

**Annual Certification Documentation  
Per Texas Education Code 51.3525**

**Colleges by Name (A-G)**

**September 2024**

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Institution: Alamo Colleges District  
Date Submitted: 08/23/24  
Pages: 5



ALAMO  
COLLEGES  
DISTRICT

## ELECTRONIC SIGNATURE ACKNOWLEDGEMENT AND CONSENT FORM

I, Dr. Mike Flores, agree and understand that by signing the Electronic Signature Acknowledgment and Consent Form, that all electronic signatures are the legal equivalent of my manual/handwritten signature, and I consent to be legally bound to this agreement. I further agree my signature on this document is as valid as if I signed the document in writing. This is to be used in conjunction with the use of the electronic signature for the submission of the SB17 Annual Certification required by 51.3525(e) that I elected to have signed electronically. Under penalty of perjury, I herewith affirm that my electronic signature was signed by myself with full knowledge and consent and am legally bound to these terms and conditions.

Dr. Mike Flores  
Chancellor  
Alamo Colleges District

I, Clint Kingsbery, agree and understand that by signing the Electronic Signature Acknowledgment and Consent Form, that all electronic signatures are the legal equivalent of my manual/handwritten signature, and I consent to be legally bound to this agreement. I further agree my signature on this document is as valid as if I signed the document in writing. This is to be used in conjunction with the use of the electronic signature for the submission of the SB17 Annual Certification required by 51.3525(e) that I elected to have signed electronically. Under penalty of perjury, I herewith affirm that my electronic signature was signed by myself with full knowledge and consent and am legally bound to these terms and conditions.

Clint Kingsbery  
Chair of the Board  
Alamo Colleges District Board of Trustees



### **H.3.1 (Policy) State Law Prohibitions**

Responsible Departments: Alamo Colleges District Title IX/VII/IV/ADA/504 Coordinator and General Counsel

Board Adoption: 12-19-23

Last Amended: 5-21-2024

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#### **Purpose**

This policy is designed to implement state law requirements limiting and prohibiting certain practices, including those generally referred to as Diversity, Equity and Inclusion initiatives, codified Texas Education Code §51.3525, and tolerating antisemitic speech and acts, as antisemitism is defined at Texas Government Code § 448.001, as required by Executive Order GA-44. In any unintended cases of failure of this policy to conform to then-applicable statutory, regulatory or executive order requirements regarding such matters, those requirements are hereby incorporated by reference and shall prevail to the extent of any conflict. The Chancellor may adopt procedures which, without limitation, reflect regulations to be drafted by state agencies to implement statutory requirements.

#### **Diversity, Equity and Inclusion Practices**

##### **Definition**

Diversity, Equity and Inclusion practices are defined as:

- (1) influencing hiring or employment practices at the institution with respect to race, sex, color, or ethnicity, other than through the use of color-blind and sex-neutral hiring processes in accordance with any applicable state and federal antidiscrimination laws;
- (2) promoting differential treatment of or providing special benefits to individuals on the basis of race, color, or ethnicity;
- (3) promoting policies or procedures designed or implemented in reference to race, color, or ethnicity; or
- (4) conducting training, programs, or activities designed or implemented in reference to race, color, ethnicity, gender identity, or sexual orientation

##### **Prohibition**

The College District shall not establish or maintain a Diversity, Equity and Inclusion office, division, unit, or function, or hire or assign an employee, or contract with a third party for the purposes of conducting Diversity, Equity and Inclusion practices as outlined in the definition section of this policy.

The College District shall not compel, require, induce, or solicit any person to provide a diversity, equity and inclusion statement, or give preferential consideration (e.g., in employment) to any person based on the provision of a diversity, equity and inclusion statement.

The College District shall not give preference on the basis of race, sex, color, ethnicity or national origin to an applicant for employment, an employee, or a participant in any function of the College District.

The College District shall not require any person as a condition of enrollment or of

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performing any institutional function to participate in training which is designed or implemented in reference to race, color, ethnicity, gender identity, or sexual orientation.

#### **Exceptions**

Policies, procedures and required training, programs and activities otherwise prohibited are allowed only when approved in writing by the institution's general counsel and the Texas Higher Education Coordinating Board for the sole purpose of ensuring compliance with any applicable court order or state or federal law.

Required training, programs and activities also must be developed by an attorney and maintained in (i) the AlamoTALENT learning management system if for employees, and (ii) the office of the Vice Chancellor for Student Success if for students.

This policy does not restrict the issuance of statements that highlight the College District's work in supporting first-generation college students, low-income students, or underserved student populations for purposes, without limitation, of grant application or accreditation maintenance.

This policy does not restrict a policy, practice, procedure, program, or activity to enhance student academic achievement or postgraduate outcomes that is designed and implemented without regard to race, sex, color, or ethnicity.

Additional exceptions are, and this policy does not restrict:

- academic course instruction;
- scholarly research or a creative work by students, faculty or other research personnel or the dissemination of that research or work;
- an activity of a registered or recognized student organization;
- guest speakers or performers on short-term engagements;
- data collection; or
- student recruitment or admissions.

#### **Required Periodic State Reporting**

The Board must submit to the Legislature and the Texas Higher Education Coordinating Board a report certifying its compliance with Texas Education Code §51.3525 during the preceding state fiscal year before spending money appropriated to the institution for a current fiscal year.

In the interim between each regular session of the Legislature, the Board's designee must testify before the standing legislative committees with primary jurisdiction over higher education at a public hearing regarding its compliance with Section 51.3525.

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#### **Institutional Consequences of Violation**

The State Auditor must audit College District compliance with Texas Education Code §51.3525 at least once every four years. If the State Auditor determines that the College District has spent state money in violation of that section, the College District must cure the violation within 180 days after that determination is made to avoid ineligibility to receive formula funding increases, institutional enhancements, or exceptional items during the immediately following the state fiscal biennium.

A student or employee of the College District who is required to participate in training in violation of Texas Education Code §51.3525(b)(1)(E) may bring an action for injunctive or declaratory relief against the College District.

#### **Antisemitism**

##### Definition (from Texas Government Code § 448.001)

Antisemitism is defined as a certain perception of Jews that may be expressed as hatred toward Jews. The term includes rhetorical and physical acts of antisemitism directed toward Jewish or non-Jewish individuals or their property or toward Jewish community institutions and religious facilities.

##### Admonition

The College District shall foster appropriate discourse.

##### Prohibition

The College District shall not tolerate antisemitic speech or acts by employees, students, other persons or groups on its premises, including its protected free speech areas.

##### Discipline

##### Employees

- Inadvertent failure to comply with this policy shall be no more than a Step One disciplinary offense under the Progressive Discipline Procedure D.9.1.2.
- A second inadvertent failure to comply and ANY reckless failure to comply shall be a Step Two disciplinary offense.
- A third inadvertent failure to comply, a second reckless failure to comply and ANY knowing or deliberate failure to comply shall be a Step Three disciplinary offense.
- ANY violation of this policy whatsoever occurring after a Step Three violation of this policy shall be a Step Four disciplinary offense resulting in termination of employment for cause.

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Responsible Departments: Alamo Colleges District Title IX/VII/IV/ADA/504 Coordinator and General Counsel

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#### Contractors

The engagement of an independent contractor to the College District whose activities on behalf of the College District violate Texas Education Code §51.3525 is terminable at the discretion of the College District, subject to any countervailing statutory or regulatory restrictions.

#### Students

Students who engage in prohibited antisemitic speech or acts are subject to discipline under the student Non-Academic Misconduct Disciplinary and Appeals Process, Procedure F.4.2.1, up to and including expulsion.

#### **Internal Reporting of Possible Violations**

Suspected violations of this policy may be reported to the Director of Ethics, Compliance & Policy or through the NAVEX online reporting system.

*Legal Reference -Texas Education Code §51.3525*

*Texas Government Code § 448.001*

*Executive Order GA-44*

*Legal Reference - TACC Policy Reference Manual*

Institution: Alvin Community College  
Date Submitted: 08/21/24  
Pages: 72

April 29, 2024

Mr. Criminger, CFE  
Managing Senior Auditor  
State Auditor's Office

Dear Mr. Criminger,

Alvin Community College provides the following information, regarding Senate Bill 17 (88<sup>th</sup> Legislature, Regular Session) requested via your email request dated April 17, 2024.

1. Has the institution's governing board (Board) created specific policies, procedures, or guidelines to ensure that state funds are not spent in violation of Senate Bill 17 (SB17)? If so, please provide them.

TASB Update 46 (which came out December 2023) incorporated the new DEI requirements into board policy. At its February 22, 2024, Board Meeting the ACC Board acknowledged the identified Legal Policies listed in the update as well as adopted the recommended revised Local policies in the update.

The relevant Legal Polices are BG, BI, CFE, DAA, DH, FA. And the relevant Local Policies are BG, CFE, DAA, FA.



2. Who would be the best point(s) of contact at the institution for matters related to overseeing compliance with SB17?


Dr. Robert J. Exley, President

3. Does the institution's internal audit function intend to audit, or plan to review, the institution's compliance with SB17?

Alvin Community College plans to continue to utilize existing resources within the Business Office and Executive Leadership personnel to monitor and review operations to assure compliance with SB17.

 [rexley@alvincollege.edu](mailto:rexley@alvincollege.edu)

 Tel: 281.756.3588  
 Fax: 281.756.3858

 5111 Mustang Road  
Alvin, TX, 77511-4898

4. Will the Board or its designee certify to the Legislature and the Texas Higher Education Coordinating Board by August 31, 2024, that the institution is in compliance with SB17?

Yes, the Board or its designee will certify to the Legislature and the Texas Higher Education Coordinating Board by August 31, 2024 that Alvin Community College is in compliance with SB17.

Sincerely,

A handwritten signature in blue ink that reads "Robert J. Exley". The signature is written in a cursive style with a prominent flourish at the end.

Robert J. Exley, PhD  
President  
Alvin Community College

# Alvin Community College

## LEGAL POLICIES

BG ... Administrative Organization

BI ... Reports

CFE ... Purchasing and Acquisition / Vendor Relations

DAA ... Employment Objectives / Equal Employment Opportunity

DH ... Employee Standards of Conduct

FA ... Equal Educational Opportunity

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**Note:** For related information on diversity, equity, and inclusion initiatives, see CFE for contractors, DAA(LEGAL) for employees, and FA(LEGAL) for students.

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**Diversity, Equity,  
and Inclusion Office**

The governing board of an institution of higher education, including a college district, shall ensure that each unit of the institution does not, except as required by federal law:

1. Establish or maintain a diversity, equity, and inclusion office; or
2. Hire or assign an employee of the institution or contract with a third party to perform the duties of a diversity, equity, and inclusion office.

"Diversity, equity, and inclusion office" means an office, division, or other unit of an institution of higher education established for the purpose of:

1. Influencing hiring or employment practices at the institution with respect to race, sex, color, or ethnicity, other than through the use of color-blind and sex-neutral hiring processes in accordance with any applicable state and federal antidiscrimination laws;
2. Promoting differential treatment of or providing special benefits to individuals on the basis of race, color, or ethnicity;
3. Promoting policies or procedures designed or implemented in reference to race, color, or ethnicity, other than policies or procedures approved in writing by the institution's general counsel and the Coordinating Board for the sole purpose of ensuring compliance with any applicable court order or state or federal law; or
4. Conducting trainings, programs, or activities designed or implemented in reference to race, color, ethnicity, gender identity, or sexual orientation, other than trainings, programs, or activities developed by an attorney and approved in writing by the institution's general counsel and the Coordinating Board for the sole purpose of ensuring compliance with any applicable court order or state or federal law.

*Education Code 51.3525(a)-(b)(1)*

**Exceptions**

Nothing in this section may be construed to limit or prohibit an institution of higher education or an employee of an institution of higher education from, for purposes of applying for a grant or complying

with the terms of accreditation by an accrediting agency, submitting to the grantor or accrediting agency a statement that:

1. Highlights the institution's work in supporting first-generation college students, low-income students, or underserved student populations; or
2. Certifies compliance with state and federal antidiscrimination laws.

This section may not be construed to apply to:

1. Academic course instruction;
2. Scholarly research or a creative work by an institution of higher education's students, faculty, or other research personnel or the dissemination of that research or work;
3. An activity of a student organization registered with or recognized by an institution of higher education;
4. Guest speakers or performers on short-term engagements;
5. A policy, practice, procedure, program, or activity to enhance student academic achievement or postgraduate outcomes that is designed and implemented without regard to race, sex, color, or ethnicity;
6. Data collection; or
7. Student recruitment or admissions.

