agent/Registrar, the previous Paying

Agent/Registrar shall deliver the Register or a copy thereof to the new Paying Agent/Registrar, and the new Paying Agent/Registrar shall notify each Owner, by United States mail, first class postage prepaid, of such change and of the address of the new Paying Agent/Registrar. Each Paying Agent/Registrar hereunder, by acting in that capacity, shall be deemed to have agreed to the provisions of this Order.

9. Special Record Date. If interest on any Current Interest Bond is not paid on any Interest Payment Date and continues unpaid for thirty (30) days thereafter, the Paying Agent/Registrar shall establish a new record date for the payment of such interest, to be known as a Special Record Date. The Paying Agent/Registrar shall establish a Special Record Date when funds to make such interest payment are received from or on behalf of the College. Such Special Record Date shall be fifteen (15) days prior to the date fixed for payment of such past due interest, and notice of the date of payment and the Special Record Date shall be sent by United States mail, first class, postage prepaid, not later than five (5) days prior to the Special Record Date, to each Owner of record of an affected Current Interest Bond as of the close of business on the Business Day prior to the mailing of such notice.

10. Ownership; Unclaimed Principal and Interest. The College, the Paying Agent/Registrar and any other person may treat the person in whose name any Bond is registered as the absolute Owner of such Bond for the purpose of making and receiving payment of the principal or Maturity Amount of or interest on such Bond and for all other purposes, whether or not such Bond is overdue, and neither the College nor the Paying Agent/Registrar shall be bound by any notice or knowledge to the contrary. All payments made to the person deemed to be the Owner of any Bond in accordance with this Section shall be valid and effectual and shall discharge the liability of the College and the Paying Agent/Registrar upon such Bond to the extent of the sums paid.

Amounts held by the Paying Agent/Registrar which represent principal or Maturity Amount of and interest on the Bonds remaining unclaimed by the Owner after the expiration of three (3) years from the date such amounts have become due and payable shall be reported and disposed of by the Paying Agent/Registrar in accordance with the applicable provisions of Texas law, including, to the extent applicable, Title 6 of the Texas Property Code, as amended. To the extent such provisions of the Property Code do not apply to the funds, such funds shall be paid by the Paying Agent/Registrar to the College upon receipt by the Paying Agent/Registrar of a written request therefor from the College. The Paying Agent/Registrar shall have no liability to the Owners of the Bonds by virtue of actions taken in compliance with this Section.

11. Registration, Transfer and Exchange. As long as any Bonds remain Outstanding, the Paying Agent/Registrar shall keep the Register at its principal corporate trust office and, subject to such reasonable regulations as it may prescribe, the Paying Agent/Registrar shall provide for the registration and transfer of Bonds in accordance with the terms of this Order. If the Bonds are issued pursuant to an Investor Letter, any such transfer will be further subject to the terms of transfer described in such Investor Letter.

Each Bond shall be transferable only upon the presentation and surrender thereof at the principal corporate trust office of the Paying Agent/Registrar, duly endorsed for transfer or accompanied by an assignment duly executed by the Registered Owner or his authorized

representative in form satisfactory to the Paying Agent/Registrar. Upon due presentation of any Bond in proper form for transfer, the Paying Agent/Registrar shall authenticate and deliver in exchange therefor, within seventy-two (72) hours after such presentation, a new Bond or Bonds, registered in the name of the transferee or transferees, in authorized denominations and of the same maturity and aggregate principal amount or Maturity Amount and bearing interest at the same rate as the Bond or Bonds so presented.

All Bonds shall be exchangeable upon presentation and surrender thereof at the principal corporate trust office of the Paying Agent/Registrar for a Bond or Bonds of the same maturity and interest rate and in any authorized denomination, in an aggregate principal amount equal to the unpaid principal amount or Maturity Amount of the Bond or Bonds presented for exchange. The Paying Agent/Registrar shall be and is hereby authorized to authenticate and deliver exchange Bonds in accordance with the provisions of this Section. Each Bond delivered in accordance with this Section shall be entitled to the benefits and security of this Order to the same extent as the Bond or Bonds in lieu of which such Bond is delivered.

The College or the Paying Agent/Registrar may require the Owner of any Bond to pay a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with the transfer or exchange of such Bond. Any fee or charge of the Paying Agent/Registrar for such transfer or exchange shall be paid by the College.

The Paying Agent/Registrar shall not be required to transfer or exchange any Bond called for redemption in whole or in part during the 45-day period immediately prior to the date fixed for redemption; provided, however, that such limitation shall not apply to the transfer or exchange by the Owner of the unredeemed portion of a Bond called for redemption in part.

12. Book-Entry Only System. Unless otherwise determined by the Pricing Officer in the Pricing Certificate, the definitive Bonds shall be initially issued in the form of a separate single fully registered Bond for each of the maturities thereof. Unless otherwise determined by the Pricing Officer in the Pricing Certificate, upon initial issuance, the ownership of each such Bond shall be registered in the name of Cede & Co., as nominee of DTC, and except as provided in Section 15 hereof, all of the Outstanding Bonds shall be registered in the name of Cede & Co., as nominee of DTC. Upon delivery by DTC to the Paying Agent/Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions in this Order with respect to interest checks being mailed to the Owner at the close of business on the Record Date, the word “Cede & Co.” in this Order shall refer to such new nominee of DTC.

With respect to Bonds registered in the name of Cede & Co., as nominee of DTC, the College and the Paying Agent/Registrar shall have no responsibility or obligation to any DTC Participant or to any person on behalf of whom such a DTC Participant holds an interest in the Bonds. Without limiting the immediately preceding sentence, the College and the Paying Agent/Registrar shall have no responsibility or obligation with respect to (a) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Bonds, (b) the delivery to any DTC Participant or any other person, other than a Bondholder, as shown on the Register, of any notice with respect to the Bonds, including any notice of redemption or (c) the payment to any DTC Participant or any other person, other than a Bondholder, as shown

in the Register, of any amount with respect to principal or Maturity Amount of Bonds, premium, if any, or interest on the Bonds.

Except as provided in Section 15 of this Order, the College and the Paying Agent/Registrar shall be entitled to treat and consider the person in whose name each Bond is registered in the Register as the absolute Owner of such Bond for the purpose of payment of principal or Maturity Amount, of premium, if any, and of interest on Bonds, for the purpose of giving notices of redemption and other matters with respect to such Bond, for the purpose of registering transfer with respect to such Bond, and for all other purposes whatsoever. The Paying Agent/Registrar shall pay all principal or Maturity Amount of Bonds, premium, if any, and interest on the Bonds only to or upon the order of the respective owners, as shown in the Register as provided in this Order, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the College's obligations with respect to payment of principal or Maturity Amount, of premium, if any, and of interest on the Bonds to the extent of the sum or sums so paid. No person other than an Owner shall receive a Bond certificate evidencing the obligation of the College to make payments of amounts due pursuant to this Order.

13. Payments and Notices to Cede & Co. Notwithstanding any other provision of this Order to the contrary, as long as any Bonds are registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal or Maturity Amount, premium, if any, and interest on the Bonds, and all notices with respect to such Bonds shall be made and given, respectively, in the manner provided in the representation letter of the College to DTC.

14. Successor Securities Depository; Transfer Outside Book-Entry Only System. In the event that the College or the Paying Agent/Registrar determines that DTC is incapable of discharging its responsibilities described herein and in the representation letter of the College to DTC, and that it is in the best interest of the beneficial owners of the Bonds that they be able to obtain certified Bonds, the College or the Paying Agent/Registrar shall (a) appoint a successor securities depository, qualified to act as such under Section 17(a) of the Securities and Exchange Act of 1934, as amended, notify DTC of the appointment of such successor securities depository and transfer one or more separate Bonds to such successor securities depository or (b) notify DTC of the availability through DTC of Bonds and transfer one or more separate Bonds to DTC Participants having Bonds credited to their DTC accounts. In such event, the Bonds shall no longer be restricted to being registered in the Register in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names Bondholders transferring or exchanging Bonds shall designate, in accordance with the provisions of this Order.

15. Mutilated, Lost or Stolen Bonds. Upon the presentation and surrender to the Paying Agent/Registrar of a damaged or mutilated Bond, the Paying Agent/Registrar shall authenticate and deliver in exchange therefor a replacement Bond of like maturity, interest rate and principal amount or Maturity Amount bearing a number not contemporaneously outstanding. The College or the Paying Agent/Registrar may require the Owner of a damaged or mutilated Bond to pay a sum sufficient to cover any tax or other governmental charge that may be imposed in connection therewith, including the fees and expenses of the Paying Agent/Registrar.

If any Bond is lost, apparently destroyed or wrongfully taken, the College, pursuant to the applicable laws of the State of Texas and in the absence of notice or knowledge that such Bond has been acquired by a bona fide purchaser, shall execute and the Paying Agent/Registrar shall authenticate and deliver a replacement Bond of like maturity, interest rate and principal amount or Maturity Amount, bearing a number not contemporaneously outstanding. The College or the Paying Agent/Registrar may require the Owner of a lost, apparently destroyed or wrongfully taken Bond, before any replacement Bond is issued, to:

(a) furnish to the College and the Paying Agent/Registrar satisfactory evidence of the ownership of and the circumstances of the loss, destruction or theft of such Bond;

(b) furnish such security or indemnity as may be required by the Paying Agent/Registrar and the College to save them harmless;

(c) pay all expenses and charges in connection therewith, including, but not limited to, printing costs, legal fees, fees of the Paying Agent/Registrar and any tax or other governmental charge that may be imposed; and

(d) meet any other reasonable requirements of the College and the Paying Agent/Registrar.

If, after the delivery of a replacement Bond, a bona fide purchaser of the original Bond in lieu of which such replacement Bond was issued presents for payment such original Bond, the College and the Paying Agent/Registrar shall be entitled to recover such replacement Bond from the person to whom it was delivered or any person taking therefrom, except a bona fide purchaser, and shall be entitled to recover upon the security or indemnity provided therefor to the extent of any loss, damage, cost or expense incurred by the College or the Paying Agent/Registrar in connection therewith.

If any such mutilated, lost, apparently destroyed or wrongfully taken Bond has become or is about to become due and payable, the College in its discretion may, instead of issuing a replacement Bond, authorize the Paying Agent/Registrar to pay such Bond.

Each replacement Bond delivered in accordance with this Section shall be entitled to the benefits and security of this Order to the same extent as the Bond or Bonds in lieu of which such replacement Bond is delivered.

16. Cancellation of Bonds. All Bonds paid or redeemed in accordance with this Order, and all Bonds in lieu of which exchange Bonds or replacement Bonds are authenticated and delivered in accordance herewith, shall be canceled and destroyed upon the making of proper records regarding such payment. The Paying Agent/Registrar shall furnish the College with appropriate certificates of destruction of such Bonds.

17. Redemption Prior to Maturity. The Bonds shall be subject to redemption prior to maturity on such dates, at such prices and in such amounts as shall be provided in the Pricing Certificate and upon the terms and conditions set forth in Exhibit A to this Order.

18. Forms. The forms of the Current Interest Bonds and the Premium Capital Appreciation Bonds, including the form of the Registrar’s Authentication Certificate, the form of Assignment and the form of Registration Certificate of the Comptroller of Public Accounts of the State of Texas, which shall be attached or affixed to the Bonds initially issued shall be, respectively, substantially as shown in Exhibit A hereto, with such additions, deletions and variations as determined by a Pricing Officer, including any insurance legend or statement, as may be necessary or desirable and not prohibited by this Order.

19. Opinion of Bond Counsel; CUSIP. The approving opinion of Orrick, Herrington & Sutcliffe LLP, Houston, Texas, Bond Counsel, and CUSIP Numbers may be printed on the Bonds, but errors or omissions in the printing of such opinion or such numbers shall have no effect on the validity of the Bonds.