*Education Code 51.3525(c)-(d)*

*Compliance  
Report*

An institution of higher education may not spend money appropriated to the institution for a state fiscal year until the governing board of the institution submits to the legislature and the Coordinating Board a report certifying the board's compliance with this section during the preceding state fiscal year. *Education Code 51.3525(e)*

*Testimony*

In the interim between each regular session of the legislature, the governing board of each institution of higher education, or the board's designee, shall testify before the standing legislative committees with primary jurisdiction over higher education at a public hearing of the committee regarding the board's compliance with this section. *Education Code 51.3525(f)*

*Audit*

The state auditor shall periodically conduct a compliance audit of each institution of higher education to determine whether the institution has spent state money in violation of Education Code 51.3525. The state auditor shall adopt a schedule by which the

state auditor will conduct compliance audits. The schedule must ensure that each institution of higher education is audited at least once every four years.

If the state auditor determines pursuant to a compliance audit that an institution of higher education has spent state money in violation of this section, the institution:

1. Must cure the violation not later than the 180th day after the date on which the determination is made; and
2. If the institution fails to cure the violation during the period described by item 1, is ineligible to receive formula funding increases, institutional enhancements, or exceptional items during the state fiscal biennium immediately following the state fiscal biennium in which the determination is made.

*Education Code 51.3525(g)-(h)*

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

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**Reports by College District**

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

1. As soon as practicable after the end of each academic year, the college district shall prepare an annual performance report for that academic year, under Education Code 130.0035. [See AFA]
2. Not later than June 1 of each even-numbered year and on request of the Legislative Budget Board (LBB) or the governor's Office of Budget and Policy (OBP), the college district shall report customer service information to the LBB and the OBP, under Government Code 2114.002. [See AFA]
3. In the form and manner and at the times required by the Coordinating Board, the college district shall report to the Coordinating Board on the enrollment status of students of the college district, under Education Code 130.0036. [See AFA]
4. The college district shall follow applicable institutional and financial assistance information dissemination requirements found at 20 U.S.C. 1092. [See AFA]
5. The minutes of the last regular meeting held by the board during a calendar year must reflect whether each member of the board has completed any training required to be completed by the member as of the meeting date, under Education Code 61.084. [See BBD]
6. The college district shall submit to the legislature and the Coordinating Board a report certifying the board's compliance regarding diversity, equity, and inclusion initiatives during the preceding state fiscal year, under Education Code 51.3525. [See BG]
7. The college district shall report monthly to the retirement system set out in Government Code 825.404, in a form it prescribes, the employee salary and other information required under Government Code 825.406. [See CAAB, CAM]

8. The investment officer shall prepare a report on the Public Funds Investment Act (PFIA) and deliver it to the board no later than the 180th day after the last day of each regular session of the legislature, under Government Code 2256.007. [See CAK]
9. Not less than quarterly and within a reasonable time after the end of the period, the investment officer shall prepare and submit to the board a written report of investment transactions for all funds covered by the PFIA, under Education Code 51.0032 and Government Code 2256.023. [See CAK]
10. The college district shall submit its audited annual financial report to the Coordinating Board by January 1st of each year, under 19 Administrative Code 13.62. [See CDA]
11. Not later than November 20 of each year, a college district shall submit an annual financial report regarding the college district's use of appropriated money during the preceding fiscal year to the government officials specified in Government Code 2101.011. [See CDA]
12. The board shall be responsible for the preparation of an annual financial statement, under Local Government Code 140.005. [See CDA]
13. The college district shall annually compile and report information regarding debt obligations, under Local Government Code 140.008. [See CDA]
14. Three copies of the annual audit report for the fiscal year ending August 31 shall be filed with the Coordinating Board by January 1 following the close of the fiscal year for which the audit was made, an electronic copy shall be posted to the Coordinating Board's collection server, and required copies shall be sent to other governmental agencies, under the publication *Budget Requirements and Annual Financial Reporting Requirements for Texas Public Community Colleges*. [See CDC]
15. Annually, a college district that enters into a qualifying purchasing contract shall present a written report on any contract-related fee as an agenda item in an open meeting of the board of trustees, under Education Code 44.0331. [See CF]
16. Annually, a college district shall report to the State Energy Conservation Office (SECO) regarding the college district's goal to reduce electric consumption, the college district's efforts to meet the goal, and progress the college district has made, under Health and Safety Code 388.005. [See CH]

17. Not later than March 1 of each year, each college district police department shall submit a report containing information about traffic stops during the previous calendar year to the Texas Commission on Law Enforcement Officers and Standards and the governing body of each county or municipality served by the department, under Code of Criminal Procedure 2.134. [See CHA]
18. At least once every three years, a college district shall conduct a security audit of the college district's facilities and report the results of the security audit to the Texas School Safety Center, under Education Code 37.108. [See CG]
19. No later than January 1 of each odd-numbered year, the college district shall submit a written report regarding the institution's compliance with the online course information posting to certain state officials, under Education Code 51.974 and 19 Administrative Code 4.225 to 4.228. [See EFA]
20. Not later than May 1 of each year and in the form prescribed by the Coordinating Board, each college district shall provide to the Coordinating Board and the legislature a report on courses taken by students who, during the preceding academic year, transferred to a general academic teaching institution or earned an associate degree at the college, under Education Code 51.4034. [See EFA]
21. Every five years, following the same timetable as the regular accreditation reports sent to the Southern Association of Colleges and Schools Commission on Colleges (SACSCOC) or its successor, each college district shall review its policies regarding credit earned as part of an approved field of study curriculum, and report the results to the Coordinating Board, under 19 Administrative Code 4.33(a). [See EFAA]
22. On an annual basis during the designated time period, the college district shall review course sequences for accuracy and submit any revisions or changes to the Coordinating Board, under Education Code 51.96852(c) and 19 Administrative Code 4.364. [See EFB]
23. A college district offering a baccalaureate degree program shall review each program and submit a report on the operation, quality, and effectiveness of the programs to the Coordinating Board in a specified format by January 1 of each odd-numbered year, under Education Code 130.011 and 19 Administrative Code 2.89, 2.183, and 9.678. [See EFBB]

24. Contact hours for career technical/workforce continuing education courses from public two-year colleges must be determined and reported in compliance with Coordinating Board policy as outlined in the Guidelines for Instructional Programs in Workforce Education as approved by the Coordinating Board, the Workforce Education Course Manual, and state law, under 19 Administrative Code 9.113, 9.114, and 9.116. [See EFCB]
25. No later than the July 1 immediately following the 12-month period ending August 31 during which 150 percent of the normal time for completion or graduation has elapsed for the students, the college district shall report on the completion and transfer-out rates of certificate- or degree-seeking, first-time, full-time undergraduate students, under 34 C.F.R. 668.45. [See EGC]
26. Annually, by July 1, a college district that is attended by students receiving athletically-related student aid must produce a report containing student athlete completion and transfer-out rates, under 34 C.F.R. 668.48. [See EGC]
27. At the end of each semester, the college district shall report to the Coordinating Board certain information for undergraduate students, under 19 Administrative Code 4.60. [See EI]
28. At times prescribed by the Coordinating Board, the college district shall report to the Coordinating Board all programs and services provided for persons with intellectual and developmental disabilities by the college district, under Education Code 61.0663. [See FA]
29. Not later than May 1 of each academic year, a college district shall submit to the Coordinating Board a report that contains certain information regarding students enrolled at the institution for the current academic year who are the parent or guardian of a child younger than 18 years of age, under Education Code 51.9357. [See FAA]
30. The college district shall report to the Coordinating Board all information regarding adjusted tuition rates for excessive hours and repeated courses required to comply with the provisions of 19 Administrative Code Chapter 13, Subchapter F, under 19 Administrative Code 13.109. [See FD]
31. The college district shall report to the Coordinating Board the types and amounts of tuition and fees charged to students by semester during the previous academic year, under 19 Administrative Code 13.143. [See FD]

32. Annually, the college district chief executive officer shall certify in writing to the Coordinating Board that the college district is in substantial compliance with Education Code Chapter 51, Subchapter E-2, under Education Code 51.258. [See DIAA, FFDA]
33. By October 1 of each year, a college district that provides on-campus housing shall prepare, publish, and distribute, through appropriate publications or mailings, an annual fire safety report to all current students and employees and, upon request, to any applicant for enrollment or employment, under 34 C.F.R. 668.41(e)(1). [See FG]
34. Not later than the 14th day before the first class day of each fall or spring semester and at student orientation, the college district shall provide a report to each student 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]
35. By October 1 of each year, the college district shall prepare, publish, and distribute, through appropriate publications or mailings, an annual security report to all current students and employees and, upon request, to any applicant for enrollment or employment, under 20 U.S.C. 1092(f) and 34 C.F.R. 668.41(e)(1). [See GCC]
36. The college district must report statistics for the three most recent calendar years concerning the occurrence on campus, in or on noncampus buildings or property and on public property, of certain crimes that are reported to local police agencies or to a campus security authority, under 34 C.F.R. 668.46. [See GCC]
37. The college district shall, in a manner that is timely and will aid in the prevention of similar crimes, report to the campus community on crimes that are considered by the college district to represent a threat to students and employees, under 34 C.F.R. 668.46(e). [See GCC]
38. The college district shall report student performance during the first year a student is enrolled after graduation from high school to the high school or public two-year college the student last attended, under Education Code 51.403 and 19 Administrative Code 9.23. [See GH]

**Required Vendor  
Disclosure**

The disclosure requirement applies to a person who is a vendor.  
*Local Gov't Code 176.002(a)*

A person is not subject to the disclosure requirements if the person is a state, a political subdivision of a state, the federal government, or a foreign government, or an employee or agent of such an entity, acting in the employee's or agent's official capacity. *Local Gov't Code 176.002(b)*

A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:

1. Has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds \$2,500 during the 12-month period preceding the date that the officer becomes aware that a contract between the local governmental entity and vendor has been executed or the local governmental entity is considering entering into a contract with the vendor;
2. Has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value of more than \$100 in the 12-month period preceding the date the officer becomes aware that a contract between the local governmental entity and vendor has been executed or the local governmental entity is considering entering into a contract with the vendor, excluding any gift that is:
  - a. A political contribution as defined by Election Code Title 15; or
  - b. Food accepted as a guest; or
3. Has a family relationship with a local government officer of that local governmental entity.

A person who is both a local government officer and a vendor of a local governmental entity is required to file the vendor questionnaire required by Local Government Code 176.006(a)(1) only if the person:

1. Enters or seeks to enter into a contract with the local governmental entity; or
2. Is an agent of a person who enters or seeks to enter into a contract with the local governmental entity.

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

1. The date that the vendor:
  - a. Begins discussions or negotiations to enter into a contract with the local governmental entity; or
  - b. Submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or
2. The date the vendor becomes aware:
  - a. Of an employment or other business relationship with a local government officer, or a family member of the officer;
  - b. That the vendor has given one or more gifts; or
  - c. Of a family relationship with a local government officer.

*Local Gov't Code 176.003(a)(2), (a-1), .006(a)-(b), (e)*

**Definitions**

*Vendor*

"Vendor" means a person who enters or seeks to enter into a contract with a local governmental entity. The term includes an agent of a vendor. The term includes an officer or employee of a state agency when that individual is acting in a private capacity to enter into a contract. The term does not include a state agency except for Texas Correctional Industries. *Local Gov't Code 176.001(7)*

*Agent*

"Agent" means a third party who undertakes to transact some business or manage some affair for another person by the authority or on account of the other person. The term includes an employee. *Local Gov't Code 176.001(1)*

*Business Relationship*

"Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

1. A transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;
2. A transaction conducted at a price and subject to terms available to the public; or
3. A purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

*Local Gov't Code 176.001(1-a)*

PURCHASING AND ACQUISITION  
VENDOR RELATIONS

CFE  
(LEGAL)

<i>Family Member</i>	"Family member" means a person related to another person within the first degree by consanguinity or affinity, as described by Government Code Chapter 573, Subchapter B. [See DBE(EXHIBIT)] <i>Local Gov't Code 176.001(2)</i>
<i>Family Relationship</i>	"Family relationship" means a relationship between a person and another person within the third degree by consanguinity or the second degree by affinity, as those terms are defined by Government Code Chapter 573, Subchapter B. [See DBE(EXHIBIT)] <i>Local Gov't Code 176.001(3)</i>
<i>Records Administrator</i>	"Records administrator" means the director, county clerk, municipal secretary, superintendent, or other person responsible for maintaining the records of the local governmental entity or another person designated by the local governmental entity to maintain statements and questionnaires filed under Local Government Code Chapter 176 and perform related functions. [See CIA] <i>Local Gov't Code 176.001(5)</i>
<i>Gift</i>	"Gift" means a benefit offered by a person, including food, lodging, transportation, and entertainment accepted as a guest. The term does not include a benefit offered on account of kinship or a personal, professional, or business relationship independent of the official status of the recipient. <i>Local Gov't Code 176.001(2-b)</i>
<i>Investment Income</i>	"Investment income" means dividends, capital gains, or interest income generated from: <ol style="list-style-type: none"><li>1. A personal or business:<ol style="list-style-type: none"><li>a. Checking or savings account;</li><li>b. Share draft or share account; or</li><li>c. Other similar account;</li></ol></li><li>2. A personal or business investment; or</li><li>3. A personal or business loan.</li></ol> <i>Local Gov't Code 176.001(2-d)</i>
<i>Disclosure Form</i>	The Texas Ethics Commission shall adopt a conflict of interest questionnaire that requires disclosure of a vendor's business and family relationships with a local governmental entity. <i>Local Gov't Code 176.006(b)</i>
<i>Electronic Filing</i>	The required questionnaire, including signature requirements, may be filed electronically in a form approved by the Commission. <i>Local Gov't Code 176.008</i>

PURCHASING AND ACQUISITION  
VENDOR RELATIONS

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Updates	A vendor shall file an updated completed questionnaire with the appropriate records administrator not later than the seventh business day after the date on which the vendor becomes aware of an event that would make a statement in the questionnaire incomplete or inaccurate. <i>Local Gov't Code 176.006(d)</i>
List of Local Government Officers	The records administrator for a local governmental entity shall maintain a list of local government officers of the entity and shall make that list available to the public and any person who may be required to file a conflict of interest questionnaire. [See BBFA] <i>Local Gov't Code 176.0065</i>
Internet Posting	A local governmental entity that maintains an internet website shall provide access to the conflict of interest questionnaires required to be filed under this policy on that website. <i>Local Gov't Code 176.009</i>
Contract Declared Void	The governing body of a local governmental entity may, at its discretion, declare a contract void if the governing body determines that a vendor failed to file a conflict of interest questionnaire required by Local Government Code 176.006. <i>Local Gov't Code 176.013(e)</i>
Violations	<p>A vendor commits an offense under Local Government Code Chapter 176 if the vendor:</p> <ol style="list-style-type: none"><li>1. Is required to file a conflict of interest questionnaire under Local Government Code 176.006; and</li><li>2. Either:<ol style="list-style-type: none"><li>a. Knowingly fails to file the required questionnaire with the appropriate records administrator not later than 5:00 p.m. on the seventh business day after the date on which the vendor becomes aware of the facts that require the filing of the questionnaire; or</li><li>b. Knowingly fails to file an updated questionnaire with the appropriate records administrator not later than 5:00 p.m. on the seventh business day after the date on which the vendor becomes aware of an event that would make a statement in a questionnaire previously filed by the vendor incomplete or inaccurate.</li></ol></li></ol> <p>It is an exception to the application of the offense that the vendor filed the required questionnaire not later than the seventh business day after the date the vendor received notice from the local governmental entity of the alleged violation.</p>

*Local Gov't Code 176.013(b), (g)*

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**Note:** The [Conflict of Interest Questionnaire, Form CIQ](#),<sup>1</sup> is available on the Texas Ethics Commission website.

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**Diversity, Equity,  
and Inclusion  
Initiatives**

The governing board of an institution of higher education, including a college district, shall ensure that each unit of the institution adopts policies and procedures for appropriately disciplining, including by termination, a contractor of the institution who engages in conduct in violation of Education Code 51.3525(b)(1) [see BG, DAA, and FA]. *Education Code 51.3525(b)(2)*

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<sup>1</sup> Conflict of Interest Forms: <https://www.ethics.state.tx.us/forms/conflict/>

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

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**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 the individual's 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 the individual's employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect the individual's 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

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	admission to, or employment in, any program established to provide apprenticeship or other training. <i>42 U.S.C. 2000e-2(d)</i>
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. <i>42 U.S.C. 2000e-2(e)</i>
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. <i>42 U.S.C. 2000e-3(b)</i>
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, 490 U.S. 228 (1989)</i>
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. <i>42 U.S.C. 2000e(k)</i>
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

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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*

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

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**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.

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

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	<p>3. Otherwise adversely affects an individual's employment opportunities.</p> <p><u><i>Pennsylvania State Police v. Suders</i>, 542 U.S. 129 (2004); <i>Nat'l Railroad Passenger Corp. v. Morgan</i>, 536 U.S. 101 (2002); <i>Meritor Savings Bank v. Vinson</i>, 477 U.S. 57 (1986); 29 C.F.R. 1604.11, 1606.8</u></p>
Quid Pro Quo	<p>Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes sexual harassment when:</p> <ol style="list-style-type: none"><li>1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or</li><li>2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual.</li></ol> <p>29 C.F.R. 1604.11(a)</p>
Same-Sex Sexual Harassment	<p>Same-sex sexual harassment constitutes sexual harassment. <u><i>Oncale v. Sundowner Offshore Services, Inc.</i>, 523 U.S. 75 (1998)</u></p>
Sexual Harassment Policy	<p>An employer should take all steps necessary to prevent sexual harassment from occurring, such as affirmatively raising the subject, expressing strong disapproval, developing appropriate sanctions, informing employees of their right to raise and how to raise the issue of harassment under Title VII, and developing methods to sensitize all concerned. 29 C.F.R. 1604.11(f)</p>
Corrective Action	<p>With respect to conduct between fellow employees, an employer is responsible for acts of sexual harassment or harassment in the workplace on the basis of national origin in the workplace where the employer (or its agents or supervisory employees) knows or should have known of the conduct, unless it can show that it took immediate and appropriate corrective action.</p> <p>An employer may also be responsible for the acts of non-employees, with respect to sexual harassment of employees in the workplace or harassment of employees in the workplace on the basis of national origin, where the employer (or its agents or supervisory employees) knows or should have known of the conduct and fails to take immediate and appropriate corrective action. In reviewing these cases, the EEOC will consider the extent of the employer's control and any other legal responsibility that the employer may have with respect to the conduct of such non-employees.</p> <p>29 C.F.R. 1604.11(d)-(e), 1606.8(d)-(e)</p>

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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); *Faraqher v. City of Boca Raton*, 524 U.S. 775 (1998)

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

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**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)*

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

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**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 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.

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	<p>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.</p> <p><i>42 U.S.C. 12102(1), (4)(C)-(D); 29 C.F.R. 1630.2(g), (j)(1), .3</i></p>
<p><i>Regarded as Having Such an Impairment</i></p>	<p>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.</p> <p><i>42 U.S.C. 12102(3)(A); 29 C.F.R. 1630.2(g), (l)</i></p>
<p>Transitory and Minor</p>	<p>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.</p> <p><i>42 U.S.C. 12102(3)(B); 29 C.F.R. 1630.2(j)(1)(ix)</i></p>
<p><i>Mitigating Measures</i></p>	<p>The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as medication, medical supplies, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy or supplies; use of assistive technology; reasonable accommodations or auxiliary aids or services; or learned behavioral or adaptive neurological modifications.</p> <p>The ameliorative effects of mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity.</p> <p>"Ordinary eyeglasses and contact lenses" are lenses that are intended to fully correct visual acuity or to eliminate refractive error.</p> <p>"Low-vision devices" means devices that magnify, enhance, or otherwise augment a visual image.</p> <p><i>42 U.S.C. 12102(4)(E)</i></p>
<p>Other Definitions</p> <p><i>Major Life Activities</i></p>	<p>"Major life activities" include, but are not limited to:</p> <ol style="list-style-type: none"><li>1. Caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, and working; and</li></ol>

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

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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 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 DHA] 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 whose employment, by reason of such current alcohol abuse,

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	<p>would constitute a direct threat to property or the safety of others. 29 U.S.C. 705(20)(C)(v), 42 U.S.C. 12114(a); 29 C.F.R. 1630.16(b)</p>
<p>Qualification Standards</p>	<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. 29 C.F.R. 1630.10(a)</p>
<p><i>Direct Threat to Health or Safety</i></p>	<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. 42 U.S.C. 12111(3), 12113(b); 29 C.F.R. 1630.2(r)</p>
<p><i>Vision Standards and Tests</i></p>	<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. 42 U.S.C. 12113(c); 29 C.F.R. 1630.10(b)</p>
<p><i>Communicable Diseases</i></p>	<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. 42 U.S.C. 12113(e)(2); 29 U.S.C. 705(20)(D); 29 C.F.R. 1630.16(e)</p>
<p>Service Animals</p>	<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>

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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 FAB].

*28 C.F.R. 35.140*

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

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**Accommodations  
Based on Pregnancy**

It shall be an unlawful employment practice for a covered entity, including a college district, to:

1. Not make reasonable accommodations to the known limitations related to the pregnancy, childbirth, or related medical conditions of a qualified employee, unless such covered entity can demonstrate that the accommodation would impose an undue hardship on the operation of the business of such covered entity;
2. Require a qualified employee affected by pregnancy, childbirth, or related medical conditions to accept an accommodation other than any reasonable accommodation arrived at through the interactive process;
3. Deny employment opportunities to a qualified employee if such denial is based on the need of the covered entity to make reasonable accommodations to the known limitations related to the pregnancy, childbirth, or related medical conditions of the qualified employee; or
4. Take adverse action in terms, conditions, or privileges of employment against a qualified employee on account of the employee requesting or using a reasonable accommodation to the known limitations related to the pregnancy, childbirth, or related medical conditions of the employee.

*42 U.S.C. 2000gg-1*

**Retaliation  
Prohibited**

No person shall discriminate against any employee because such employee has opposed any act or practice made unlawful by this section or because such employee made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this section.

*42 U.S.C. 2000gg-2(f)*

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Definitions	The term "known limitation" means physical or mental condition related to, affected by, or arising out of pregnancy, childbirth, or related medical conditions that the employee or employee's representative has communicated to the employer whether or not such condition meets the definition of disability specified in the Americans with Disabilities Act (ADA) of 1990, 42 U.S.C. 12102. 42 U.S.C. 2000gg(4)
<i>Known Limitation</i>	
<i>Qualified Employee</i>	The term "qualified employee" means an employee or applicant who, with or without reasonable accommodation, can perform the essential functions of the employment position, except that an employee or applicant shall be considered qualified if: <ol style="list-style-type: none"><li>1. Any inability to perform an essential function is for a temporary period;</li><li>2. The essential function could be performed in the near future; and</li><li>3. The inability to perform the essential function can be reasonably accommodated.</li></ol> 42 U.S.C. 2000gg(6)
<i>Reasonable Accommodation and Undue Hardship</i>	The terms "reasonable accommodation and "undue hardship" have the meanings given such terms in the ADA, 42 U.S.C. 12111, and shall be construed as such terms are construed under the ADA and as set forth in the regulations required by this section, including with regard to the interactive process that will typically be used to determine an appropriate reasonable accommodation. 42 U.S.C. 2000gg(7)

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**Note:** See Title VII—Discrimination on the Basis of Sex, Race, Color, Religion, or National Origin, above, for additional federal prohibitions on discrimination based on pregnancy, and State Law, below, for state prohibitions on discrimination based on pregnancy.

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**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 en-

force protections afforded any person under the Uniformed Services Employment and 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)

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

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**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.

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

*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. *Labor Code 21.122(a), (c)*

*Exception*

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 Chapter 21 if the employer establishes that the practice is not intentionally devised or operated to contravene the prohibitions of Chapter 21 and is justified by business necessity. *Labor Code 21.115(a)*

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. *Labor Code 21.054*

Selection Criterion

An employer may not use a qualification standard, employment test, or other selection criterion based on an individual's uncorrected vision unless the standard, test, or criterion is consistent with business necessity and job-related for the position to which the standard, test, or criterion applies. *Labor Code 21.115(b)*

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*Bona Fide  
Occupational  
Qualification*

If disability, religion, sex, national origin, or age is a bona fide occupational qualification reasonably necessary to the normal operation of the particular business or enterprise, performing any of the following practices on the basis of disability, religion, sex, national origin, or age of an employee, member, or other individual is not an unlawful employment practice:

1. An employer hiring and employing an employee;
2. An employment agency classifying or referring an individual for employment; or
3. An employer controlling an apprenticeship, on-the-job training, or other training or retraining program admitting or employing an individual in its program.