20. Debt Service Fund; Tax Levy. A special fund to be designated “College of the Mainland Limited Tax General Obligation Refunding Bonds, Series 2021 Debt Service Fund” (the “Debt Service Fund”) is hereby created. The proceeds from (i) all taxes levied, assessed and collected for and on account of the Bonds authorized by this Order and (ii) state aid, if any, that is required by law to be deposited into the Debt Service Fund shall be deposited, as collected, in the Debt Service Fund. Money on deposit in the Debt Service Fund may, at the option of the College, be invested as permitted under Texas law, provided that all such investments shall be made in such manner that the money will be available at the proper time or times. For purposes of maximizing investment returns, money in the Debt Service Fund may be invested with other money of the College in common investments, or in a common pool of investments, which shall not be deemed to be or constitute a commingling of such money as long as safekeeping receipts or certificates of participation clearly evidencing the investment or investment pool in which such money is invested and the share thereof purchased with such money or owned by the Debt Service Fund are held by or on behalf of the Debt Service Fund. Money in the Debt Service Fund may, to the extent necessary, be used to make any required payments to the federal government under the Code to assure that interest on the Bonds is excludable from gross income for federal income tax purposes.

While the Bonds or any part of the principal thereof or interest thereon remain outstanding and unpaid, there is hereby levied and there shall be annually assessed and collected in due time, form and manner, and at the same time as other College taxes are assessed, levied and collected, in each year, beginning with the current year, a continuing direct annual ad valorem tax upon all taxable property in the College, within the limits prescribed by law, sufficient to pay the interest on the Bonds as the same becomes due and to pay each installment of the principal of the Bonds as the same matures, full allowance being made for delinquencies and costs of collection; provided, however, that the amount of tax levied shall take into account the proceeds of state aid payments, if any, on deposit in the Debt Service Fund for the Bonds and required for compliance with Section 45.0031, Texas Education Code. Such taxes are hereby irrevocably pledged to the payment of the principal of and interest on the Bonds and to no other purpose.

21. Sale and Delivery of Bonds, Approval of Bond Purchase Agreement, Insurance, Purchaser’s Bid or Investor letter; Rating. A Pricing Officer, acting severally and individually, is hereby authorized to act for and on behalf of the College in connection with the issuance and sale of the Bonds. In that capacity, a Pricing Officer, acting for and on behalf of the College, shall determine (a) the date for issuance and sale of the Bonds and (b) subject to the limitations of

Sections 2 and 3, the aggregate principal amount and the principal amortization schedule for the Bonds, the rate or rates of interest to be borne by the Bonds, the price of the Bonds (which shall be not less than ninety-five percent (95%) of the par amount of the Bonds, plus any accrued interest thereon), the dates on which such interest shall be payable, the terms, if any, on which the Bonds shall be subject to optional and mandatory redemption and other terms and conditions relating to the issuance, sale and delivery of the Bonds including the determination to utilize or not utilize municipal bond insurance, all as shall be set forth in the Pricing Certificate; provided, that at the time of issuance of the Bonds, a Pricing Officer, on behalf of the College, shall deliver a written certificate (i) stating that the parameters set forth in Section 2(b) have been satisfied, (ii) identifying the Refunded Notes and setting forth the terms and details for the redemption prior to maturity (if applicable) of the Refunded Notes and (iii) setting forth the amount of proceeds of the Bonds to be deposited with the paying agent for the Refunded Notes or in the escrow fund established in accordance with the Escrow Agreement.

A Pricing Officer, acting severally and individually, is authorized to determine whether the bonds will be sold by means of a negotiated sale, a competitive sale or a private placement. As applicable, a Pricing Officer, acting severally and individually, is authorized to: (i) designate in the Pricing Certificate and Bond Purchase Agreement the senior managing underwriter for the Bonds and such additional underwriters as he or she deems appropriate; (ii) designate in the Pricing Certificate and by means of acceptance of a bid the Purchaser in a competitive sale as he or she deems appropriate; or (iii) designate in the Pricing Certificate and Investor Letter such Purchaser in a private placement as he or she deems appropriate, in each case to assure that the Bonds are sold on the most advantageous terms to the College; and, a Pricing Officer, acting severally and individually, for and on behalf of the College, is authorized to execute and deliver the Bond Purchase Agreement, Purchaser's bid or Investor Letter providing for the sale of Bonds at such price, with and subject to such terms as determined by a Pricing Officer pursuant to this Section 21. Such Bond Purchase Agreement, Purchaser's bid or Investor Letter shall be substantially in the form and substance previously approved by the Board or commonly approved by other boards of trustees (as determined by Bond Counsel) in connection with the authorization of limited tax general obligation bonds with such changes as are acceptable to a Pricing Officer. In the event the Bond Purchase Agreement or Investor Letter shall not be executed, or a Purchaser's bid has not been executed and accepted by a Pricing Officer on or before 5:00 p.m. on the 180th day after the date of the approval of this Order, the delegation to a Pricing Officer pursuant to this Order shall cease to be effective unless the College shall act to extend such delegation.

The obligation of the Purchaser to accept delivery of the Bonds shall be subject to the Purchaser being furnished with the final, approving opinion of Orrick, Herrington & Sutcliffe LLP, Houston, Texas, Bond Counsel for the College, which opinion shall be dated as of and delivered on the date of delivery of the Bonds to the Purchaser. The engagement of such firm as Bond Counsel for the College in connection with the issuance, sale and delivery of the Bonds is hereby approved, ratified and confirmed.

The College hereby acknowledges that the sale of the Bonds may be contingent upon the issuance of a policy of municipal bond insurance. A Pricing Officer is authorized to apply for and pay any costs associated with one or more municipal bond insurance policies to guarantee the payment of the principal of and interest on the Bonds, which insurance shall be specified in the

Pricing Certificate; and, any acts of a Pricing Officer relating to applications for any such insurance are hereby authorized, approved, ratified and confirmed. The Pricing Certificate may contain provisions related to the bond insurance policies, if any, including payment provisions thereunder, and the rights of the bond insurer(s), and any such provisions shall be read and interpreted as an integral part of this Order. The appropriate officials and representatives of the College are hereby authorized and directed to execute such commitments, agreements (including reimbursement agreements), certificates and other documents and to do any and all things necessary or desirable to obtain any such guarantee or insurance, and the printing on the Bonds of an appropriate legend or statement regarding such insurance, as provided by a bond insurer for the Bonds, is hereby approved.

The Pricing Officers, each acting severally and individually, are hereby authorized to take such action as they deem necessary or appropriate in seeking ratings on the Bonds from one or more nationally recognized rating agencies, and any such action is hereby ratified and confirmed.

22. Covenants to Maintain Tax Exempt Status. For any Bonds for which the College intends that the interest on the Bonds shall be excludable from gross income of the owners thereof for federal income tax purposes pursuant to Sections 103 and 141 through 150 of the Internal Revenue Code of 1986, as amended (the “Code”), and all applicable temporary, proposed and final regulations (the “Regulations”) and procedures promulgated thereunder and applicable to the Bonds: For this purpose, the College covenants that it will monitor and control the receipt, investment, expenditure and use of all gross proceeds of the Bonds (including all property the acquisition, construction or improvement of which is to be financed directly or indirectly with the proceeds of the Bonds) and take or omit to take such other and further actions as may be required by Sections 103 and 141 through 150 of the Code and the Regulations to cause interest on the Bonds to be and remain excludable from the gross income, as defined in Section 61 of the Code, of the owners of the Bonds for federal income tax purposes. Without limiting the generality of the foregoing, the College shall comply with each of the following covenants:

- (a) The College will use all of the proceeds of the Bonds to (i) provide funds for the purposes described in Section 2 hereof, which will be owned and operated by the College and (ii) to pay the costs of issuing the Bonds.
- (b) The College will not directly or indirectly take any action, or omit to take any action, which action or omission would cause the Bonds to constitute “private activity bonds” within the meaning of Section 141(a) of the Code.
- (c) Principal of and interest on the Bonds will be paid solely from ad valorem taxes collected by the College and investment earnings on such collections.
- (d) Based upon all facts and estimates now known or reasonably expected to be in existence on the date the Bonds are delivered, the College reasonably expects that the proceeds of the Bonds will not be used in a manner that would cause the Bonds or any portion thereof to be an “arbitrage bond” within the meaning of Section 148 of the Code.

- (e) At all times while the Bonds are outstanding, the College will identify and properly account for all amounts constituting gross proceeds of the Bonds in accordance with the Regulations. The College will monitor the yield on the investments of the proceeds of the Bonds and, to the extent required by the Code and the Regulations, will restrict the yield on such investments to a yield which is not materially higher than the yield on the Bonds. To the extent necessary to prevent the Bonds from constituting “arbitrage bonds,” the College will make such payments as are necessary to cause the yield on all yield restricted nonpurpose investments allocable to the Bonds to be less than the yield that is materially higher than the yield on the Bonds.
- (f) The College will not take any action or knowingly omit to take any action that, if taken or omitted, would cause the Bonds to be treated as “federally guaranteed” obligations for purposes of Section 149(b) of the Code.
- (g) The College represents that not more than fifty percent (50%) of the proceeds of the Bonds will be invested in nonpurpose investments (as defined in Section 148(f)(6)(A) of the Code) having a substantially guaranteed yield for four years or more within the meaning of Section 149(g)(3)(A)(ii) of the Code, and the College reasonably expects that at least eighty-five percent (85%) of the spendable proceeds of the Bonds will be used to carry out the governmental purpose of the Bonds within the three-year period beginning on the date of issue of the Bonds.
- (h) The College will take all necessary steps to comply with the requirement that certain amounts earned by the College on the investment of the gross proceeds of the Bonds, if any, be rebated to the federal government. Specifically, the College will (i) maintain records regarding the receipt, investment, and expenditure of the gross proceeds of the Bonds as may be required to calculate such excess arbitrage profits separately from records of amounts on deposit in the funds and accounts of the College allocable to other obligations of the College or moneys which do not represent gross proceeds of any obligations of the College and retain such records for at least six years after the day on which the last outstanding Bond is discharged, (ii) account for all gross proceeds under a reasonable, consistently applied method of accounting, not employed as an artifice or device to avoid in whole or in part, the requirements of Section 148 of the Code, including any specified method of accounting required by applicable Regulations to be used for all or a portion of any gross proceeds, (iii) calculate, at such times as are required by applicable Regulations, the amount of excess arbitrage profits, if any, earned from the investment of the gross proceeds of the Bonds and (iv) timely pay, as required by applicable Regulations, all amounts required to be rebated to the federal government. In addition, the College will exercise reasonable diligence to assure that no errors are made in the calculations required by the preceding sentence and, if such an error is made, to discover and promptly correct such error within a reasonable amount of time thereafter, including payment to the federal government of any delinquent amounts owed to it, interest thereon and any penalty.

- (i) The College will not directly or indirectly pay any amount otherwise payable to the federal government pursuant to the foregoing requirements to any person other than the federal government by entering into any investment arrangement with respect to the gross proceeds of the Bonds that might result in a reduction in the amount required to be paid to the federal government because such arrangement results in a smaller profit or a larger loss than would have resulted if such arrangement had been at arm's length and had the yield on the Bonds not been relevant to either party.
- (j) The College will timely file or cause to be filed with the Secretary of the Treasury of the United States the information required by Section 149(e) of the Code with respect to the Bonds on such form and in such place as the Secretary may prescribe.
- (k) The College will not issue or use the Bonds as part of an “abusive arbitrage device” (as defined in Section 1.148-10(a) of the Regulations). Without limiting the foregoing, the Bonds are not and will not be a part of a transaction or series of transactions that attempts to circumvent the provisions of Section 148 of the Code and the Regulations, by (i) enabling the College to exploit the difference between tax-exempt and taxable interest rates to gain a material financial advantage, or (ii) increasing the burden on the market for tax-exempt obligations.
- (l) Proper officers of the College charged with the responsibility for issuing the Bonds are hereby directed to make, execute and deliver certifications as to facts, estimates or circumstances in existence as of the date of issuance of the Bonds and stating whether there are facts, estimates or circumstances that would materially change the College’s expectations. On or after the date of issuance of the Bonds, the College will take such actions as are necessary and appropriate to assure the continuous accuracy of the representations contained in such certificates.
- (m) The covenants and representations made or required by this Section are for the benefit of the Bond holders and any subsequent Bond holder, and may be relied upon by the Bond holders and any subsequent Bond holder and bond counsel to the College.