*Labor Code 21.119*

Job Advertisement

An employer, labor organization, employment agency, or joint labor-management committee controlling an apprenticeship, on-the-job training, or other training or retraining program commits an unlawful employment practice if the employer, labor organization, employment agency, or committee prints or publishes or causes to be printed or published a notice or advertisement relating to employment that:

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

Labor Code 21.059 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.

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This section does not apply to standards of compensation or terms, conditions, or privileges of employment that are discriminatory on the basis of race, color, disability, religion, sex, national origin, or age.

*Labor Code 21.102(b)-(c)*

Diversity, Equity,  
and Inclusion  
Initiatives

The governing board of an institution of higher education, including a college district, shall ensure that each unit of the institution does not, except as required by federal law:

1. Compel, require, induce, or solicit any person to provide a diversity, equity, and inclusion statement or give preferential consideration to any person based on the provision of a diversity, equity, and inclusion statement;
2. Give preference on the basis of race, sex, color, ethnicity, or national origin to an applicant for employment, an employee, or a participant in any function of the institution; or
3. Require as a condition of performing any institution function any person to participate in diversity, equity, and inclusion training, which:
  - a. Includes a training, program, or activity designed or implemented in reference to race, color, ethnicity, gender identity, or sexual orientation; and
  - b. Does not include a training, program, or activity developed by an attorney and approved in writing by the institution's general counsel and the Coordinating Board for the sole purpose of ensuring compliance with any applicable court order or state or federal law.

*Education Code 51.3525(b)(1)*

*Exceptions*

Nothing in this section may be construed to limit or prohibit an institution of higher education or an employee of an institution of higher education from, for purposes of applying for a grant or complying with the terms of accreditation by an accrediting agency, submitting to the grantor or accrediting agency a statement that:

1. Highlights the institution's work in supporting first-generation college students, low-income students, or underserved student populations; or
2. Certifies compliance with state and federal antidiscrimination laws.

This section may not be construed to apply to:

1. Academic course instruction;

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2. Scholarly research or a creative work by an institution of higher education's faculty or other research personnel or the dissemination of that research or work;
3. Guest speakers or performers on short-term engagements;
4. A policy, practice, procedure, program, or activity to enhance student academic achievement or postgraduate outcomes that is designed and implemented without regard to race, sex, color, or ethnicity;
5. Data collection; or
6. Student recruitment or admissions.

*Education Code 51.3525(c)-(d)*

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**Note:** For related information on diversity, equity, and inclusion initiatives, see BG(LEGAL) for diversity, equity, and inclusion offices, CFE(LEGAL) for contractor discipline, DH(LEGAL) for employee discipline, and FA(LEGAL) for students.

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Additional  
Considerations  
*Sexual  
Harassment*

"Employer" means a person who employs one or more employees or acts directly in the interests of an employer in relation to an employee.

"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 employment, 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 employment;
3. The advance, request, or conduct has the purpose or effect of unreasonably interfering with an individual's work performance; or
4. The advance, request, or conduct has the purpose or effect of creating an intimidating, hostile, or offensive working environment.

An employer commits an unlawful employment practice if sexual harassment of an employee occurs and the employer or the employer's agents or supervisors:

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1. Know or should have known that the conduct constituting sexual harassment was occurring; and
2. Fail to take immediate and appropriate corrective action.

*Labor Code 21.141–.142, 40 TAC 819.11(6), (10), .12(k)*

*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*

*Hair Texture or  
Style*

A provision under Labor Code Chapter 21 referring to discrimination because of race or on the basis of race includes discrimination because of or on the basis of an employee's hair texture or protective hairstyle commonly or historically associated with race.

An employer, labor union, or employment agency commits an unlawful employment practice if the employer, labor union, or employment agency adopts or enforces a dress or grooming policy that discriminates against a hair texture or protective hairstyle commonly or historically associated with race.

"Protective hairstyle" includes braids, locks, and twists.

*Labor Code 21.1095 [See DH]*

*Religious  
Discrimination*

A provision in 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)*

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*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]*

*Access for  
Religious  
Organizations  
During Disasters*

A governmental entity may not:

1. At any time, including during a declared state of disaster, prohibit a religious organization from engaging in religious and other related activities or continuing to operate in the discharge of the organization's foundational faith-based mission and purpose; or
2. During a declared state of disaster order a religious organization to close or otherwise alter the organization's purposes or activities.

*Gov't Code 2401.002(b) [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*

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<i>Discrimination Based on Lack of Disability</i>	Nothing in Chapter 21 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 the public servant's office or employment commits an offense if the public servant 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>
Sexual Harassment of Unpaid Interns	<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"><li>1. Know or should have known that the conduct constituting sexual harassment was occurring; and</li><li>2. Fail to take immediate and appropriate corrective action.</li></ol> <p>An individual is considered to be an unpaid intern of an employer if:</p> <ol style="list-style-type: none"><li>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;</li><li>2. The individual's internship experience is for the individual's benefit;</li><li>3. The individual does not displace the employer's regular employees but works under close supervision of the employer's existing staff;</li></ol>

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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 42 U.S.C. Chapter 21, Subchapter VI, 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

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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*

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<b>Public Servants</b>	All college district employees are public servants and therefore subject to Title 8 of the Penal Code, regarding offenses against public administration, including bribery and corrupt influence (Chapter 36), perjury and other falsification (Chapter 37), obstructing governmental operation (Chapter 38), and abuse of office (Chapter 39). [See DBD and BBFA] <i>Penal Code 1.07(a)(41), Title 8</i>
<b>Hair Texture and Style</b>	An employer, including a college district, commits an unlawful employment practice if the employer adopts or enforces a dress or grooming policy that discriminates against a hair texture or protective hairstyle commonly or historically associated with race. "Protective hairstyle" includes braids, locks, and twists. [See DAA] <i>Labor Code 21.1095</i>
<b>Low-THC Cannabis</b>	A municipality, county, or other political subdivision, including a college district, may not enact, adopt, or enforce a rule, ordinance, order, resolution, or other regulation that prohibits the cultivation, production, dispensing, or possession of low-THC cannabis, as authorized by Health and Safety Code Chapter 487.201. <i>Health and Safety Code 487.201</i>
<b>Hemp</b>	A municipality, county, or other political subdivision of this state, including a college district, may not enact, adopt, or enforce a rule, ordinance, order, resolution, or other regulation that prohibits the cultivation, handling, transportation, or sale of hemp as authorized by Agriculture Code Chapter 122. <i>Agriculture Code 122.002</i>
<b>Dextromethorphan</b>	A political subdivision of this state, including a college district, may not adopt or enforce an ordinance, order, rule, regulation, or policy that governs the sale, distribution, or possession of dextromethorphan. An ordinance, order, rule, regulation, or policy described by this section is void and unenforceable. <i>Health and Safety Code 488.005</i>
<b>Drug and Alcohol Abuse Program</b>	A person other than an individual shall not receive a grant from a Federal agency unless the person agrees to provide a drug-free workplace by:
<b>Federal Drug-Free Workplace Act</b>	<ol style="list-style-type: none"><li>1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violations of the prohibition [see DI(EXHIBIT)];</li><li>2. Establishing a drug-free awareness program to inform employees about the dangers of drug abuse in the workplace; the grantee's policy of maintaining a drug-free workplace; available drug counseling, rehabilitation, and employee assis-</li></ol>

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tance programs; and the penalties that may be imposed on employees for drug abuse violations;

3. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by item 1;
4. Notifying the employee in the statement required by item 1 that as a condition of employment in the grant the employee will abide by the terms of the statement; and notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after the conviction;
5. Notifying the granting agency within ten days after receiving notice under item 4 from an employee or otherwise receiving actual notice of a conviction;
6. Imposing a sanction on, or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by, any employee who is convicted, as required by 41 U.S.C. 8104; and
7. Making a good faith effort to continue to maintain a drug-free workplace through the implementation of items 1 to 6.

*41 U.S.C. 8103(a)(1)*

**Sex Offender  
Registration**

Not later than the later of the seventh day after the date on which the person begins to work or the first date the applicable authority by policy allows the person to register, a person required to register under Code of Criminal Procedure Chapter 62 who is employed or carries on a vocation at a public or private institution of higher education in this state shall report that fact to:

1. The authority for campus security for that institution; or
2. If an authority for campus security for that institution does not exist the local law enforcement authority of:
  - a. The municipality in which the institution is located; or
  - b. The county in which the institution is located, if the institution is not located in a municipality.

The person described above shall provide the authority for campus security or the local law enforcement authority all information the person is required to provide under Code of Criminal Procedure 62.051(c). The person shall notify the authority for campus security or the local law enforcement authority not later than the seventh

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day after the date of termination of the person's status as a worker at the institution.

The authority for campus security or the local law enforcement authority shall promptly forward to the administrative office of the institution any information received from the person under Code of Criminal Procedure 62.153 and any information received from the Texas Department of Public Safety under Code of Criminal Procedure 62.005.

This section does not impose the requirements of public notification or notification to public or private primary or secondary schools on:

1. An authority for campus security; or
2. A local law enforcement authority, if those requirements relate to a person about whom the authority is not otherwise required by Code of Criminal Procedure Chapter 62 to make notifications.

*Code of Criminal Procedure 62.153(a)–(d), (f)* [See also GCA]

**Disqualification from Retirement Annuity for Conviction of Certain Felonies**

A person is not eligible to receive a service retirement annuity from the Teacher Retirement System of Texas (TRS) if the person is convicted of a qualifying felony the victim of which is a student.

"Qualifying felony" means an offense that is punishable as a felony under the following sections of the Penal Code:

1. Section 21.02 (continuous sexual abuse of young child or disabled individual);
2. Section 21.12 (improper relationship between educator and student);
3. Section 22.011 (sexual assault) or Section 22.021 (aggravated sexual assault); or
4. Section 43.24 (sale, distribution, or display of harmful material to minor).

The term includes any federal offense that contains elements that are substantially similar to the elements of a felony offense described above.

*Gov't Code 824.009(a)–(c)*

**Public Information on a Privately-Owned Device**

A current or former officer or employee of a governmental body who maintains public information on a privately-owned device shall:

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1. Forward or transfer the public information to the governmental body or a governmental body server to be preserved as provided by Government Code 552.004(a); or
2. Preserve the public information in its original form in a backup or archive and on the privately-owned device for the time described under Government Code 552.004(a).

*Gov't Code 552.004(b)* [See CIA and GCB]

**Diversity, Equity,  
and Inclusion  
Initiatives**

The governing board of an institution of higher education, including a college district, shall ensure that each unit of the institution adopts policies and procedures for appropriately disciplining, including by termination, an employee or contractor of the institution who engages in conduct in violation of Education Code 51.3525(b)(1) [see BG, DAA, and FA]. *Education Code 51.3525(b)(2)*

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**Note:** For complaints of discrimination, harassment, and retaliation on the basis of a protected characteristic, see FFDA and FFDB.

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EQUAL EDUCATIONAL OPPORTUNITY

FA  
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**Section I: Generally**

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

An officer or employee of a political subdivision, including a college district, who is acting or purporting to act in an official capacity may not, because of the student's race, religion, color, sex, or national origin, refuse to permit the person to participate in a program owned, operated, or managed by or on behalf of the political subdivision; refuse to grant a benefit to the person; or impose an unreasonable burden on the person. *Civ. Prac. & Rem. Code 106.001(a)*

**Section II: Religious Freedom**

A governmental entity, including a college district, shall make no law prohibiting the free exercise of religion. *U.S. Const. Amends. I, XIV*

A government agency, including a college district, may not substantially burden a student's free exercise of religion, unless the government agency demonstrates that the application of the burden to the person is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that interest. *Civ. Prac. & Rem. Code 110.003*

**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]*

Access for  
Religious  
Organizations  
During Disasters

A governmental entity may not:

1. At any time, including during a declared state of disaster, prohibit a religious organization from engaging in religious and other related activities or continuing to operate in the discharge of the organization's foundational faith-based mission and purpose; or
2. During a declared state of disaster order a religious organization to close or otherwise alter the organization's purposes or activities.

*Gov't Code 2401.002(b) [See GA]*

**Section III:  
Discrimination on  
the Basis of Sex**

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance. *20 U.S.C. 1681; 34 C.F.R. 106.31*

Educational programs and activities include:

1. Housing. *34 C.F.R. 106.32*
2. Comparable facilities. *34 C.F.R. 106.33*
3. Access to course offerings. *34 C.F.R. 106.34*
4. Counseling. *34 C.F.R. 106.36*
5. Financial assistance. *34 C.F.R. 106.37*
6. Employment assistance to students. *34 C.F.R. 106.38*
7. Health and insurance benefits and services. *34 C.F.R. 106.39*
8. Athletics. *34 C.F.R. 106.41*

Parental, Family,  
and Marital Status

A recipient shall not apply any rule concerning a student's actual or potential parental, family, or marital status that treats students differently on the basis of sex. [See also FAA] *34 C.F.R. 106.40(a)*

Sexual Harassment

Sexual harassment of students is discrimination on the basis of sex under Title IX. *Franklin v. Gwinnett County Schools, 503 U.S. 60 (1992)* [See also FFDA]

<i>Definition of Sexual Harassment</i>	Sexual harassment of students is conduct that is so severe, pervasive, and objectively offensive that it can be said to deprive the victim of access to the educational opportunities or benefits provided by the school. Sexual harassment does not include simple acts of teasing and name-calling, however, even when the comments target differences in gender. <u>Davis v. Monroe County Bd. of Educ.</u> , 526 U.S. 629 (1999)
<i>Employee–Student Sexual Harassment</i>	An official of an educational entity who has authority to address alleged harassment by employees on the entity's behalf shall take corrective measures to address the harassment or abuse. <u>Gebser v. Lago Vista Indep. Sch. Dist.</u> , 524 U.S. 274 (1998)
<i>Student–Student Sexual Harassment</i>	An educational entity must reasonably respond to known student-on-student harassment where the harasser is under the entity's disciplinary authority. <u>Davis v. Monroe County Bd. of Educ.</u> , 526 U.S. 629 (1999)
Clery Act—Campus Sexual Assault Programs	<p>An institution's Clery Act annual security report [see GCC] must include a statement of policy regarding the institution's programs to prevent dating violence, domestic violence, sexual assault, and stalking and of procedures that the institution will follow when one of these crimes is reported. The statement must include:</p> <ol style="list-style-type: none"><li>1. A description of the institution's educational programs and campaigns to promote the awareness of dating violence, domestic violence, sexual assault, and stalking, as described below at Programs to Prevent Dating Violence, Domestic Violence, Sexual Assault, and Stalking;</li><li>2. Procedures victims should follow if a crime of dating violence, domestic violence, sexual assault, or stalking has occurred, including written information about:<ol style="list-style-type: none"><li>a. The importance of preserving evidence that may assist in proving that the alleged criminal offense occurred or may be helpful in obtaining a protection order;</li><li>b. How and to whom the alleged offense should be reported;</li><li>c. Options about the involvement of law enforcement and campus authorities, including notification of the victim's option to:<ol style="list-style-type: none"><li>(1) Notify proper law enforcement authorities, including on-campus and local police;</li></ol></li></ol></li></ol>

- (2) Be assisted by campus authorities in notifying law enforcement authorities if the victim so chooses; and
    - (3) Decline to notify such authorities; and
  - d. Where applicable, the rights of victims and the institution's responsibilities for orders of protection, "no-contact" orders, restraining orders, or similar lawful orders issued by a criminal, civil, or tribal court or by the institution;
3. Information about how the institution will protect the confidentiality of victims and other necessary parties, including how the institution will:
  - a. Complete publicly available recordkeeping, including Clery Act reporting and disclosures, without the inclusion of personally identifying information about the victim, as defined in the Violence Against Women Act of 1994, 42 U.S.C. 13925(a)(20); and
  - b. Maintain as confidential any accommodations or protective measures provided to the victim, to the extent that maintaining such confidentiality would not impair the ability of the institution to provide the accommodations or protective measures;
4. A statement that the institution will provide written notification to students and employees about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for victims, both within the institution and in the community;
5. A statement that the institution will provide written notification to victims about options for, available assistance in, and how to request changes to academic, living, transportation, and working situations or protective measures. The institution must make such accommodations or provide such protective measures if the victim requests them and if they are reasonably available, regardless of whether the victim chooses to report the crime to campus police or local law enforcement;
6. An explanation of the procedures for institutional disciplinary action in cases of alleged dating violence, domestic violence, sexual assault, or stalking, as described below at Procedures for Institutional Disciplinary Action; and

7. A statement that, when a student or employee reports to the institution that the student or employee has been a victim of dating violence, domestic violence, sexual assault, or stalking, whether the offense occurred on or off campus, the institution will provide the student or employee a written explanation of the student's or employee's rights and options, as described in items 1 through 6 of this list.

*20 U.S.C. 1092(f)(8); 34 C.F.R. 668.46(b)(11)*

*Programs to  
Prevent Dating  
Violence,  
Domestic  
Violence, Sexual  
Assault, and  
Stalking*

An institution must include in its annual security report a statement of policy that addresses the institution's programs to prevent dating violence, domestic violence, sexual assault, and stalking. The statement must include:

1. A description of the institution's primary prevention and awareness programs for all incoming students and new employees, which must include:
  - a. A statement that the institution prohibits the crimes of dating violence, domestic violence, sexual assault, and stalking, as those terms are defined in 34 C.F.R. 668.46(a) [see Definitions];
  - b. The definition of "dating violence," "domestic violence," "sexual assault," and "stalking" in the applicable jurisdiction [see Penal Code 22.011, 22.021, 42.072; Family Code 71.0021, 71.004];
  - c. The definition of "consent," in reference to sexual activity, in the applicable jurisdiction;
  - d. A description of safe and positive options for bystander intervention;
  - e. Information on risk reduction; and
  - f. The information described in 34 C.F.R. 668.46(b)(11) and 34 C.F.R. 668.46(k)(2); and
2. A description of the institution's ongoing prevention and awareness campaigns for students and employees, including information described at item 1.

An institution's programs to prevent dating violence, domestic violence, sexual assault, and stalking must include, at a minimum, the information required to be included in the statement.

*34 C.F.R. 668.46(j)*

Awareness Programs	"Awareness programs" means community-wide or audience-specific programming, initiatives, and strategies that increase audience knowledge and share information and resources to prevent violence, promote safety, and reduce perpetration. 34 C.F.R. 668.46(j)(2)(i)
Bystander Intervention	"Bystander intervention" means safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of dating violence, domestic violence, sexual assault, or stalking. Bystander intervention includes recognizing situations of potential harm, understanding institutional structures and cultural conditions that facilitate violence, overcoming barriers to intervening, identifying safe and effective intervention options, and taking action to intervene. 34 C.F.R. 668.46(j)(2)(ii)
Ongoing Prevention and Awareness Campaigns	"Ongoing prevention and awareness campaigns" means programming, initiatives, and strategies that are sustained over time and focus on increasing understanding of topics relevant to and skills for addressing dating violence, domestic violence, sexual assault, and stalking, using a range of strategies with audiences throughout the institution and including information described in item 1, above. 34 C.F.R. 668.46(j)(2)(iii)
Primary Prevention Programs	"Primary prevention programs" means programming, initiatives, and strategies informed by research or assessed for value, effectiveness, or outcome that are intended to stop dating violence, domestic violence, sexual assault, and stalking before they occur through the promotion of positive and healthy behaviors that foster healthy, mutually respectful relationships and sexuality, encourage safe bystander intervention, and seek to change behavior and social norms in healthy and safe directions. 34 C.F.R. 668.46(j)(2)(iv)
Risk Reduction	"Risk reduction" means options designed to decrease perpetration and bystander inaction, and to increase empowerment for victims in order to promote safety and to help individuals and communities address conditions that facilitate violence. 34 C.F.R. 668.46(j)(2)(v)
<i>Procedures for Institutional Disciplinary Action</i>	<p>An institution must include in its annual security report a clear statement of policy that addresses the procedures for institutional disciplinary action in cases of alleged dating violence, domestic violence, sexual assault, or stalking, as defined in 34 C.F.R. 668.46(a), and that:</p> <ol style="list-style-type: none"><li>1. Describes each type of disciplinary proceeding used by the institution; the steps, anticipated timelines, and decision-making process for each type of disciplinary proceeding; how to file a disciplinary complaint; and how the institution determines which type of proceeding to use based on the circumstances</li></ol>

- of an allegation of dating violence, domestic violence, sexual assault, or stalking;
2. Describes the standard of evidence that will be used during any institutional disciplinary proceeding arising from an allegation of dating violence, domestic violence, sexual assault, or stalking;
  3. Lists all of the possible sanctions that the institution may impose following the results of any institutional disciplinary proceeding for an allegation of dating violence, domestic violence, sexual assault, or stalking; and
  4. Describes the range of protective measures that the institution may offer to the victim following an allegation of dating violence, domestic violence, sexual assault, or stalking;
  5. Provides that the proceedings will:
    - a. Include a prompt, fair, and impartial process from the initial investigation to the final result;
    - b. Be conducted by officials who, at a minimum, receive annual training on the issues related to dating violence, domestic violence, sexual assault, and stalking and on how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability;
    - c. Provide the accuser and the accused with the same opportunities to have others present during any institutional disciplinary proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice;
    - d. Not limit the choice of advisor or presence for either the accuser or the accused in any meeting or institutional disciplinary proceeding; however, the institution may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties; and
    - e. Require simultaneous notification, in writing, to both the accuser and the accused, of:
      - (1) The result of any institutional disciplinary proceeding that arises from an allegation of dating violence, domestic violence, sexual assault, or stalking;
      - (2) The institution's procedures for the accused and the victim to appeal the result of the institutional

disciplinary proceeding, if such procedures are available;

- (3) Any change to the result; and
- (4) When such results become final.

*34 C.F.R. 668.46(k)*

Compliance with 34 C.F.R. 668.46(k) does not constitute a violation of Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g. *34 C.F.R. 668.46(l)*

Prompt, Fair,  
and Impartial  
Proceeding

"Prompt, fair, and impartial proceeding" includes a proceeding that is:

1. Completed within reasonably prompt time frames designated by an institution's policy, including a process that allows for the extension of time frames for good cause with written notice to the accuser and the accused of the delay and the reason for the delay;
2. Conducted in a manner that:
  - a. Is consistent with the institution's policies and transparent to the accuser and accused;
  - b. Includes timely notice of meetings at which the accuser or accused, or both, may be present; and
  - c. Provides timely and equal access to the accuser, the accused, and appropriate officials to any information that will be used during informal and formal disciplinary meetings and hearings; and
3. Conducted by officials who do not have a conflict of interest or bias for or against the accuser or the accused.

*34 C.F.R. 668.46(k)(3)(i)*

Adviser

"Adviser" means any individual who provides the accuser or accused support, guidance, or advice. *34 C.F.R. 668.46(k)(3)(ii)*

Proceeding

"Proceeding" means all activities related to a non-criminal resolution of an institutional disciplinary complaint, including, but not limited to, fact-finding investigations, formal or informal meetings, and hearings. Proceeding does not include communications and meetings between officials and victims concerning accommodations or protective measures to be provided to a victim. *34 C.F.R. 668.46(k)(3)(iii)*

**Result** "Result" means any initial, interim, and final decision by any official or entity authorized to resolve disciplinary matters within the institution. The result must include any sanctions imposed by the institution. Notwithstanding FERPA, the result must also include the rationale for the result and the sanctions. *34 C.F.R. 668.46(k)(3)(iv)*

**Definitions**

**Dating Violence**

"Dating violence" means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse and dating violence does not include acts covered under the definition of domestic violence.

For the purposes of complying with the requirements of this section and 34 C.F.R. 668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

*34 C.F.R. 668.46(a)*

**Domestic Violence**

"Domestic violence" is a felony or misdemeanor crime of violence committed:

1. By a current or former spouse or intimate partner of the victim;
2. By a person with whom the victim shares a child in common;
3. By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
4. By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or
5. By any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

For the purposes of complying with the requirements of this section and 34 C.F.R. 668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

*34 C.F.R. 668.46(a)*

Programs to Prevent Dating Violence, Domestic Violence, Sexual Assault, and Stalking

"Programs to prevent dating violence, domestic violence, sexual assault, and stalking" means comprehensive, intentional, and integrated programming, initiatives, strategies, and campaigns intended to end dating violence, domestic violence, sexual assault, and stalking that:

1. Are culturally relevant, inclusive of diverse communities and identities, sustainable, responsive to community needs, and informed by research or assessed for value, effectiveness, or outcome; and
2. Consider environmental risk and protective factors as they occur on the individual, relationship, institutional, community, and societal levels.

Programs to prevent dating violence, domestic violence, sexual assault, and stalking include both primary prevention and awareness programs directed at incoming students and new employees and ongoing prevention and awareness campaigns directed at students and employees, as defined in 34 C.F.R. 668.46(j)(2).