In complying with the foregoing covenants, the College may rely upon an unqualified opinion issued to the College by nationally recognized bond counsel that any action by the College or reliance upon any interpretation of the Code or Regulations contained in such opinion will not cause interest on the Bonds to be includable in gross income for federal income tax purposes under existing law.

Notwithstanding any other provision of this Order, the College's representations and obligations under the covenants and provisions of this Section shall survive the defeasance and discharge of the Bonds for as long as such matters are relevant to the exclusion of interest on the Bonds from the gross income of the owners for federal income tax purposes.

23. Qualified Tax Exempt Obligations. If so determined by a Pricing Officer, the College will designate the Bonds as “qualified tax-exempt obligations” as defined in Section 265(b)(3) of the Code. If so designated by a Pricing Officer, the College represents the following:

(a) that during the calendar year 2021, the College (including all entities which issue obligations on behalf of the College), has not designated nor will designate obligations, which when aggregated with the Bonds will result in more than \$10,000,000 of “qualified tax-exempt obligations” being issued and (b) that the College has examined its financing needs for the calendar year 2021 and reasonably anticipates that the amount of bonds, leases, loans or other obligations, together with the Bonds and any other tax-exempt obligations heretofore issued by the College (plus those of all entities which issue obligations on behalf of the College) during the calendar year 2021), when the higher of the face amount or the issue price of each such tax-exempt obligation issued for the calendar year 2021 by the College is taken into account, will not exceed \$10,000,000.

24. Use of Proceeds; Transfer from Existing Interest and Sinking Fund for Refunded Notes. Proceeds from the sale of the Bonds shall, promptly upon receipt by the College, be applied as follows:

(a) An amount equal to the sum of the accrued interest on the Current Interest Bonds, if any, shall be deposited into the Debt Service Fund;

(b) Proceeds from the sale of the Bonds in an amount determined by a Pricing Officer (together with funds, if any, provided by the College) shall be applied to establish an escrow fund or to make a cash deposit to refund the Refunded Notes, as more fully provided below;

(c) An amount equal to the costs of issuance of the Bonds, as approved by the College, shall be applied to pay such costs as the College may arrange; and

(d) Any proceeds of the Bonds remaining after making all such deposits and payments shall be deposited into the Debt Service Fund.

25. Escrow Agreement or Deposit with Paying Agent for Refunded Notes. The discharge and defeasance of the Refunded Notes shall be effectuated by either a cash deposit with the paying agent for the Refunded Notes or pursuant to the terms and provisions of the Escrow Agreement, the terms and provisions of which are hereby approved, subject to such insertions, additions and modifications as shall be approved by a Pricing Officer:

(a) to minimize the College’s costs of refunding;

(b) to comply with all applicable laws and regulations relating to the refunding of the Refunded Notes; and

(c) to carry out the other intents and purposes of this Order, including the execution of the Escrow Agreement, if applicable, and any Pricing Officer is hereby authorized to execute, attest and deliver such Escrow Agreement on behalf of the College in multiple counterparts.

26. Redemption of Refunded Notes.

(a) To maximize the College’s present value savings and to minimize the College’s costs of refunding, the College hereby authorizes and directs that certain of the Refunded Notes shall be called for redemption prior to maturity in the amounts, on the dates and at the redemption prices determined by a Pricing Officer in accordance with Section 21 of this Order, and a Pricing Officer

is hereby authorized and directed to take all necessary and appropriate action to give or cause to be given a notice of redemption and/or a notice of defeasance to the holders or paying agent/registrars, as appropriate, of such Refunded Notes, and, if required, to publish such notices, all in the manner required by the documents authorizing the issuance of such Refunded Notes.

(b) Any Pricing Officer or their designee are hereby authorized and directed to take all necessary and appropriate action to give or file, or to cause to be given or filed, material events notices with respect to the Refunded Notes, as required by the orders authorizing the issuance of the Refunded Notes and the Rule (as hereinafter defined).

27. Purchase of Escrowed Securities. If the Escrow Agreement is utilized, to assure the purchase of the Escrowed Securities referred to in the Escrow Agreement, a Pricing Officer is hereby authorized to subscribe for, agree to purchase and purchase obligations of the United States of America or other securities authorized by law, in such amounts and maturities and bearing interest at such rates as may be provided for in the Report to be attached to the Escrow Agreement, and to execute any and all subscriptions, agreements, commitments, letters of authorization and other documents necessary to effectuate the foregoing. Any actions heretofore taken for such purpose are hereby ratified and approved.

28. Continuing Disclosure Undertaking.

(a) Unless otherwise determined by a Pricing Officer, the College shall provide annually to the MSRB within six months after the end of each fiscal year, financial information and operating data with respect to the College of the general type included in the final Official Statement authorized by Section 30 of this Order, being the information described in the Pricing Certificate. The College shall update such information within six months after the end of each fiscal year. Any financial statements so to be provided shall be (1) prepared in accordance with the accounting principles as the College may be required to employ from time to time pursuant to State law or regulation and (2) audited, if the College commissions an audit of such statements and the audit is completed within the period during which they must be provided. If audited financial statements are not so provided, then the College shall provide unaudited financial statements for the applicable fiscal year by the required time, and audited financial statements when and if audited financial statements become available.

If the College changes its fiscal year, it will notify the MSRB of the change (and of the date of the new fiscal year end) prior to the next date by which the College otherwise would be required to provide financial information and operating data pursuant to this Section.

The financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific reference to documents (i) available to the public on the MSRB's internet web site or (ii) filed with the SEC.

(b) The College shall provide notice of any of the following events with respect to the Bonds to the MSRB through EMMA, in a timely manner, and not more than 10 business days after the occurrence of the event:

- (i) Principal and interest payment delinquencies;
- (ii) Non-payment related defaults, if material;
- (iii) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (iv) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (v) Substitution of credit or liquidity providers, or their failure to perform;
- (vi) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB), or other material notices of determinations with respect to the tax-exempt status of the Bonds, or other material events affecting the tax status of the Bonds;
- (vii) Modifications to rights of holders of the Bonds, if material;
- (viii) Bond calls, if material, and tender offers;
- (ix) Defeasances;
- (x) Release, substitution, or sale of property securing repayment of the Bonds, if material;
- (xi) Rating changes;
- (xii) Bankruptcy, insolvency, receivership, or similar event of the College, which shall occur as described below;
- (xiii) The consummation of a merger, consolidation, or acquisition involving the College or the sale of all or substantially all of its assets, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;
- (xiv) Appointment of a successor or additional trustee or the change of name of a trustee, if material;

- (xv) Incurrence of a Financial Obligation of the College, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the College, any of which affect security holders, if material; and
- (xvi) Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the College, any of which reflect financial difficulties.

As used in clause (12), above, the phrase “bankruptcy, insolvency, receivership or similar event” means the appointment of a receiver, fiscal agent or similar officer for the College in a proceeding under the United States Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets of the College, or if jurisdiction has been assumed by leaving the Board and official or officers of the College in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the College. The College intends that the words used in clauses (15) and (16), above, and the definition of Financial Obligation in this Order have the same meanings as when they are used in the Rule, as evidenced by SEC Release No. 34-83885, dated August 20, 2018.

The College shall notify the MSRB through EMMA, in a timely manner, of any failure by the College to provide financial information or operating data in accordance with subsection (b) of this Section by the time required by such Section.

(c) The College shall be obligated to observe and perform the covenants specified in this Section for so long as, but only for so long as, the College remains an “obligated person” with respect to the Bonds within the meaning of the Rule, except that the College in any event will give the notice required by this Section of any Bond calls and defeasance that cause the College to be no longer such an “obligated person.”

The provisions of this Section are for the sole benefit of the Registered Owners and beneficial owners of the Bonds, and nothing in this Section, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The College undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Section and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the College’s financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Section or otherwise, except as expressly provided herein. The College does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Bonds at any future date.

UNDER NO CIRCUMSTANCES SHALL THE COLLEGE BE LIABLE TO THE REGISTERED OWNER OR BENEFICIAL OWNER OF ANY BOND OR ANY OTHER

PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE COLLEGE, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS SECTION, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.

No default by the College in observing or performing its obligations under this Section shall constitute a breach of or default under the Order for purposes of any other provision of this Order.

Nothing in this Section is intended to or shall act to disclaim, waive, or otherwise limit the duties of the College under federal and state securities laws.

The provisions of this Section may be amended by the College from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the College, but only if (1) the provisions of this Section, as so amended, would have permitted an underwriter to purchase or sell the Bonds in the primary offering of the Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule to the date of such amendment, as well as such changed circumstances, and (2) either (a) the Registered Owners of a majority in aggregate principal amount (or any greater amount required by any other provision of this Order that authorizes such an amendment) of the Outstanding Bonds consent to such amendment or (b) a person that is unaffiliated with the College (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interests of the Registered Owners and beneficial owners of the Bonds. If the College so amends the provisions of this Section, it shall include with any amended financial information or operating data next provided in accordance with this Section an explanation, in narrative form, of the reasons for the amendment and of the impact of any change in the type of financial information or operating data so provided. The College may also amend or repeal the provisions of this Section if the SEC amends or repeals the applicable provisions of the Rule or a court of final jurisdiction enters judgment that such provisions of the Rule are invalid, and the College also may amend the provisions of this Section in its discretion in any other manner or circumstance, but in any case only if and to the extent that the provisions of this sentence would not have prevented an underwriter from lawfully purchasing or selling Bonds in the primary offering of the Bonds, giving effect to (a) such provisions as so amended and (b) any amendments or interpretations of the Rule.

29. Related Matters. To satisfy in a timely manner all of the College's obligations under this Order, the Chair or the Vice Chair, Secretary or Assistant Secretary of the Board, Superintendent and all other appropriate officers, agents and representatives of the College, including a Pricing Officer, are hereby authorized and directed to take all other actions that are reasonably necessary to provide for the issuance of the Bonds, including, without limitation, executing and delivering on behalf of the College all certificates, consents, receipts, requests and other documents as may be reasonably necessary to satisfy the College's obligations under this

Order and to direct the transfer and application of funds of the College consistent with the provisions of this Order.

30. Order a Contract - Amendments. This Order shall constitute a contract with the Owners from time to time, be binding on the College, and shall not be amended or repealed by the College so long as any Bond remains Outstanding except as permitted in this Section. The College may, without the consent of or notice to any Owners, from time to time and at any time, amend this Order in any manner not detrimental to the interests of the Owners, including the curing of any ambiguity, inconsistency, or formal defect or omission herein. In addition, the College may, with the consent of Owners who own a majority of the aggregate principal amount and Maturity Amount, as applicable, of the Bonds then Outstanding affected thereby, amend, add to, or rescind any of the provisions of this Order; provided that, without the consent of all Owners of Bonds affected, no such amendment, addition, or rescission shall (i) extend the time or times of payment of the principal of, Maturity Amount of, premium, if any, and interest on the Bonds, reduce the principal amount or Maturity Amount thereof, the redemption price, or the rate of interest thereon, or in any other way modify the terms of payment of the principal of, Maturity Amount, premium, if any, or interest on the Bonds, (ii) give any preference to any Bond over any other Bond, or (iii) reduce the aggregate principal amount or Maturity Amount of Bonds required to be held by Owners for consent to any such amendment, addition, or rescission.

When used with reference to the Bonds, “Outstanding” shall mean, as of a particular date, all Bonds theretofore and thereupon delivered pursuant to this Order except: (a) any Bonds canceled by or on behalf of the College at or before such date; (b) any Bonds defeased pursuant to the defeasance provisions of this Order or otherwise defeased as permitted by applicable law; and (c) any Bonds in lieu of or in substitution for which a replacement Bond shall have been delivered pursuant to this Order.

31. Official Statement. If necessary, a Pricing Officer, acting severally and individually, is authorized and directed to provide for and oversee, as applicable, the preparation of a preliminary and final official statement, a notice of sale or a private placement memorandum in connection with the issuance of the Bonds, and to approve and deem final such official statement in compliance with the Rule and to provide for and authorize the delivery to the Purchaser of such materials in compliance with such Rule.

32. Power to Revise Form of Documents. Notwithstanding any other provision of this Order, a Pricing Officer is hereby authorized to make or approve such revisions, additions, deletions, and variations to this Order and in the form of the documents attached hereto as exhibits as, in the judgment of a Pricing Officer, and in the opinion of Bond Counsel to the College, may be necessary or convenient to carry out or assist in carrying out the purposes of this Order, the preliminary official statement, final official statement, notice of sale or private placement memorandum, as applicable, or as may be required for approval of the Bonds by the Attorney General of Texas; provided, however, that any changes to such documents resulting in substantive amendments to the terms and conditions of the Bonds or such documents shall be subject to the prior approval of the Board.

33. No Personal Liability. No recourse shall be had for payment of the principal of or interest on any Bonds or for any claim based thereon, or on this Order, against any official or employee of the College or any person executing any Bonds.

34. Reserved.

35. Defeasance. The College may defease the provisions of this Order and discharge its obligation to the Owners of any or all of the Bonds to pay the principal of and interest thereon in any manner now or hereafter permitted by law, including by depositing with the Paying Agent/Registrar or with the Comptroller of the State of Texas either:

(a) cash in an amount equal to (i) the principal amount of and interest thereon on the Current Interest Bonds to the date of maturity or earlier redemption, if any, and/or (ii) the Maturity Amount of the Capital Appreciation Bonds, or

(b) pursuant to an escrow or trust agreement, cash and/or (i) direct non-callable obligations of United States of America, including obligations that are unconditionally guaranteed by the United States of America; (ii) non-callable obligations of an agency or instrumentality of the United States, including obligations that are unconditionally guaranteed or insured by the agency or instrumentality and that, on the date the Board adopts or approves the proceedings authorizing the issuance of refunding bonds, are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent; or (iii) non-callable obligations of a state or an agency or a county, municipality, or other political subdivision of a state that have been refunded and that, on the date the Board adopts or approves the proceedings authorizing the issuance of refunding bonds, are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent, which, in the case of (i), (ii) or (iii), may be in book-entry form, and the principal of and interest on which will, when due or redeemable at the option of the holder, without further investment or reinvestment of either the principal amount thereof or the interest earnings thereon, provide money in an amount which, together with other moneys, if any, held in such escrow at the same time and available for such purpose, shall be sufficient to provide for the timely payment of (A) the principal of and interest thereon on the Current Interest Bonds to the date of maturity or earlier redemption, if any, and (B) the Maturity Amount of the Capital Appreciation Bonds; provided, however, that if any of such Bonds are to be redeemed prior to their respective dates of maturity, provision shall have been made for giving notice of redemption as provided in this Order. Upon such deposit, such Bonds shall no longer be regarded to be outstanding or unpaid. Any surplus amount not required to accomplish such defeasance shall be returned to the College.

36. Notice. Any notice, demand, direction, request or other instrument authorized or required by this Order to be given to or filed with the College or the Paying Agent/Registrar shall be deemed to have been given only upon receipt. Any notice shall be sent by first class mail, postage prepaid, to the address specified below or, to such other address as may be designated in writing by the parties:

College: College of the Mainland
1200 Amburn Road

Texas City, Texas 77591
Attention: Vice President for Fiscal Affairs

Paying Agent/Registrar: As described in the Paying Agent/Registrar Agreement

37. Open Meeting. It is hereby officially found and determined that the meeting at which this Order was adopted was open to the public, and public notice of the time, place and purpose of said meeting was given, all as required by the Open Meetings Law, Chapter 551, Texas Government Code, as amended.

38. Effective Date. This Order shall be in full force and effect from and upon its adoption.

39. Severability. If any section, paragraph, clause or provision of this Order shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Order.

40. Repealer. All orders, resolutions and ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent of such inconsistency.

[signature page follows]

PASSED AND APPROVED this _____ day of _____, 2021.

Chair, Board of Trustees
College of the Mainland

Secretary, Board of Trustees
College of the Mainland

(SEAL)

Exhibit A – Form of Bond
Exhibit B – Escrow Agreement
Exhibit C – Paying Agent/Registrar Agreement

EXHIBIT A

FORMS OF BONDS

[FORM OF CURRENT INTEREST BOND]

UNITED STATES OF AMERICA
STATE OF TEXAS

NUMBER
¹R-
REGISTERED

PRINCIPAL AMOUNT
\$ _____
REGISTERED

COLLEGE OF THE MAINLAND
LIMITED TAX GENERAL OBLIGATION REFUNDING BOND
SERIES 2021

²INTEREST RATE: _____% ²MATURITY DATE: _____, _____ ³DATED DATE: _____, 20__ ²CUSIP: _____

REGISTERED OWNER:

PRINCIPAL AMOUNT: _____ DOLLARS

⁴COLLEGE OF THE MAINLAND (the "College"), for value received, promises to pay to the Registered Owner identified above, or registered assigns, on the Maturity Date specified above, upon presentation and surrender of this Bond at the principal payment office of _____³, _____, Texas, or its successor (the "Paying Agent/Registrar"), the Principal Amount identified above, payable in any coin or currency of the United States of America which on the date of payment of such principal is legal tender for the payment of debts due the United States of America, and to

¹ Initial Bond shall be numbered IR-1.

² Omitted from Initial Bond.

³ Insert from the Pricing Certificate.

⁴ The first sentence of the Initial Bond shall read as follows:

"COLLEGE OF THE MAINLAND (the "College"), for value received hereby promises to pay, to the Registered Owner identified above or registered assigns, in each of the years and in the principal amounts set forth in the following schedule: [Insert information regarding years of maturity, principal amounts and interest rates from the Pricing Certificate] upon presentation and surrender of this bond at the principal payment office of _____³, _____, Texas or its successor (the "Paying Agent/Registrar") in any coin or currency of the United States of America which on the date of payment of such principal is legal tender for the payment of debts due the United States of America, and to pay interest thereon at the rate shown above, calculated on the basis of a 360-day year composed of twelve 30-day months, from the later of the Delivery Date identified above or the most recent interest payment date to which interest has been paid or duly provided for."

pay interest thereon at the rate shown above, calculated on the basis of a 360-day year of twelve 30-day months, from the later of the Delivery Date specified above, or the most recent interest payment date to which interest has been paid or duly provided for. Interest on this bond is payable on each _____ and _____, beginning ⁵ _____, _____ until maturity, by check dated as of the interest payment date and mailed to the Registered Owner of record as of the last business day of the month next preceding each interest payment date, to the address of such owner, as shown on the books of registration kept by the Paying Agent/Registrar. Any accrued interest due at maturity shall be paid upon presentation and surrender of this Bond at the principal payment office of the Paying Agent/Registrar.

THIS BOND is one of a duly authorized issue of bonds, aggregating ⁵\$ _____ (the "Bonds"), issued for the purposes of refunding certain outstanding maintenance tax notes of the College as described in an order adopted by the Board of Trustees of the College (the "Order"), including paying the costs of issuance of the Bonds and of refunding the maintenance tax notes being refunded, all pursuant to Chapter 1207, Texas Government Code, as amended. The Bonds are issued as Bonds in the aggregate principal amount of ⁵\$ _____ that pay interest semiannually until maturity (the "Current Interest Bonds") and Bonds in the aggregate principal amount of ⁵\$ _____ that pay interest only at maturity or prior redemption (the "Premium Capital Appreciation Bonds"). This Bond is a Current Interest Bond⁶.

⁷THE COLLEGE RESERVES THE RIGHT, at its option, to redeem prior to maturity the Current Interest Bonds maturing on or after ⁵ _____, _____, in whole or in part, on ⁵ _____, _____ or on any date thereafter, at a price equal to par plus accrued interest to the date of redemption.

⁸THIS BOND is not subject to redemption prior to maturity.

⁹THE BONDS MATURING on _____ in the years ⁵ _____, _____ (the "Term Bonds") are subject to mandatory sinking fund redemption in the following amounts (subject to reduction as hereinafter provided), on the following dates, in each case at a redemption price equal to the principal amount of the Bonds or the portions thereof so called for redemption plus accrued interest to the date fixed for redemption:

	<u>Mandatory Redemption Dates</u>	<u>Principal Amounts</u>
Term Bonds Maturing ⁵ _____, _____	⁵ _____, _____	⁵ \$ _____
<hr/>		

⁵ To be completed pursuant to the terms of sale as referenced in the Pricing Certificate.

⁶ If no Premium Capital Appreciation Bonds are issued, the previous two sentences shall be replaced with the following: "The Bonds are issued in the aggregate principal amount of ⁵\$ _____ that pay interest semiannually until maturity," and any other references to Current Interest Bonds or Premium Capital Appreciation Bonds shall be removed as appropriate.

⁷ Included if optional redemption provisions are included in the Pricing Certificate.

⁸ Included if optional redemption provisions are not included in the Pricing Certificate.

⁹ Paragraph included if mandatory sinking fund redemption provision are included in the Pricing Certificate.

The particular Term Bonds to be redeemed shall be selected by the Registrar by lot or other customary random selection method, on or before January 1 of each year in which Term Bonds are to be mandatorily redeemed. The principal amount of Term Bonds to be mandatorily redeemed in each year shall be reduced by the principal amount of such Term Bonds that have been optionally redeemed on or before January 1 of such year and which have not been made the basis for a previous reduction.

¹⁰NOT LESS THAN THIRTY (30) DAYS prior to a redemption date, a notice of redemption will be sent by U.S. mail, first class postage prepaid, in the name of the College to each registered owner of a Bond to be redeemed in whole or in part at the address of the registered owner appearing on the registration books of the Registrar at the close of business on the business day next preceding the date of mailing. When Bonds or portions thereof have been called for redemption and due provision has been made to redeem the same, the amounts so redeemed shall be payable solely from the funds provided for redemption, and interest which would otherwise accrue on the Bonds or portions thereof called for redemption shall terminate on the date fixed for redemption.

THIS BOND IS TRANSFERABLE only upon presentation and surrender at the principal corporate trust office of the Paying Agent/Registrar, duly endorsed for transfer or accompanied by an assignment duly executed by the registered owner or his authorized representative, subject to the terms and conditions of the Order.

THIS BOND IS EXCHANGEABLE at the principal corporate trust office of the Paying Agent/Registrar for bonds in the principal amount of \$5,000 or any integral multiple thereof, subject to the terms and conditions of the Order.

THE REGISTRAR IS NOT REQUIRED to accept for transfer or exchange any Bond called for redemption in whole or in part during the 45-day period immediately prior to the date fixed for redemption; provided, however, that such limitation shall not apply to the transfer or exchange by the Registered Owner of the unredeemed portion of any Bond called for redemption in part.

THIS BOND shall not be valid or obligatory for any purpose or be entitled to any benefit under the Order unless this Bond is either (i) registered by the Comptroller of Public Accounts of the State of Texas by registration certificate attached or affixed hereto or (ii) authenticated by the Paying Agent/Registrar by due execution of the authentication certificate endorsed hereon.

THE REGISTERED OWNER of this Bond, by acceptance hereof, acknowledges and agrees to be bound by all the terms and conditions of the Order.

¹⁰ Included if optional redemption provisions or mandatory sinking fund redemption provisions are included in the Pricing Certificate.

THE COLLEGE has covenanted in the Order that it will at all times provide a legally qualified registrar for the Bonds and will cause notice of any change of registrar to be mailed to each registered owner.