*34 C.F.R. 668.46(a)*

Sexual Assault

"Sexual assault" means an offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI's Uniform Crime Reporting (UCR) program and included in Appendix A of 34 C.F.R. Part 668, Subpart D. *34 C.F.R. 668.46(a)*

Stalking

"Stalking" means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others, or suffer substantial emotional distress.

For the purposes of this definition:

1. Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
2. Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.

*34 C.F.R. 668.46(a)*

**Section IV:  
Discrimination on  
the Basis of Race,  
Color, or National  
Origin**

No person in the United States shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program to which 34 C.F.R. Part 100 applies.

A recipient under any program to which Part 100 applies may not, directly or through contractual or other arrangements, on the ground of race, color, or national origin:

1. Deny an individual any service, financial aid, or other benefit provided under the program;
2. Provide any service, financial aid, or other benefit to an individual that is different, or is provided in a different manner, from that provided to others under the program;
3. Subject an individual to segregation or separate treatment in any matter related to his receipt of any service, financial aid, or other benefit under the program;
4. Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under the program;
5. Treat an individual differently from others in determining whether he satisfies any admission, enrollment, quota, eligibility, membership, or other requirement or condition that individuals must meet in order to be provided any service, financial aid, or other benefit provided under the program;
6. Deny an individual an opportunity to participate in the program through the provision of services or otherwise or afford him an opportunity to do so that is different from that afforded others under the program (including the opportunity to participate in the program as an employee but only to the extent set forth in 34 C.F.R. 100.3(c)); or
7. Deny a person the opportunity to participate as a member of a planning or advisory body that is an integral part of the program.

A recipient, in determining the types of services, financial aid, or other benefits, or facilities that will be provided under any such program, or the class of individuals to whom, or the situations in which, such services, financial aid, other benefits, or facilities will be provided under any such program, or the class of individuals to be afforded an opportunity to participate in any such program, may not, directly or through contractual or other arrangements, utilize criteria or methods of administration that have the effect of subjecting individuals to discrimination because of their race, color, or na-

tional origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program as respect individuals of a particular race, color, or national origin.

*42 U.S.C. 2000d; 34 C.F.R. 100.3(a)-(b)*

Hair Texture or  
Style

Discrimination on the basis of hair texture or a protective hairstyle in student dress or grooming policies is prohibited in accordance with Education Code 51.979 [see FLBA]. *Education Code 51.979*

**Section V: Diversity,  
Equity, and Inclusion  
Initiatives**

The governing board of an institution of higher education, including a college district, shall ensure that each unit of the institution does not, except as required by federal law:

1. Compel, require, induce, or solicit any person to provide a diversity, equity, and inclusion statement or give preferential consideration to any person based on the provision of a diversity, equity, and inclusion statement;
2. Give preference on the basis of race, sex, color, ethnicity, or national origin to a participant in any function of the institution; or
3. Require as a condition of enrolling at the institution or performing any institution function any person to participate in diversity, equity, and inclusion training, which:
  - a. Includes a training, program, or activity designed or implemented in reference to race, color, ethnicity, gender identity, or sexual orientation; and
  - b. Does not include a training, program, or activity developed by an attorney and approved in writing by the institution's general counsel and the Coordinating Board for the sole purpose of ensuring compliance with any applicable court order or state or federal law.

*Education Code 51.3525(b)(1)*

Exceptions

This section may not be construed to apply to:

1. Academic course instruction;
2. Scholarly research or a creative work by an institution of higher education's students or the dissemination of that research or work;
3. An activity of a student organization registered with or recognized by an institution of higher education;
4. Guest speakers or performers on short-term engagements;

5. A policy, practice, procedure, program, or activity to enhance student academic achievement or postgraduate outcomes that is designed and implemented without regard to race, sex, color, or ethnicity;
6. Data collection; or
7. Student recruitment or admissions.

*Education Code 51.3525(c)-(d)*

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**Note:** For related information on diversity, equity, and inclusion initiatives, see BG(LEGAL) for diversity, equity, and inclusion offices, CFE(LEGAL) for contractor discipline, DAA(LEGAL) for employees, and DH(LEGAL) for employee discipline.

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**Section VI:  
Discrimination on  
the Basis of Age**

No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving federal financial assistance. *42 U.S.C. 6102; 34 C.F.R. 110.10*

Exceptions

*Normal Operation  
or Statutory  
Objective*

A recipient is permitted to take an action otherwise prohibited by 34 C.F.R. 110.10 if the action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity. An action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity, if:

1. Age is used as a measure or approximation of one or more other characteristics;
2. The other characteristic or characteristics must be measured or approximated in order for the normal operation of the program or activity to continue, or to achieve any statutory objective of the program or activity;
3. The other characteristic or characteristics can be reasonably measured or approximated by the use of age; and
4. The other characteristic or characteristics are impractical to measure directly on an individual basis.

*34 C.F.R. 110.12*

*Reasonable  
Factors Other  
Than Age*

A recipient is permitted to take an action otherwise prohibited by 34 C.F.R. 110.10 that is based on a factor other than age, even though that action may have a disproportionate effect on persons of different ages. An action may be based on a factor other than

	<p>age only if the factor bears a direct and substantial relationship to the normal operation of the program or activity or to the achievement of a statutory objective. <i>34 C.F.R. 110.13</i></p>
<p><i>Special Benefits for Children and the Elderly</i></p>	<p>If a recipient operating a program or activity provides special benefits to the elderly or to children, the use of age distinctions is presumed to be necessary to the normal operation of the program or activity, notwithstanding the provisions of <i>34 C.F.R. 110.12</i>. <i>34 C.F.R. 110.16</i></p>
<p><i>Affirmative Action</i></p>	<p>Even in the absence of a finding of discrimination, a recipient may take affirmative action to overcome the effects of conditions that resulted in limited participation in the recipient's program or activity on the basis of age. <i>34 C.F.R. 110.15</i></p>
<p>Notice</p>	<p>A recipient shall notify its beneficiaries, in a continuing manner, of information regarding the provisions of the Age Discrimination Act of 1975 and the associated regulations. <i>34 C.F.R. 110.25(b)</i></p>
<p><b>Section VII: Discrimination on the Basis of Disability</b></p>	<p>Under the Americans with Disabilities Act (ADA), no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, including a college district, or be subjected to discrimination by any such entity. A public entity shall not exclude or otherwise deny equal services, programs, or activities to an individual or entity because of the known disability of an individual with whom the individual or entity is known to have a relationship or association. <i>42 U.S.C. 12132; 28 C.F.R. 35.130</i></p>
<p>ADA</p>	
<p>Section 504</p>	<p>Under Section 504 of the Rehabilitation Act, no otherwise qualified individual with a disability shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. <i>29 U.S.C. 794(a)</i></p>
<p>Disability</p>	<p>"Disability" means, with respect to an individual:</p> <ol style="list-style-type: none"><li>1. A physical or mental impairment that substantially limits one or more major life activities of an individual;</li><li>2. A record of having such an impairment; or</li><li>3. Being regarded as having such an impairment.</li></ol> <p>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.</p> <p>The term "disability" does not include:</p>

1. Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;
2. Compulsive gambling, kleptomania, or pyromania; or
3. Psychoactive substance use disorders resulting from current illegal use of drugs.

42 U.S.C. 12102(1), (4)(C)–(D); 28 C.F.R. 35.108(a), (d), (g)

*Regarded as  
Having Such an  
Impairment*

An individual meets the requirement of being "regarded as having such an impairment" if the individual establishes that he or she has been subjected to an action prohibited under the ADA because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity. 42 U.S.C. 12102(3)(A); 28 C.F.R. 35.108(f)

*Transitory and  
Minor*

Item 3 in the definition of "Disability," above, ("regarded as having such an impairment") shall not apply to impairments that are transitory or minor. A transitory impairment is an impairment with an actual or expected duration of six months or less. 42 U.S.C. 12102(3)(B); 28 C.F.R. 35.108(d)(1)(ix), (f)(2)

*Mitigating  
Measures*

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

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

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

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

42 U.S.C. 12102(4)(E); 28 C.F.R. 35.108(d)(1)(viii), (4)

*Major Life  
Activities*

"Major life activities" include, but are not limited to:

1. Caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting,

bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, and working; and

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

In determining whether an impairment substantially limits a major life activity, the term "major" shall not be interpreted strictly to create a demanding standard. Whether an activity is a major life activity is not determined by reference to whether it is of central importance to daily life.

*42 U.S.C. 12102(2); 28 C.F.R. 35.108(c)-(d)*

*Physical or  
Mental  
Impairment*

"Physical or mental impairment" means:

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

Physical or mental impairment includes, but is not limited to, contagious and noncontagious diseases and conditions such as the following: orthopedic, visual, speech, and hearing impairments, and cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, intellectual disability, emotional illness, dyslexia and other specific learning disabilities, Attention Deficit Hyperactivity Disorder, Human Immunodeficiency Virus infection (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism.

Physical or mental impairment does not include homosexuality or bisexuality.

*28 C.F.R. 35.108(b)*

Qualified Individual with a Disability	<p>The term "qualified individual with a disability" means an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by the college district. <i>42 U.S.C. 12131(2); 28 C.F.R. 35.104</i></p>
<i>Individual with a Disability</i>	<p>"Individual with a disability" means a person who has a disability. The term individual with a disability does not include an individual who is currently engaging in the illegal use of drugs, when the public entity acts on the basis of such use. <i>28 C.F.R. 35.104</i></p>
Student with a Disability	<p>A "student with a disability" is one who has a physical or mental impairment that substantially limits one or more of the student's major life activities, has a record of having such an impairment, or is being regarded as having such an impairment.</p> <p>The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures, such as medication, medical supplies, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics, hearing aids, mobility devices, oxygen therapy, assistive technology, or learned behavioral or adaptive neurological modifications.</p> <p>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.</p> <p>A student meets the requirement of being "regarded as" having an impairment if the student establishes that he or she has been subjected to a prohibited action because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity. This provision does not apply to impairments that are transitory or minor. A transitory impairment is one with an actual or expected duration of six months or less.</p> <p><i>29 U.S.C. 705(20)(B); 42 U.S.C. 12102(1), (3)-(4)</i></p>
Reasonable Modification	<p>A public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.</p> <p>A public entity is not required to provide a reasonable modification to an individual who meets the definition of "disability" solely under</p>

the "regarded as" prong of the definition of "disability" at 28 C.F.R. 35.108(a)(1)(iii).

*28 C.F.R. 35.130(b)(7)*

Communications

A public entity shall take appropriate steps to ensure that communications with applicants, participants, and members of the public, and companions with disabilities are as effective as communications with others. A public entity shall furnish appropriate auxiliary aids and services where necessary to afford individuals with disabilities, including applicants, participants, companions, and members of the public, an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity of a public entity. In determining what types of auxiliary aids or services are necessary, a public entity shall give primary consideration to the requests of the individual with disabilities. In order to be effective, auxiliary aids and services must be provided in accessible formats, in a timely manner, and in such a way as to protect the privacy and independence of the individual with a disability. *28 C.F.R. 35.160*

*Auxiliary Aids  
and Services*

"Auxiliary aids and services" include:

1. Qualified interpreters on-site or through video remote interpreting (VRI) services; notetakers; real-time computer-aided transcription services; written materials; exchange of written notes; telephone handset amplifiers; assistive listening devices; assistive listening systems; telephones compatible with hearing aids; closed caption decoders; open and closed captioning, including real-time captioning; voice, text, and video-based telecommunications products and systems, including text telephones (TTYs), videophones, and captioned telephones, or equally effective telecommunications devices; videotext displays; accessible electronic and information technology; or other effective methods of making aurally delivered information available to individuals who are deaf or hard of hearing;
2. Qualified readers; taped texts; audio recordings; Braille materials and displays; screen reader software; magnification software; optical readers; secondary auditory programs (SAP); large print materials; accessible electronic and information technology; or other effective methods for making visually delivered materials available to individuals who are blind or have low vision;
3. Acquisition or modification of equipment or devices; and
4. Other similar services and actions.

*28 C.F.R. 35.104*

EQUAL EDUCATIONAL OPPORTUNITY

FA  
(LEGAL)

*Limits of  
Required  
Modification*

Title 28 C.F.R. Chapter I, Part 35, Subpart E does not require a public entity to take any action that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity or in undue financial and administrative burdens. The decision that compliance would result in such alteration or burdens must be made by the head of the public entity or his or her designee after considering all resources available for use in the funding and operation of the service, program, or activity and must be accompanied by a written statement of the reasons for reaching that conclusion. *28 C.F.R. 35.164*

Direct Threat

The ADA does not require a public entity to permit an individual to participate in or benefit from the services, programs, or activities of the public entity when that individual poses a direct threat to the health or safety of others.