IT IS HEREBY certified, recited and covenanted that this Bond has been duly and validly issued and delivered; that all acts, conditions and things required or proper to be performed, to exist and to be done precedent to or in the issuance and delivery of this Bond have been performed, exist and have been done in accordance with law; that the Bonds do not exceed any constitutional or statutory limitation; and that annual ad valorem taxes, within the limits prescribed by law, sufficient to provide for the payment of the interest on and principal of this Bond, as such interest comes due and such principal matures, have been levied and ordered to be levied against all taxable property in the College and have been pledged irrevocably for such payment.

IN WITNESS WHEREOF, this bond has been signed with the manual or facsimile signature of the Chair or the Vice Chair of the Board of Trustees of the College and countersigned with the manual or facsimile signature of the Secretary or Assistant Secretary of the Board of Trustees of the College, and the official seal of the College has been duly impressed, or placed in facsimile, on this bond.

COLLEGE OF THE MAINLAND

(SEAL)

Chair, Board of Trustees

Secretary, Board of Trustees

* * *

[FORM OF PREMIUM CAPITAL APPRECIATION BOND]

UNITED STATES OF AMERICA
STATE OF TEXAS

NUMBER
¹CR-
REGISTERED

MATURITY AMOUNT
\$ _____
REGISTERED

COLLEGE OF THE MAINLAND
LIMITED TAX GENERAL OBLIGATION REFUNDING BOND
SERIES 2021

²INTEREST RATE: _____% ²MATURITY DATE: _____, _____ ³ISSUANCE DATE: _____, 2020 ²CUSIP: _____

REGISTERED OWNER:

MATURITY AMOUNT: _____ DOLLARS

⁴COLLEGE OF THE MAINLAND (the "College"), for value received, promises to pay to the Registered Owner identified above, or registered assigns, on the Maturity Date specified above, upon presentation and surrender of this bond at the principal payment office of _____³, _____, Texas, or its successor (the "Paying Agent/Registrar"), the Maturity Amount identified above, representing the principal amount hereof, premium, if any, and accrued and compounded interest hereon, in any coin or currency of the United States of America which on the date of payment is legal tender for the payment of debts due the United States of America. This Bond shall be dated ³ _____, 20__, but compound interest shall accrue on the principal amount hereof from the Issuance Date at the per annum rate specified above. The accreted value (per \$5,000 of Maturity Amount) as of the Issuance Date and as of each _____ and _____ is set forth in the Table of Accreted Values attached hereto. Such value as of any other date shall be determined by straight-line interpolation between such values.

1 Initial Bond shall be numbered ICR-1.

2 Omitted from Initial Bond.

3 Insert from the Pricing Certificate.

4 The first sentence of the Initial Bond shall read as follows:

COLLEGE OF THE MAINLAND (the "College"), for value received hereby promises to pay, to the Registered Owner identified above or registered assigns, in each of the years and in the Maturity Amounts set forth in the below schedule upon presentation and surrender of this bond at the principal payment office of _____³, _____, Texas, in any coin or currency of the United States of America which on the date of payment is legal tender for the payment of debts due the United States of America: [Insert information regarding years of maturity, Maturity Amounts and yield from the Pricing Certificate].

THIS BOND is one of a duly authorized issue of bonds, aggregating ⁵\$_____ (the “Bonds”), issued for the purposes of refunding certain outstanding bonds of the College as described in an order adopted by the Board of Trustees of the College (the “Order”), including paying the costs of issuance of the Bonds and of refunding the maintenance tax notes being refunded, all pursuant to Chapter 1207, Texas Government Code, as amended. The Bonds are issued as Bonds in the aggregate principal amount of ⁵\$_____ that pay interest semiannually until maturity (the “Current Interest Bonds”) and Bonds in the aggregate principal amount of ⁵\$_____ that pay interest only at maturity (the “Premium Capital Appreciation Bonds”). This Bond is a Premium Capital Appreciation Bond.

THIS BOND is not subject to redemption prior to maturity.⁵

THIS BOND IS TRANSFERABLE only upon presentation and surrender at the corporate trust office of the Paying Agent/Registrar, duly endorsed for transfer or accompanied by an assignment duly executed by the registered owner or his authorized representative, subject to the terms and conditions of the Order.

THIS BOND IS EXCHANGEABLE at the corporate trust office of the Paying Agent/Registrar, for bonds in the Maturity Amount of \$5,000 or any integral multiple thereof, subject to the terms and conditions of the Order.

THIS BOND shall not be valid or obligatory for any purpose or be entitled to any benefit under the Order unless this Bond is either (i) registered by the Comptroller of Public Accounts of the State of Texas by registration certificate attached or affixed hereto or (ii) authenticated by the Paying Agent/Registrar by due execution of the authentication certificate endorsed hereon.

THE REGISTERED OWNER of this Bond, by acceptance hereof, acknowledges and agrees to be bound by all the terms and conditions of the Order.

THE COLLEGE has covenanted in the Order that it will at all times provide a legally qualified registrar for the Bonds and will cause notice of any change of registrar to be mailed to each registered owner.

IT IS HEREBY certified, recited and covenanted that this Bond has been duly and validly issued and delivered; that all acts, conditions and things required or proper to be performed, to exist and to be done precedent to or in the issuance and delivery of this Bond have been performed, exist and have been done in accordance with law; that the Bonds do not exceed any constitutional or statutory limitation; and that annual ad valorem taxes, within the limits prescribed by law, sufficient to provide for the payment of the interest on and principal of this Bond, as such interest comes due and such principal matures, have been levied and ordered to be levied against all taxable property in the College and have been pledged irrevocably for such payment.

⁵ To be completed pursuant to the terms of sale as referenced in the Pricing Certificate.

IN WITNESS WHEREOF, this bond has been signed with the manual or facsimile signature of the Chair or the Vice Chair of the Board of Trustees of the College and countersigned with the manual or facsimile signature of the Secretary or Assistant Secretary of the Board of Trustees of the College, and the official seal of the College has been duly impressed, or placed in facsimile, on this bond.

COLLEGE OF THE MAINLAND

(SEAL)

Chair, Board of Trustees

Secretary, Board of Trustees

* * *

TABLE OF ACCRETED VALUES

The Accreted Value, initial offering price (all per \$5,000 of Maturity Amount), together with the yield to maturity are as follows. Accreted Values are calculated based on the initial offering price and yield to maturity and, except at maturity, do not equal principal amount plus accrued interest for any purpose except as provided in the Order.

[To be determined in Pricing Certificate]

* * *

[FORM OF REGISTRATION CERTIFICATE OF COMPTROLLER]

COMPTROLLER'S REGISTRATION CERTIFICATE: REGISTER NO. _____

I hereby certify that this bond has been examined, certified as to validity and approved by the Attorney General of the State of Texas, and that this bond has been registered by the Comptroller of Public Accounts of the State of Texas.

WITNESS MY SIGNATURE AND SEAL this _____.

(SEAL)

Comptroller of Public Accounts
of the State of Texas

* * *

[FORM OF REGISTRAR'S AUTHENTICATION CERTIFICATE]

AUTHENTICATION CERTIFICATE

It is hereby certified that this bond has been delivered pursuant to the Order described in the text of this bond, in exchange for or in replacement of a bond, bonds or a portion of a bond or bonds of an issue of bonds which was originally approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas.

[Paying Agent/Registrar]

By: _____

Authorized Signature: _____

Date of Authentication: _____

* * * *

[FORM OF ASSIGNMENT]

ASSIGNMENT

For value received, the undersigned hereby sells, assigns and transfers unto _____

(Please print or type name, address and zip code of Transferee)

(Please insert Social Security or Taxpayer Identification Number of Transferee)

the within bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____ attorney to transfer such bond on the books kept for registration thereof, with full power of substitution in the premises.

DATED: _____

Signature Guaranteed:

NOTICE: Signature must be guaranteed by a member firm of the New York Stock Exchange or a commercial bank or trust company.

NOTICE: The signature above must correspond to the name of the registered owner as shown on the face of this bond in every particular, without any alteration, enlargement or change whatsoever.

* * * *

[FORM OF STATEMENT OF INSURANCE]

[To be determined in Pricing Certificate]

* * * *

EXHIBIT B
ESCROW AGREEMENT

[See Tab No. __]

EXHIBIT C
PAYING AGENT/REGISTRAR AGREEMENT

[See Tab __]



Minute Order

To: Board of Trustees
From: Dr. Warren Nichols, President Date:
May 24, 2021
Subject: Agenda Item for COM Board of Trustees

AGENDA ITEM DESCRIPTION:

Procurement Method for Student Center Landscaping and Hardscape Construction

FUNDING SOURCE:

2018 Bond Funds

PURPOSE

To comply with Government Code 2269.251 for the selection of the procurement method to support projects identified in the Master Plan.

PROPOSED MOTION:

"I move the Board of Trustees Approve the procurement method of utilizing a Construction Manager-At-Risk for the Student Center Landscaping and Hardscape Construction."

BACKGROUND

In order to begin the initial phases of the subject project, Government Code 2269 requires the Board of Trustees select a procurement method for an individual project, a series of projects in a bond issue, or for all construction projects by means of a Board action, without delegation to administration. There are three procurement options that can be used when contracting services in support of construction projects. Option 1 is by competitive bidding whereby evaluation criteria is not referenced and contract award is based on price alone. Option 2 is a Request for Competitive Sealed Proposals (RFCSP) when specific evaluation criteria is referenced and contract award is based on a best value analysis of each proposal supported by weighted evaluation criteria. Option 3 is to utilize a Construction-Manager-At Risk whereby the institution must contract with an architect or engineer for design and construction phase services, yet contracts separately with a Construction Manager-At-Risk to serve as the primary general contractor to provide consultation during the design and construction, rehabilitation, alteration, or repair of a facility.

In this case, the Construction Manager-At-Risk is a sole proprietorship, partnership, corporation or other legal entity that assumes all risk for the construction, repairs or renovations at a guaranteed maximum contracted price and acts as the general contractor in accordance with Government Code 2269.251. A recommendation for contract award will be presented to the Board for final approval once proposals are evaluated and negotiations are finalized. The selected Construction Manager will then coordinate all efforts related to project planning, selection of personnel, and subcontractors to perform the subject project, while managing schedules and cost in tandem with the COM Facilities Director and PBK.



Minute Order

To: Board of Trustees
From: Dr. Warren Nichols, President Date:
May 24, 2021
Subject: Agenda Item for COM Board of Trustees

AGENDA ITEM DESCRIPTION:

Procurement Method for Fine Arts Building Renovations and New Construction

FUNDING SOURCE:

2018 Bond Funds

PURPOSE

To comply with Government Code 2269.251 for the selection of the procurement method to support projects identified in the Master Plan.

PROPOSED MOTION:

"I move the Board of Trustees Approve the procurement method of utilizing a Construction Manager-At-Risk for the renovation and new construction of the Fine Arts building."

BACKGROUND

In order to begin the initial phases of the subject project, Government Code 2269 requires the Board of Trustees select a procurement method for an individual project, a series of projects in a bond issue, or for all construction projects by means of a Board action, without delegation to administration. There are three procurement options that can be used when contracting services in support of construction projects. Option 1 is by competitive bidding whereby evaluation criteria is not referenced and contract award is based on price alone. Option 2 is a Request for Competitive Sealed Proposals (RFCSP) when specific evaluation criteria is referenced and contract award is based on a best value analysis of each proposal supported by weighted evaluation criteria. Option 3 is to utilize a Construction-Manager-At Risk whereby the institution must contract with an architect or engineer for design and construction phase services, yet contracts separately with a Construction Manager-At-Risk to serve as the primary general contractor to provide consultation during the design and construction, rehabilitation, alteration, or repair of a facility.

In this case, the Construction Manager-At-Risk is a sole proprietorship, partnership, corporation or other legal entity that assumes all risk for the construction, repairs or renovations at a guaranteed maximum contracted price and acts as the general contractor in accordance with Government Code 2269.251. A recommendation for contract award will be presented to the Board for final approval once proposals are evaluated and negotiations are finalized. The selected Construction Manager will then coordinate all efforts related to project planning, selection of personnel, and subcontractors to perform the subject project, while managing schedules and cost in tandem with the COM Facilities Director and PBK.



PRESIDENT'S OFFICE

Update Report on Bursar and Cash Management Internal Audit

Presenters: Trudy Trochesset, Controller and Andrea Phillip, Bursar



Update Report on Bursar and Cash Management Internal Audit

**Presenters: Trudy Trochesset, Controller
Andrea Phillip, Bursar**

Audit Scope

Scope Period: 9/1/2018 through 12/31/2019

The audit focused on the Bursar and Cash Management processes.

Procedures were reviewed for appropriate risk and regulatory coverage and compliance to ensure efficient and effective processes.

The scope included:

- **Daily Cash Receipts and Deposits**
- **Credit Card Receipts and Processing**
- **Daily Point of Sale Reconciliation**
- **Cash Handling Oversight**
- **Student Accounting**
- **Accounts Receivable and Collections**
- **Cash Management**

Objectives

- Objective A: Verify internal control processes are designed to ensure that consistent processes are implemented and designed effectively to address risk and ensure effective operations.
- Objective A Rating: **Satisfactory**
- Objective B: Ensure that controls over selected critical process are operating efficiently, effectively, and resulting in accurate processing, information, and timely completion.
- Objective B Rating: **Satisfactory**
- Objective C: Evaluate access within key systems and other applications in the Bursar and Cash Management processes are appropriately restricted and monitored.
- Objective C Rating: **Unsatisfactory**
- Within the enterprise system (Colleague), only 1 employee was identified with inappropriate access. The access was immediately removed and an annual review was implemented with IT.

The audit team identified 61 total controls in place over the significant activities within the Bursar and Cash Management processes.

Process Area	Control Coverage	Findings
Bursar and Cash Management Processes		
Daily Cash Receipts and Deposits	17	Finding 1
Credit Cards Receipts and Processing	4	Finding 2, 3, 4
Daily POS Reconciliation	3	-
Cash Handling Oversight	11	Finding 1, 4, 5
Student Accounting	7	Finding 4
Accounts Receivable and Collections	9	Finding 6
Cash Management	10	Finding 4
Total	61	

It was determined that significant controls were in place, but opportunities for improvement were identified.

Finding 01 – Low Theater and Deposit Process

Implement oversight controls over the reconciliation of the Theatre Box Office collections and require Campus Police to pick up deposits.

Finding 02 – Moderate Credit Card Processing for Gym Users

Delineate gym users (non-students) from students in Colleague or maintain a membership directory in a separate application.

Finding 05 – Low Cosmetology Cash Reconciliation and Deposit

Install a camera in the Cosmetology Office and require Campus Police to pick up deposits on Thursday and Friday when funds are collected.

These findings have been discussed with the appropriate staff and will be addressed again within 6 months of full return to campus due to COVID-19.

Finding 03 – High Credit Card Processing Applications Agreements

Obtain, approve, and store a current and complete agreement, with exhibits, with the credit card processing application Point & Pay.

Discontinue services with Merchant Bank for the Theatre credit card transactions.

- After additional review by COM's staff attorney, the agreement on file with Point & Pay was valid.
- The exhibits have been obtained and are now on file.
- The services and the agreement with Merchant Bank have been discontinued.
- The credit card transactions for the Theatre are now through a secure on-line system, Stripes. The Testing Center payments are also received through Stripes.

Initial implementation date: 6 months after full return to campus due to COVID-19.

Updated implementation date of 5/1/2021 achieved.

Finding 04 – Moderate Accounts Receivable Weekly Recon and Additional FTE

Perform the accounts receivable reconciliation on a weekly basis to ensure consistency in the timing of the reconciliation. Change name of form from “daily”. Pursue the approval of an additional FTE to assist with the current workload of the Bursar and the Accounts Receivable staff.

- The Bursar is now consistently performing the reconciliation on a weekly basis.
- The name of the form has been changed from “daily” to “cashier work reconciliation”.
- During the FY19-20 budget process, the funding for an additional FTE in the Business Office, specifically for the area of accounts receivable was approved.
- An Accounts Receivable Lead was hired and began the position on May 1, 2021.

Finding 06 – High Collegiate High School (CHS) Tuition Calculation

With the assistance of IT, automate the CHS tuition discount calculation and implement a workflow to ensure complete supporting documentation is obtained and stored. The Bursar should implement spot checks of CHS tuition calculations for accuracy and appropriate documentations.

- The Bursar has implemented reviews of all CHS tuition calculations.
- The Bursar checks for accuracy and appropriate documentation.
- The plan for automation of the calculations is to work with IT and the CHS principal on a process for this within 6 months of full return to campus due to COVID-19.

Initial implementation date: 6 months after full return to campus due to COVID-19.
Updated implementation date for spot checks only of 09/01/2020 achieved.

Finding 07 – Low Daily Deposit Process

Verify that the Campus Police sign the Daily Deposit Log prior to leaving the Cashiering station with the deposit bag. Implement a process for signature.

- A process has always been in place for signature of Campus Police prior to the officer leaving with the deposit bag.
- The internal audit identified 1 instance where this did not occur.
- Management has reinforced the necessity of the signature to ensure that a signature is received from the Campus Police 100% of the time.

Initial implementation date: 6 months after full return to campus due to COVID-19.
Updated implementation date of 3/24/2021 achieved.

Finding 08 – Low Gym and Child Care Credit Cards Reconciliation

Implement an electronic assisted reconciliation process to prevent the manual identification and tally of the Gym and Child Care Point & Pay credit card transaction amounts.

- This finding has been significantly affected by the closing of the Child Care facility and the effects of COVID-19 on Gym membership.
- The Bursar & the Controller have already coordinated to develop a process to assist in the application & reconciliation of gym membership payments following the reinstatement of credit card payment for gym membership.

Finding 09 – Moderate Tuition & Fees

Admissions and Records (A&R) should continue to test the workflow implemented to ensure changes manually entered into the students' records are identified, reviewed, deemed accurate and appropriately documented.

From the Dean of Students:

- In October of 2019, the workflow process was implemented by A&R to review manual changes entered into the students' records in Colleague in critical fields, such as ones affecting tuition and fees.
- These fields are reviewed by a 2nd A&R employee and documented.

From the Business Office:

- Course fees are set up by Instruction staff.
- The Controller/Bursar will coordinate with the Instructional Operations Manager to implement a process to validate the appropriateness of non-standard fees as listed in the annual course catalog.

Initial implementation date: 9/1/2020; achieved.

Finding 10 – High Student Refunds

Automate the preparation and processing of non-financial aid student refunds.

- The Bursar will implement a review process similar to the process currently in place for financial aid student refunds for accuracy and completeness.
- The review process will include verifying tuition and fees, changes made to the student account and calculation of refunds prior to processing.

Implementation date: 6/1/2020; achieved

Finding 11 – Moderate Exemptions & Waivers

Reemphasize existing procedures to consistently evidence the review, approval, and storage of the students' exemption/waiver qualification documentation.

- The Bursar will review the process of acquiring the verifying documentation for exemptions.
- This will be discussed and reinforced with the Cashiers and the AR staff.
- Initials of the reviewer will be required.
- Documentation will be retained for each correction or adjustment that may occur on each student's exemption/waiver.

Initial implementation date: 3 months after full return to campus due to COVID-19.
Updated implementation date of 1/4/2021 achieved

Finding 12 – Low Incoming Wires

Implement a process to ensure incoming wires are identified, reviewed, and coded to the general ledger timely.

- A process is in place to ensure that all incoming wires are coded to the general ledger timely and accurately.
- There are times when COM receives funds via wire transfer that are not quickly identifiable. Payors sometimes send payments without enough detailed information for accurate entry. This requires further research by the Business Office.
- The Business Office will make every effort to contact and encourage the payor to provide sufficient information for payment application.

Implementation date: 4/1/2020; achieved

Finding 13 – Moderate Outgoing Wires

Establish, communicate, and enforce the preferred guidelines that should be followed when initiating and reviewing outgoing wires.

Update request forms to include the date for all signatures.

- The wire request form will be updated to include the date for all signatures.
- If the approver is not available for signature prior to the wire, the reason will be documented.

Implementation date: 4/1/2020; achieved

Finding 14 – High Virtual Cashier Use Access - Gym

Implement a process to manage gym employee access to the Virtual Cashier application.

- The Bursar will have lone administrative rights in which to activate or deactivate employees on the Virtual Cashier site.
- The Bursar will coordinate with the Director of Student Life each semester to review the list of gym employees who have access to Virtual Cashier.
- This will allow the Bursar to keep access current and to know whose access should be terminated.

Initial implementation date: 3 months after full return to campus due to COVID-19.
Updated implementation date of 9/1/2020 achieved.

Finding 15 – High Inappropriate Colleague User Access

In conjunction with IT, implement an annual review of user access to Business Office Colleague modules.

- The Business Office has coordinated with IT and the inappropriate access has been removed.
- At the end of each fiscal year, the Controller will request a user access list from IT that includes the Business Office modules.
- The list will be reviewed to ensure the access levels assigned are appropriate for current College employees.

Implementation date: 9/1/2020; achieved

Questions

Closing Remarks

Thank you.



MINUTE ORDER

To: Board of Trustees
From: Dr. Warren Nichols, President
Date: May 13, 2021
Subject: Subject: Monthly Financial & Investment Reports

AGENDA ITEM DESCRIPTION:

Consideration of and possible acceptance of the April 2021 Investment and Financial Reports.

PURPOSE

To report to the Board of Trustees the year-to-date revenues and expenses for the college, comparison of revenues and expenses to budget, and the college's current cash balance.

FUNDING SOURCE:

N/A

PROPOSED MOTION:

Suggested motion: "I move the Board of Trustees accept the April 2021 Investment Report and the April 2021 Financial Reports."

BACKGROUND

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.

In accordance with COM policy CDA (LOCAL) – Periodic financial reports shall be submitted to the Board outlining the progress of the budget to that date and reporting on the status of all District funds and District accounts.

ATTACHMENTS

1. April 2021 Investment Discussion & Report
2. April 2021 Revenue & Expense Summary
3. April 2021 Expense by Division Report



INVESTMENT REPORT
For the Month Ended April 2021

Investment discussion:

College of the Mainland earned \$5,379 for the month of April on its short-term investments in TexPool & Logic for a total of \$95,942 investment interest earned fiscal year to date. The College earned an additional \$1.00, fiscal year to date, from interest-bearing checking accounts. In total, the College earned \$95,944 interest for the fiscal year to date period ending April: TexPool - \$6,943 Logic 19 - \$16,157, Logic 20 - \$72,843, and TFB - \$1.

Investments in the TexPool & Logic investment pools remain more profitable than fixed rate certificate of deposits purchased at our depository bank. In addition, the investment pool provides more efficient liquidity than certificates of deposit, which are restricted to specific term lengths. Therefore, all investment funds remain in TexPool, Logic and interest earning checking accounts.

Investment Compliance Statement:

We provide reasonable assurance that the attached listing constitutes all investments currently owned by the College of the Mainland District as of the date indicated and that all these investments and investing procedures conform to the "Public Funds Investment Act" as amended by House Bill 2459 of the 74th Texas Legislature.

Furthermore, these same investments are in compliance with College of the Mainland's investment policy and strategy as adopted by the College of the Mainland's Board of Trustees.

A handwritten signature in blue ink, appearing to read 'Clen Burton', written over a horizontal line.

Clen Burton
Vice President of Fiscal Affairs
College of the Mainland

A handwritten signature in blue ink, appearing to read 'Trudy Trochesset', written over a horizontal line.

Trudy Trochesset
Controller
College of the Mainland



TexPool Investments for April 2021.

Investment	COM Fund	Balance Beginning of Month	Increases	Decreases	Interest Earned	Balance End of Month	Average Balance	Annualized Average Interest Rate
Operating	11	\$ 26,789,792	\$ 3,000,000	\$ 2,032,000	290	27,758,082	26,257,802	0.013%
Moody	41	26,599	-	-	0	26,599	26,599	0.015%
Totals		\$ 26,816,391	\$ 3,000,000	\$ 2,032,000	\$ 290	\$ 27,784,681	\$ 26,284,400	

Note: For the above listed investments in TexPool, book value is equivalent to market value.
There was no accrued interest as of April 2021.