"Direct threat" means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures, or by the provision of auxiliary aids or services as provided below.

*28 C.F.R. 35.104*

In determining whether an individual poses a direct threat to the health or safety of others, a public entity must make an individualized assessment, based on reasonable judgment that relies on current medical knowledge or on the best available objective evidence, to ascertain:

1. The nature, duration, and severity of the risk;
2. The probability that the potential injury will actually occur; and
3. Whether reasonable modifications of policies, practices, or procedures or the provision of auxiliary aids or services will mitigate the risk.

*28 C.F.R. 35.139*

Services Inventory

The Coordinating Board shall maintain an inventory of all postsecondary educational programs and services provided for persons with intellectual and developmental disabilities by institutions of higher education. The Coordinating Board shall:

1. Post the inventory on the Coordinating Board's internet website in an easily identifiable and accessible location;
2. Submit the inventory to TEA for inclusion in the transition and employment guide under Education Code 29.0112; and
3. Update the inventory at least once every two years.

At times prescribed by the Coordinating Board, each institution of higher education, including each college district, shall report to the Coordinating Board all programs and services described above provided by that institution.

*Education Code 61.0663*

**Section VIII:  
Retaliation**

No recipient of federal financial assistance or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title VI, Title IX, or Section 504 or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding or hearing under 34 C.F.R. Parts 100, 104, or 106. *34 C.F.R. 100.7(e) (Title VI), 104.61 (Section 504), 106.71 (Title IX)*

**Section IX: Handgun  
License as Proof of  
Identification**

A person may not deny the holder of a concealed handgun license issued under Government Code Chapter 411, Subchapter H access to goods, services, or facilities, except as provided by Transportation Code 521.460 (regarding motor vehicle rentals) or in regard to the operation of a motor vehicle, because the holder has or presents a concealed handgun license rather than a driver's license or other acceptable form of personal identification.

This section does not affect the requirement under Government Code 411.205 that a person present a driver's license or identification certificate in addition to a concealed handgun license.

*Business and Commerce Code 506.001*

# Alvin Community College

## LOCAL POLICIES

BG ... Administrative Organization

CFE ... Purchasing and Acquisition / Vendor Relations

DAA ... Employment Objectives / Equal Employment Opportunity

FA ... Equal Educational Opportunity

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**Note:** For related information on diversity, equity, and inclusion initiatives, see CFE for contractor discipline, DAA for employees, DH for employee discipline, and FA for students.

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**Diversity, Equity,  
and Inclusion Office**

Except as required by federal law, the College District shall not:

1. Establish or maintain a diversity, equity, and inclusion office; or
2. Hire or assign an employee or contract with a third party to perform the duties of a diversity, equity, and inclusion office.

"Diversity, equity, and inclusion office" means an office, division, or other unit of the College District established for the purpose of:

1. Influencing hiring or employment practices at the College District with respect to race, sex, color, or ethnicity, other than through the use of color-blind and sex-neutral hiring processes in accordance with any applicable state and federal antidiscrimination laws;
2. Promoting differential treatment of or providing special benefits to individuals on the basis of race, color, or ethnicity;
3. Promoting policies or procedures designed or implemented in reference to race, color, or ethnicity, other than policies or procedures approved in writing by the College District's general counsel and the Coordinating Board for the sole purpose of ensuring compliance with any applicable court order or state or federal law; or
4. Conducting trainings, programs, or activities designed or implemented in reference to race, color, ethnicity, gender identity, or sexual orientation, other than trainings, programs, or activities developed by an attorney and approved in writing by the College District's general counsel and the Coordinating Board for the sole purpose of ensuring compliance with any applicable court order or state or federal law.

**Exceptions**

Nothing in this section may be construed to limit or prohibit the College District or a College District employee from, for purposes of applying for a grant or complying with the terms of accreditation by an accrediting agency, submitting to the grantor or accrediting agency a statement that:

1. Highlights the College District's work in supporting first-generation college students, low-income students, or underserved student populations; or

2. Certifies compliance with state and federal antidiscrimination laws.

The prohibitions do not apply to:

1. Academic course instruction;
2. Scholarly research or a creative work by College District employees or students;
3. An activity of a student organization registered with or recognized by the College District;
4. Guest speakers or performers on short-term engagements;
5. A policy, practice, procedure, program, or activity to enhance student academic achievement or postgraduate outcomes that is designed and implemented without regard to race, sex, color, or ethnicity;
6. Data collection; or
7. Student recruitment or admissions.

PURCHASING AND ACQUISITION  
VENDOR RELATIONS

CFE  
(LOCAL)

**Diversity, Equity,  
and Inclusion  
Initiatives**

The College President or designee shall develop procedures addressing the discipline, up to and including termination, of a College District contractor who violates Education Code 51.3525(b)(1).  
[See BG, DAA, and FA]

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

---

**Diversity, Equity,  
and Inclusion  
Initiatives**

Except as required by federal law, the College District shall not:

1. Compel, require, induce, or solicit any person to provide a diversity, equity, and inclusion statement or give preferential consideration to any person based on the provision of a diversity, equity, and inclusion statement;
2. Give preference on the basis of race, sex, color, ethnicity, or national origin to a participant in any College District function; or
3. Require as a condition of enrolling at the College District or performing any College District function any person to participate in diversity, equity, and inclusion training that references race, color, ethnicity, gender identity, or sexual orientation, unless it was developed by an attorney and approved in writing by the College District's general counsel and the Coordinating Board for the sole purpose of ensuring compliance with any applicable court order or state or federal law.

**Exceptions**

Nothing in this section may be construed to limit or prohibit the College District or a College District employee from, for purposes of applying for a grant or complying with the terms of accreditation by an accrediting agency, submitting to the grantor or accrediting agency a statement that:

1. Highlights the College District's work in supporting first-generation college students, low-income students, or underserved student populations; or
2. Certifies compliance with state and federal antidiscrimination laws.

The prohibitions do not apply to:

1. Submitting a statement as part of a grant application or to comply with the terms of accreditation that highlights the College District's work in supporting first-generation college students, low-income students, or underserved student populations, or that certifies compliance with state and federal antidiscrimination laws;
2. Academic course instruction;
3. Scholarly research or a creative work by College District employees or students;

EMPLOYMENT OBJECTIVES  
EQUAL EMPLOYMENT OPPORTUNITY

DAA  
(LOCAL)

4. An activity of a student organization registered with or recognized by the College District;
5. Guest speakers or performers on short-term engagements;
6. A policy, practice, procedure, program, or activity to enhance student academic achievement or postgraduate outcomes that is designed and implemented without regard to race, sex, color, or ethnicity;
7. Data collection; or
8. Student recruitment or admissions.

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**Note:** For related information on diversity, equity, and inclusion initiatives, see BG for diversity, equity, and inclusion offices, CFE for contractor discipline, DH for employee discipline, and FA for students.

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**Note:** For complaints of discrimination, harassment, and retaliation on the basis of a protected characteristic, see FFDA and FFDB.

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**Diversity, Equity,  
and Inclusion  
Initiatives**

Except as required by federal law, the College District shall not:

1. Compel, require, induce, or solicit any person to provide a diversity, equity, and inclusion statement or give preferential consideration to any person based on the provision of a diversity, equity, and inclusion statement;
2. Give preference on the basis of race, sex, color, ethnicity, or national origin to a participant in any College District function; or
3. Require as a condition of enrolling at the College District or performing any College District function any person to participate in diversity, equity, and inclusion training that references race, color, ethnicity, gender identity, or sexual orientation, unless it was developed by an attorney and approved in writing by the College District's general counsel and the Coordinating Board for the sole purpose of ensuring compliance with any applicable court order or state or federal law.

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The prohibitions do not apply to:

1. Academic course instruction;
2. Scholarly research or a creative work by College District employees or students;
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4. Guest speakers or performers on short-term engagements;
5. A policy, practice, procedure, program, or activity to enhance student academic achievement or postgraduate outcomes that is designed and implemented without regard to race, sex, color, or ethnicity;
6. Data collection; or
7. Student recruitment or admissions.

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**Note:** For related information on diversity, equity, and inclusion initiatives, see BG for diversity, equity, and inclusion offices, CFE for contractor discipline, DAA for employees, and DH for employee discipline.

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**ELECTRONIC SIGNATURE ACKNOWLEDGEMENT AND CONSENT FORM**

I, Bel Sanchez, agree and understand that by signing the Electronic Signature Acknowledgment and Consent Form, that all electronic signatures are the legal equivalent of my manual/handwritten signature and I consent to be legally bound to this agreement. I further agree my signature on this document is as valid as if I signed the document in writing. This is to be used in conjunction with the use of the electronic signature for the submission of the SB17 Annual Certification required by 51.3525(e) that I elected to have signed electronically. Under penalty of perjury, I herewith affirm that my electronic signature was signed by myself with full knowledge and consent and am legally bound to these terms and conditions.

Bel Sanchez  
Signature

8/15/2024  
Date

Please check one:

- President
- Board Chair

**ELECTRONIC SIGNATURE ACKNOWLEDGEMENT AND CONSENT FORM**

I, ROBERT J. EXLEY, agree and understand that by signing the Electronic Signature Acknowledgment and Consent Form, that all electronic signatures are the legal equivalent of my manual/handwritten signature and I consent to be legally bound to this agreement. I further agree my signature on this document is as valid as if I signed the document in writing. This is to be used in conjunction with the use of the electronic signature for the submission of the SB17 Annual Certification required by 51.3525(e) that I elected to have signed electronically. Under penalty of perjury, I herewith affirm that my electronic signature was signed by myself with full knowledge and consent and am legally bound to these terms and conditions.

Robert J. Exley  
Signature

8/15/2024  
Date

Please check one:

- President
- Board Chair

Institution: Amarillo College  
Date Submitted: 08/06/24  
Pages: 2

**ELECTRONIC SIGNATURE ACKNOWLEDGEMENT AND CONSENT FORM**

Denese Skinner

I, \_\_\_\_\_, agree and understand that by signing the Electronic Signature Acknowledgment and Consent Form, that all electronic signatures are the legal equivalent of my manual/handwritten signature and I consent to be legally bound to this agreement. I further agree my signature on this document is as valid as if I signed the document in writing. This is to be used in conjunction with the use of the electronic signature for the submission of the SB17 Annual Certification required by 51.3525(e) that I elected to have signed electronically. Under penalty of perjury, I herewith affirm that my electronic signature was signed by myself with full knowledge and consent and am legally bound to these terms and conditions.



08/06/2024

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

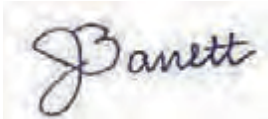
Please check one:

- President
- Board Chair

**ELECTRONIC SIGNATURE ACKNOWLEDGEMENT AND CONSENT FORM**

Jay L. Barrett

I, \_\_\_\_\_, agree and understand that by signing the Electronic Signature Acknowledgment and Consent Form, that all electronic signatures are the legal equivalent of my manual/handwritten signature and I consent to be legally bound to this agreement. I further agree my signature on this document is as valid as if I signed the document in writing. This is to be used in conjunction with the use of the electronic signature for the submission of the SB17 Annual Certification required by 51.3525(e) that I elected to have signed electronically. Under penalty of perjury, I herewith affirm that my electronic signature was signed by myself with full knowledge and consent and am legally bound to these terms and conditions.



08/06/2024

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

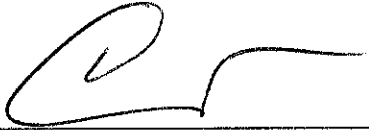
Please check one:

- President
- Board Chair

Institution: Angelina College  
Date Submitted: 08/21/24  
Pages: 2

**ELECTRONIC SIGNATURE ACKNOWLEDGEMENT AND CONSENT FORM**

I, Curtis (Curt) W. Fenley III, agree and understand that by signing the Electronic Signature Acknowledgment and Consent Form, that all electronic signatures are the legal equivalent of my manual/handwritten signature and I consent to be legally bound to this agreement. I further agree my signature on this document is as valid as if I signed the document in writing. This is to be used in conjunction with the use of the electronic signature for the submission of the SB17 Annual Certification required by 51.3525(e) that I elected to have signed electronically. Under penalty of perjury, I herewith affirm that my electronic signature was signed by myself with full knowledge and consent and am legally bound to these terms and conditions.