Logic (Hilltop Securities) Investments for April 2021.

Investment	COM Fund	Balance Beginning of Month	Increases	Decreases	Interest Earned	Balance End of Month	Average Balance	Annualized Average Interest Rate
COM Bond 2019	45	\$ 966	\$ -	\$ 966	0	0	257	0.085%
COM Bond 2020	46	\$ 73,487,368	\$ 966	\$ 1,997,389	5,089	71,496,034	72,782,723	0.085%
Totals		\$ 73,488,334	\$ 966	\$ 1,998,354	\$ 5,089	\$ 71,496,034	\$ 72,782,980	
Totals		\$ 100,304,725	\$ 3,000,966	\$ 4,030,354	\$ 5,379	\$ 99,280,715	\$ 99,067,381	

Unrestricted Fund (Unaudited)

Summary of Revenue

	<u>Current Actual</u>	<u>2020-21 Budget</u>	<u>Budget Remaining</u>	<u>Budget Pct.YTD</u>	<u>Prior Year to Actual</u>	<u>Curr. vs Prior Year to Year</u>
Operating revenue						
Tuition-credit	(4,809,277)	(5,201,169)	(391,892)	92%	(5,221,106)	411,829
Tuition-non-credit	(318,217)	(1,288,889)	(970,672)	25%	(439,303)	121,085
Exemptions and waivers	1,445,816	1,368,240	(77,576)	106%	1,467,273	(21,457)
Registration fees	(2,276,004)	(2,209,200)	66,804	103%	(2,309,742)	33,738
Other fees	(103,773)	(168,982)	(65,209)	61%	(91,342)	(12,431)
Grant revenue	(295,544)	(81,568)	213,976	362%	(79,564)	(215,980)
Sales and service revenue	276	(533,800)	(534,076)	0%	(29,010)	29,285
Miscellaneous revenue	(117,353)	(134,632)	(17,279)	87%	(75,863)	(41,491)
TPEG transfer in/out	0	250,000	250,000	0%	0	0
<u>Totals for Operating revenue</u>	<u>(6,474,077)</u>	<u>(8,000,000)</u>	<u>(1,525,923)</u>	<u>81%</u>	<u>(6,778,656)</u>	<u>304,579</u>
Non-operating revenue						
State appropriation-Academic	(4,051,839)	(6,533,000)	(2,481,161)	62%	(4,051,874)	35
Property tax revenue	(22,933,058)	(23,450,000)	(516,942)	98%	(22,915,998)	(17,060)
Interest revenue	(6,930)	(350,000)	(343,070)	2%	(141,768)	134,838
FTZ reimbursement	(531,472)	(350,000)	181,472	152%	(483,127)	(48,345)
Renew & replace transfer out	0	1,783,000	1,783,000	0%	0	0
<u>Totals for Non-operating revenue</u>	<u>(27,523,299)</u>	<u>(28,900,000)</u>	<u>(1,376,701)</u>	<u>95%</u>	<u>(27,592,767)</u>	<u>69,467</u>
<u>Total Revenue</u>	<u>(33,997,376)</u>	<u>(36,900,000)</u>	<u>(2,902,624)</u>	<u>92%</u>	<u>(34,371,422)</u>	<u>374,046</u>

Unrestricted Fund (Unaudited)

Summary of Expense

	<u>Current Actual</u>	<u>2020-21 Budget</u>	<u>Budget Remaining</u>	<u>Budget Pct.YTD</u>	<u>Prior Year to Actual</u>	<u>Curr. vs Prior Year to Year</u>
Salary and wages						
Faculty full-time	5,112,555	7,748,736	2,636,181	66%	5,059,259	53,295
Admin full-time	1,077,670	1,524,001	446,331	71%	1,025,569	52,101
Professional full-time	4,704,300	7,156,023	2,451,723	66%	4,861,235	(156,934)
Classified full-time	0	4,102,272	4,102,272	0%	2,649,877	(2,649,877)
Part-time	1,418,189	3,841,946	2,423,757	37%	2,117,492	(699,302)
Salary increase	0	282,223	282,223	0%	0	0
Vacancy savings	0	(970,000)	(970,000)	0%	0	0
<u>Totals for Salary and wages</u>	<u>12,312,714</u>	<u>23,685,201</u>	<u>11,372,487</u>	<u>52%</u>	<u>15,713,431</u>	<u>(3,400,717)</u>
Benefits						
Benefits	2,974,443	4,156,934	1,182,491	72%	3,101,527	(127,084)
<u>Totals for Benefits</u>	<u>2,974,443</u>	<u>4,156,934</u>	<u>1,182,491</u>	<u>72%</u>	<u>3,101,527</u>	<u>(127,084)</u>
Operating expenses						
Contract services	1,993,324	2,799,955	806,631	71%	2,079,921	(86,598)
Legal	5,346	12,485	7,139	43%	4,209	1,137
Operations	243,466	747,095	503,629	33%	437,643	(194,177)
Utilities and Rent	941,089	1,511,223	570,134	62%	942,169	(1,080)
Postage, printing, and supplies	406,195	1,350,486	944,290	30%	533,265	(127,070)
Bank fees	40,701	84,000	43,299	48%	41,276	(575)
Capital outlay & leases	41,852	56,503	14,651	74%	45,188	(3,336)
Insurance	1,639,900	852,013	(787,887)	192%	821,363	818,537
Public relations and advertising	44,989	245,346	200,357	18%	54,647	(9,658)
Misc.	287,728	347,349	59,622	83%	301,729	(14,001)
Reimbursement from Others	0	(148,590)	(148,590)	0%	0	0
MTN Payment	337,500	1,200,000	862,500	28%	345,075	(7,575)

Unrestricted Fund (Unaudited)

<u>Totals for Operating expenses</u>	<u>5,982,090</u>	<u>9,057,865</u>	<u>3,075,775</u>	<u>66%</u>	<u>5,606,485</u>	<u>375,605</u>
<u>Total Expense</u>	<u>21,269,247</u>	<u>36,900,000</u>	<u>15,630,753</u>	<u>58%</u>	<u>24,421,444</u>	<u>(3,152,197)</u>

Unrestricted Fund (Unaudited)

Summary of Fund Bal

	<u>Current Actual</u>	<u>2020-21 Budget</u>	<u>Budget Remaining</u>	<u>Budget Pct.YTD</u>	<u>Prior Year to Actual</u>	<u>Curr. vs Prior Year to Year</u>
Operating expenses						
Contract services	372,597	0	(372,597)	0%	168,566	204,031
Operations	0	0	0	0%	35,891	(35,891)
Utilities and Rent	92,756	0	(92,756)	0%	0	92,756
Postage, printing, and supplies	733,407	0	(733,407)	0%	325,685	407,723
Capital outlay & leases	336,199	0	(336,199)	0%	433,815	(97,616)
Misc.	44,570	0	(44,570)	0%	0	44,570
<u>Totals for Operating expenses</u>	<u>1,579,529</u>	<u>0</u>	<u>(1,579,529)</u>	<u>0%</u>	<u>963,957</u>	<u>615,572</u>
<u>Total Fund Bal</u>	<u>1,579,529</u>	<u>0</u>	<u>(1,579,529)</u>	<u>0%</u>	<u>963,957</u>	<u>615,572</u>

Unrestricted Fund (Unaudited)

	<u>Current Actual</u>	<u>2020-21 Budget</u>	<u>Budget Remaining</u>	<u>Budget Pct.YTD</u>	<u>Prior Year to Actual</u>	<u>Curr. vs Prior Year to Year</u>
<u>Expense by Division</u>						
<u>Summary for President</u>						
Board of Trustees	12,905	19,400	6,495	67%	21,396	(8,491)
Campus Police	305,579	837,392	531,813	36%	508,615	(203,036)
Emergency Management	0	0	0	0%	195	(195)
Gen Institution	211,968	308,404	96,436	69%	219,933	(7,965)
Information Technology Serv	1,218,614	1,967,081	748,467	62%	1,343,195	(124,581)
Internal Audit	117,760	150,000	32,240	79%	90,876	26,884
OPEAR	337,378	448,688	111,310	75%	296,599	40,779
Presidents Office	390,557	577,455	186,898	68%	393,526	(2,970)
Self Study SACS	1,000	18,000	17,000	6%	1,541	(541)
Staff Attorney	96,251	172,595	76,344	56%	106,310	(10,059)
<u>Totals for President</u>	<u>2,692,011</u>	<u>4,499,014</u>	<u>1,807,003</u>	<u>60%</u>	<u>2,982,187</u>	<u>(290,176)</u>
<u>Summary for VP Fiscal Affairs</u>						
Central Mail	24,021	125,912	101,890	19%	79,801	(55,780)
Custodial Services	92,483	363,278	270,795	25%	241,929	(149,446)
Facilities	2,942,029	3,116,739	174,710	94%	2,444,704	497,325
Financial Services	333,111	872,842	539,731	38%	626,259	(293,149)
Grounds	49,914	115,757	65,843	43%	108,534	(58,620)
Human Resources	303,946	530,088	226,142	57%	327,930	(23,984)
Maintenance Tax Note	337,500	1,200,000	862,500	28%	345,075	(7,575)
Purchasing	186,696	289,876	103,180	64%	182,292	4,404
Records Mgmt	5,498	20,952	15,454	26%	14,355	(8,856)
Reimbursement	0	(148,590)	(148,590)	0%	0	0
Salary Savings	0	(970,000)	(970,000)	0%	0	0
Staff Benefits	579,844	2,416,918	1,837,074	24%	822,773	(242,929)

Unrestricted Fund (Unaudited)

	<u>Current Actual</u>	<u>2020-21 Budget</u>	<u>Budget Remaining</u>	<u>Budget Pct.YTD</u>	<u>Prior Year to Actual</u>	<u>Curr. vs Prior Year to Year</u>
Tax Admin	188,661	232,631	43,970	81%	181,285	7,376
Telecommunications	0	0	0	0%	594	(594)
Utilities	373,074	625,000	251,926	60%	397,038	(23,964)
Vehicle Operations	41,346	105,390	64,044	39%	73,547	(32,200)
VP College & Fin Svcs	137,141	235,181	98,041	58%	172,028	(34,887)
<u>Totals for VP Fiscal Affairs</u>	<u>5,595,265</u>	<u>9,131,974</u>	<u>3,536,710</u>	<u>61%</u>	<u>6,018,144</u>	<u>(422,879)</u>
<u>Summary for VP Institutional Advancement</u>						
COM Foundation Dept	20,232	108,540	88,307	19%	60,691	(40,459)
Marketing and Communications	403,244	817,560	414,316	49%	506,943	(103,699)
VP Institutional Advancement	397,832	567,099	169,267	70%	379,229	18,602
<u>Totals for VP Institutional Advancement</u>	<u>821,308</u>	<u>1,493,198</u>	<u>671,890</u>	<u>55%</u>	<u>946,864</u>	<u>(125,556)</u>
<u>Summary for VP Instruction</u>						
Acad Succ Re/Wr	620,519	799,534	179,015	78%	637,217	(16,697)
Accting-Credit	120,233	105,931	(14,303)	114%	105,973	14,260
Adm-C.I.D.T.	8,204	67,508	59,305	12%	41,117	(32,913)
Adm-Cont Ed	245,318	361,290	115,973	68%	360,204	(114,886)
Adm-Ind Tech	0	8,000	8,000	0%	3,529	(3,529)
Adm-Instruct	7,287	75,845	68,558	10%	43,970	(36,684)
Adm-Perf & Vis Arts	12,777	79,058	66,281	16%	52,693	(39,916)
Adm-Pub Svc Ed	6,585	60,044	53,459	11%	63,710	(57,125)
Adm-Science	3,711	64,189	60,479	6%	22,026	(18,316)
Adm-Soc Sci	11,657	78,009	66,352	15%	47,494	(35,837)
Adult Education	77,794	199,674	121,880	39%	126,913	(49,119)
Allied Health CE	159,152	261,559	102,407	61%	188,864	(29,713)
Art	164,850	231,488	66,638	71%	166,642	(1,792)
Art Gallery	40,049	58,412	18,363	69%	40,952	(903)
Biol & Nutrition	473,456	686,352	212,896	69%	498,092	(24,636)

Unrestricted Fund (Unaudited)

	<u>Current Actual</u>	<u>2020-21 Budget</u>	<u>Budget Remaining</u>	<u>Budget Pct.YTD</u>	<u>Prior Year to Actual</u>	<u>Curr. vs Prior Year to Year</u>
Bus Ed-NonCR	0	0	0	0%	0	0
Bus Tech	12,550	10,586	(1,964)	119%	19,362	(6,812)
C.I.S.	67,497	88,857	21,360	76%	68,170	(672)
Chemistry	132,657	183,322	50,665	72%	143,528	(10,871)
Child Dev CE	0	0	0	0%	0	0
Child Develop	52,535	69,614	17,079	75%	53,368	(832)
Child Develop Lab	0	0	0	0%	383,769	(383,769)
Cmnty Theater	202,706	386,643	183,937	52%	236,658	(33,952)
Collegiate H.S.-CR	75,434	145,871	70,437	52%	104,162	(28,728)
Cosmetology	440,346	628,535	188,189	70%	431,855	8,490
Criminal Justice	63,060	85,372	22,312	74%	70,446	(7,387)
Dean Cont Ed	513	173,672	173,159	0%	1,047	(534)
Dean Gen Ed	91,745	193,063	101,318	48%	132,305	(40,560)
Distance Ed	312,834	413,211	100,377	76%	318,416	(5,583)
Drafting	54,672	72,591	17,919	75%	62,725	(8,053)
Dual Credit Dept	78,736	170,049	91,312	46%	114,858	(36,122)
Economics	56,110	74,757	18,647	75%	55,450	659
Emergency Management Credit	0	0	0	0%	16,457	(16,457)
EMS-Credit	201,816	246,305	44,489	82%	188,046	13,770
Fire Tech	228,575	248,630	20,056	92%	206,921	21,654
Fire Tech-Basic	0	0	0	0%	0	0
Firearms Acad	16,608	104,901	88,294	16%	46,803	(30,196)
Foreign Lang	49,501	67,155	17,654	74%	50,770	(1,268)
Gen Bus-Credit	60,719	86,519	25,799	70%	37,526	23,194
Geology	54,422	74,964	20,542	73%	51,415	3,007
Government	231,624	298,951	67,327	77%	241,739	(10,115)
Graphic Arts	76,639	94,145	17,505	81%	90,026	(13,387)
Health and PE Credit	109,196	141,130	31,934	77%	113,051	(3,855)

Unrestricted Fund (Unaudited)

	<u>Current Actual</u>	<u>2020-21 Budget</u>	<u>Budget Remaining</u>	<u>Budget Pct.YTD</u>	<u>Prior Year to Actual</u>	<u>Curr. vs Prior Year to Year</u>
Health Info Mgmt	120,300	201,981	81,681	60%	121,926	(1,626)
Hist & Geog	214,181	277,069	62,888	77%	211,203	2,977
Humanities	154,517	198,388	43,871	78%	148,613	5,904
Instr Tech Department	105,276	237,244	131,968	44%	146,291	(41,015)
Instr Tech Lab Mgrs	18,859	181,425	162,566	10%	195,242	(176,383)
Law Enforcement	62,594	104,144	41,550	60%	56,740	5,853
Law Enforcemnt-NonCR	50,831	22,696	(28,135)	224%	42,157	8,673
LC Ctr Admin	4,385	18,405	14,020	24%	17,792	(13,406)
Library	380,273	639,747	259,473	59%	421,399	(41,125)
Management	44,728	72,948	28,220	61%	62,541	(17,814)
Massage Therapy	0	7,400	7,400	0%	759	(759)
Math	512,124	731,813	219,689	70%	593,053	(80,929)
Medical Assistant	52,365	97,519	45,155	54%	64,236	(11,871)
Music	250,591	348,635	98,044	72%	264,887	(14,296)
Networking	62,548	91,646	29,098	68%	69,953	(7,404)
Nursing Administration	186,527	408,040	221,513	46%	263,351	(76,823)
Nursing-AD	929,319	1,483,967	554,649	63%	1,019,204	(89,886)
Nursing-VN	236,708	332,672	95,963	71%	235,578	1,130
Pharmacy Tech	69,533	93,392	23,859	74%	72,266	(2,733)
Philosophy	32,251	13,502	(18,750)	239%	39,469	(7,217)
Physics	93,059	116,449	23,390	80%	110,308	(17,250)
Process Tech	451,557	597,409	145,852	76%	499,893	(48,336)
Prof Develop Acad	0	12,000	12,000	0%	36,525	(36,525)
Psychology	268,843	351,042	82,199	77%	270,811	(1,968)
QEP	0	0	0	0%	0	0
Safety-CR	59,284	106,531	47,248	56%	82,024	(22,741)
Senior Adult Dept	96,324	228,014	131,690	42%	254,578	(158,254)
Social Science Non CR	29,423	69,608	40,185	42%	22,364	7,059

Unrestricted Fund (Unaudited)

	<u>Current Actual</u>	<u>2020-21 Budget</u>	<u>Budget Remaining</u>	<u>Budget Pct.YTD</u>	<u>Prior Year to Actual</u>	<u>Curr. vs Prior Year to Year</u>
Sociology	52,365	66,614	14,249	79%	54,216	(1,851)
Speaking,Reading,Writing	323,044	524,028	200,984	62%	352,580	(29,536)
Theater Arts-Credit	45,421	81,377	35,955	56%	42,024	3,397
Thermal Tech-NonCR	38,753	45,705	6,952	85%	64,305	(25,552)
Virtual College TX	1,120	1,120	0	100%	0	1,120
VP Instruction	284,870	2,281,806	1,996,936	12%	174,076	110,794
Welding-Cred	337,674	611,283	273,609	55%	370,542	(32,868)
Totals for VP Instruction	<u>10,191,734</u>	<u>17,851,352</u>	<u>7,659,618</u>	<u>57%</u>	<u>12,019,179</u>	<u>(1,827,445)</u>
<u>Summary for VP Student Services</u>						
Admissions	165,031	342,578	177,547	48%	257,394	(92,362)
Advise Center	473,686	688,893	215,207	69%	401,394	72,293
Career & Placement	0	68,266	68,266	0%	0	0
Career Svcs	0	1,715	1,715	0%	281	(281)
Counseling	0	265	265	0%	53,337	(53,337)
Enrollment Mgmt	74,063	76,489	2,426	97%	53,672	20,391
Facilities & Student Recreat	23,058	120,207	97,148	19%	131,075	(108,017)
Judicial Affairs	97,478	183,503	86,025	53%	159,007	(61,529)
Multicultural Department	2,494	12,500	10,006	20%	7,964	(5,470)
Recruitment	216,455	460,963	244,508	47%	325,999	(109,544)
Stu Financial Svcs	278,532	601,011	322,479	46%	392,838	(114,306)
Stu Organizations	159,998	305,328	145,330	52%	96,191	63,807
Student Graduation	25,570	74,080	48,510	35%	933	24,637
Svcs-Disab Students	4,231	50,112	45,881	8%	53,353	(49,121)
Testing	75,154	367,980	292,826	20%	195,959	(120,805)
Title V Grant	0	0	0	0%	243	(243)
Veteran Affairs	111,094	155,153	44,059	72%	107,756	3,338
VP Student Services	262,083	415,418	153,335	63%	217,673	44,410

Unrestricted Fund (Unaudited)

	<u>Current Actual</u>	<u>2020-21 Budget</u>	<u>Budget Remaining</u>	<u>Budget Pct.YTD</u>	<u>Prior Year to Actual</u>	<u>Curr. vs Prior Year to Year</u>
<u>Totals for VP Student Services</u>	<u>1,968,929</u>	<u>3,924,461</u>	<u>1,955,532</u>	<u>50%</u>	<u>2,455,070</u>	<u>(486,141)</u>
<u>Totals for Expense</u>	<u>21,269,247</u>	<u>36,900,000</u>	<u>15,630,753</u>	<u>58%</u>	<u>24,421,444</u>	<u>(3,152,197)</u>
<u>Fund Bal by Division</u>						
<u>Summary for President</u>						
Fund Balance - IT	0	0	0	0%	1,254	(1,254)
<u>Totals for President</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0%</u>	<u>1,254</u>	<u>(1,254)</u>
<u>Summary for VP Fiscal Affairs</u>						
Fund Balance - Academic Support	0	0	0	0%	56,643	(56,643)
Fund Balance - Institutional Support	598,165	0	(598,165)	0%	517,539	80,626
Fund Balance - Instruction	808,178	0	(808,178)	0%	293,357	514,821
Fund Balance - Oper & Maint	82,254	0	(82,254)	0%	23,064	59,190
Fund Balance - Public Service	0	0	0	0%	3,252	(3,252)
Fund Balance - Student Services	90,932	0	(90,932)	0%	68,849	22,084
<u>Totals for VP Fiscal Affairs</u>	<u>1,579,529</u>	<u>0</u>	<u>(1,579,529)</u>	<u>0%</u>	<u>962,703</u>	<u>616,826</u>
<u>Totals for Fund Bal</u>	<u>1,579,529</u>	<u>0</u>	<u>(1,579,529)</u>	<u>0%</u>	<u>963,957</u>	<u>615,572</u>
<u>Totals for Report</u>	<u>22,848,776</u>	<u>36,900,000</u>	<u>14,051,224</u>		<u>25,385,401</u>	<u>(2,536,625)</u>



Monthly Financial Report

Cash Situation

- Cash balance at the end of month was: \$26.3 million
- Minimum required cash : \$7.1 million
- Excess cash above minimum: \$19.2 million

Unaudited Operations Year to Date

- Revenues: Budget: \$36.9 million
Actual: \$ 34.0 million

- Expense: Budget: \$36.9 million
Actual: \$ 21.2 million
(57% Spent at 67% of year)



PRESIDENT'S OFFICE

Board Report

Presenter: Board Chair

A. Miscellaneous Updates



PRESIDENT'S OFFICE

President's Report

Presenter: Dr. Warren Nichols

A. Updates

1. CARES Act 2.0 and 3.0

B. Reminders/Announcements

1. COM Staff Appreciation Day

Tuesday, May 25th, 4:00 p.m. – 9:00 p.m.

The Texas Xperience (Former Mall of the Mainland)

2. Return to Campus – June 1st

3. 4th of July Celebration

Thursday, July 1st, Noon – 1:30 p.m.

STEAM Building Terrace

4. Fall Graduation

Saturday, December 11th, 10:00 a.m.

Abundant Life

C. Miscellaneous Updates



PRESIDENT'S OFFICE

To: Board of Trustees
From: Dr. Warren Nichols, President
Date: May 18, 2021
Subject: CARES Act 2.0 and 3.0

- A. Awards of CARES Act 2.0 in Spring 2021 - \$575,100 and 649 student awards
- B. Balance of CARES Act 2.0 as of Spring - \$539,884

- C. Grant Award Notice of CARES Act 3.0 for student aid as of 05/17/2021 - \$3,566,004
- D. Grant Award Notice of CARES Act 3.0 for institutional aid as of 05/17/2021 - \$3,479,421
- E. Total CARES Act 3.0 \$7,045,425 for institutional and student aid



PRESIDENT'S OFFICE

Resignations & Retirements

Last Name	First Name	Position	Hire Date	Last Date of Work	Termination Reason
North	Diana	Professional Tutor	01/05/2015	05/14/2021	Resignation
Moore-Florence	Deaira	Administrative Assistant II	10/28/2019	05/21/2021	Resignation
Palmer	Joyce	Administrative Assistant IV	09/22/1980	07/31/2021	Retirement