Signature

2/21/24

Date

Please check one:

- President
- Board Chair

**ELECTRONIC SIGNATURE ACKNOWLEDGEMENT AND CONSENT FORM**

I, Michael Simon, agree and understand that by signing the Electronic Signature Acknowledgment and Consent Form, that all electronic signatures are the legal equivalent of my manual/handwritten signature and I consent to be legally bound to this agreement. I further agree my signature on this document is as valid as if I signed the document in writing. This is to be used in conjunction with the use of the electronic signature for the submission of the SB17 Annual Certification required by 51.3525(e) that I elected to have signed electronically. Under penalty of perjury, I herewith affirm that my electronic signature was signed by myself with full knowledge and consent and am legally bound to these terms and conditions.

Michael Simon  
Signature

Aug 20, 2024  
Date

Please check one:

- President  
 Board Chair

Institution: Austin Community College District  
Date Submitted: 08/30/24  
Pages: 8

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

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**Diversity, Equity,  
and Inclusion  
Initiatives**

Except as required by federal law, the College District shall not:

1. Compel, require, induce, or solicit any person to provide a diversity, equity, and inclusion statement or give preferential consideration to any person based on the provision of a diversity, equity, and inclusion statement;
2. Give preference on the basis of race, sex, color, ethnicity, or national origin to a participant in any College District function; or
3. Require as a condition of enrolling at the College District or performing any College District function any person to participate in diversity, equity, and inclusion training that references race, color, ethnicity, gender identity, or sexual orientation, unless it was developed by an attorney and approved in writing by the College District's general counsel and the Coordinating Board for the sole purpose of ensuring compliance with any applicable court order or state or federal law.

Exceptions

Nothing in this section may be construed to limit or prohibit the College District or a College District employee from, for purposes of applying for a grant or complying with the terms of accreditation by an accrediting agency, submitting to the grantor or accrediting agency a statement that:

1. Highlights the College District's work in supporting first-generation college students, low-income students, or underserved student populations; or
2. Certifies compliance with state and federal antidiscrimination laws.

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1. Submitting a statement as part of a grant application or to comply with the terms of accreditation that highlights the College District's work in supporting first-generation college students, low-income students, or underserved student populations, or that certifies compliance with state and federal antidiscrimination laws;
2. Academic course instruction;
3. Scholarly research or a creative work by College District employees or students;

EMPLOYMENT OBJECTIVES  
EQUAL EMPLOYMENT OPPORTUNITY

DAA  
(LOCAL)

4. An activity of a student organization registered with or recognized by the College District;
5. Guest speakers or performers on short-term engagements;
6. A policy, practice, procedure, program, or activity to enhance student academic achievement or postgraduate outcomes that is designed and implemented without regard to race, sex, color, or ethnicity;
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8. Student recruitment or admissions.

---

**Note:** For related information on diversity, equity, and inclusion initiatives, see BG for diversity, equity, and inclusion offices, CFE for contractor discipline, DH for employee discipline, and FA for students.

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**ELECTRONIC SIGNATURE ACKNOWLEDGEMENT AND CONSENT FORM**

I, BARBARA P. MINK, agree and understand that by signing the Electronic Signature Acknowledgment and Consent Form, that all electronic signatures are the legal equivalent of my manual/handwritten signature and I consent to be legally bound to this agreement. I further agree my signature on this document is as valid as if I signed the document in writing. This is to be used in conjunction with the use of the electronic signature for the submission of the SB17 Annual Certification required by 51.3525(e) that I elected to have signed electronically. Under penalty of perjury, I herewith affirm that my electronic signature was signed by myself with full knowledge and consent and am legally bound to these terms and conditions.

Barbara P. Mink  
Signature

8/23/2024  
Date

Please check one:

- President  
 Board Chair

PURCHASING AND ACQUISITION  
VENDOR RELATIONS

CFE  
(LOCAL)

**Diversity, Equity,  
and Inclusion  
Initiatives**

The Chancellor or designee shall develop procedures addressing the discipline, up to and including termination, of a College District contractor who violates Education Code 51.3525(b)(1). [See BG, DAA, and FA]

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**Note:** For related information on diversity, equity, and inclusion initiatives, see CFE for contractor discipline, DAA for employees, DH for employee discipline, and FA for students.

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**Diversity, Equity,  
and Inclusion Office**

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1. Establish or maintain a diversity, equity, and inclusion office; or
2. Hire or assign an employee or contract with a third party to perform the duties of a diversity, equity, and inclusion office.

"Diversity, equity, and inclusion office" means an office, division, or other unit of the College District established for the purpose of:

1. Influencing hiring or employment practices at the College District with respect to race, sex, color, or ethnicity, other than through the use of color-blind and sex-neutral hiring processes in accordance with any applicable state and federal antidiscrimination laws;
2. Promoting differential treatment of or providing special benefits to individuals on the basis of race, color, or ethnicity;
3. Promoting policies or procedures designed or implemented in reference to race, color, or ethnicity, other than policies or procedures approved in writing by the College District's general counsel and the Coordinating Board for the sole purpose of ensuring compliance with any applicable court order or state or federal law; or
4. Conducting trainings, programs, or activities designed or implemented in reference to race, color, ethnicity, gender identity, or sexual orientation, other than trainings, programs, or activities developed by an attorney and approved in writing by the College District's general counsel and the Coordinating Board for the sole purpose of ensuring compliance with any applicable court order or state or federal law.

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3. An activity of a student organization registered with or recognized by the College District;
4. Guest speakers or performers on short-term engagements;
5. A policy, practice, procedure, program, or activity to enhance student academic achievement or postgraduate outcomes that is designed and implemented without regard to race, sex, color, or ethnicity;
6. Data collection; or
7. Student recruitment or admissions.

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**Note:** For complaints of discrimination, harassment, and retaliation on the basis of a protected characteristic, see FFDA and FFDB.

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**Diversity, Equity,  
and Inclusion  
Initiatives**

Except as required by federal law, the College District shall not:

1. Compel, require, induce, or solicit any person to provide a diversity, equity, and inclusion statement or give preferential consideration to any person based on the provision of a diversity, equity, and inclusion statement;
2. Give preference on the basis of race, sex, color, ethnicity, or national origin to a participant in any College District function; or
3. Require as a condition of enrolling at the College District or performing any College District function any person to participate in diversity, equity, and inclusion training that references race, color, ethnicity, gender identity, or sexual orientation, unless it was developed by an attorney and approved in writing by the College District's general counsel and the Coordinating Board for the sole purpose of ensuring compliance with any applicable court order or state or federal law.

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5. A policy, practice, procedure, program, or activity to enhance student academic achievement or postgraduate outcomes that is designed and implemented without regard to race, sex, color, or ethnicity;
6. Data collection; or
7. Student recruitment or admissions.

---

**Note:** For related information on diversity, equity, and inclusion initiatives, see BG for diversity, equity, and inclusion offices, CFE for contractor discipline, DAA for employees, and DH for employee discipline.

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Institution: Blinn College District  
Date Submitted: 08/12/24  
Pages: 3



June 18, 2024

**Chancellor of the  
Blinn College District**  
Mary Hensley, Ed.D.

**BOARD OF TRUSTEES**

**Chair**  
Jim Kolkopost

**Vice Chair**  
Alison Rentka

**Secretary**  
Franky Wells

**Members**  
Diane Kettler  
Rebecca Ehler  
Charissa Meier  
Timms Crowson

Texas Higher Education Coordinating Board  
Commissioner Harrison Keller  
P.O. Box 12788  
Austin, Texas 78711-2788

I certify, under penalty of perjury and the loss of funding to the Blinn College District, that the Blinn College District has complied with the requirements in Tex. Educ. Code § 51.3525:

I certify, in accordance with Tex. Educ. Code § 51.3525(b)(1)(A), this institution does not, except as required by federal law, have any office, division or unit with the established purpose of:

- influencing hiring or employment practices at the institution with respect to race, sex, color, or ethnicity, other than through the use of color-blind and sex-neutral hiring processes in accordance with any applicable state and federal antidiscrimination laws;
- promoting differential treatment of or providing special benefits to individuals on the basis of race, color, or ethnicity;
- promoting policies or procedures designed or implemented in reference to race, color, or ethnicity, other than policies or procedures approved in writing by this institution's general counsel and the Texas Higher Education Coordinating Board for the sole purpose of ensuring compliance with any applicable court order or state or federal law; or
- conducting trainings, programs, or activities designed or implemented in reference to race, color, ethnicity, gender identity, or sexual orientation, other than trainings, programs, or activities developed by an attorney and approved in writing by this institution's general counsel and the Texas Higher Education Coordinating Board for the sole purpose of ensuring compliance with any applicable court order or state or federal law.

I certify, in accordance with Tex. Educ. Code § 51.3525(b)(1)(B), this institution has not, except as required by federal law, hired or assigned an employee of the institution, or contracted with a third party to perform the duties of a diversity, equity, and inclusion office as defined in Tex. Educ. Code § 51.3525(a).

I certify, in accordance with Tex. Educ. Code § 51.3525(b)(1)(C), this institution does not, except as required by federal law, compel, require, induce, or solicit any person to provide a diversity, equity, and inclusion statement or give preferential consideration to any person based on the provision of a diversity, equity, and inclusion statement.

I certify, in accordance with Tex. Educ. Code § 51.3525(b)(1)(D), this institution does not, except as required by federal law, give preference on the basis of race, sex, color, ethnicity, or national origin to an applicant for employment, an employee, or a participant in any function of the institution.

I certify, in accordance with Tex. Educ. Code § 51.3525(b)(1)(E), this institution does not, except as required by federal law, require any person, as a condition of enrolling at the institution or performing any institution function, to participate in diversity, equity, and inclusion training, which includes a training, program, or activity designed or implemented in reference to race, color, ethnicity, gender identity, or sexual orientation, unless the training meets the exception in Tex. Educ. Code § 51.3525(b)(1)(E)(ii).

I certify, in accordance with Tex. Educ. Code § 51.3525(b)(2), that this institution has adopted policies and procedures for appropriately disciplining, including by termination, an employee or contractor of the institution who engages in conduct in violation of Tex. Educ. Code § 51.3525(b)(1)(A)-(E).

I certify, in accordance with Tex. Educ. Code § 51.3525(e), that no state appropriations to this institution for FY2025 have been spent prior to submission of this certification report to the Legislature and the Texas Higher Education Coordinating Board.

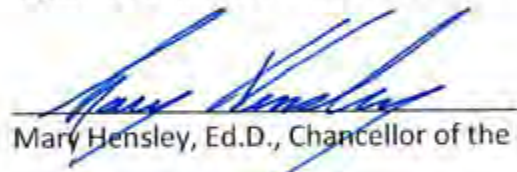
I understand the State Auditor's Office will conduct a compliance audit for this institution and if violations of Tex. Educ. Code § 51.3525 are found, this institution must cure the violation within 180 days or become ineligible to receive formula funding increases, institutional enhancements, or exceptional items during the state fiscal biennium immediately following the state fiscal biennium in which the determination is made.

I understand all complaints regarding any violations made by this institution will be sent to the State Auditor's Office for review.

To ensure full compliance with Tex. Educ. Code § 51.3525 and any federal law, in the past fiscal year the Blinn College District has conducted the following: the College does not have an office, division or unit dedicated to diversity, equity, or inclusion purposes; the College has not hired or assigned any personnel to perform a diversity, equity, or inclusion purpose or function; the College does not compel, require, induce, or solicit a diversity, equity, or inclusion statement from any person; the College does not give preference on the basis of race, sex, color, ethnicity, or national origin to any person; the College does not require training related to diversity, equity, or inclusion; and the College has adopted policies and procedures related to diversity, equity, and inclusion matters.

Failure to return a certification form to the Texas Higher Education Coordinating Board by September 1, 2024, will be considered an act of non-compliance with the law and can subject the above referenced institution to all penalties allowed by law.

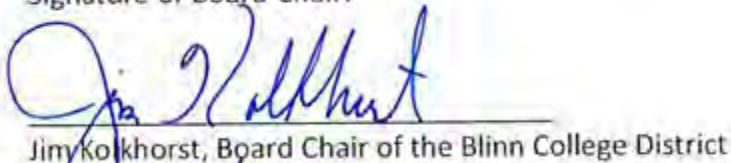
Signature of Institution President:



Mary Hensley, Ed.D., Chancellor of the Blinn College District

Date: 6/4/24

Signature of Board Chair:



Jim Kolkhorst, Board Chair of the Blinn College District

Date: 6/18/24


Date submitted to THECB: 08/12/2024

Date submitted to the Legislature: 08/12/2024

Institution: Brazosport College  
Date Submitted: 08/27/24  
Pages: 2

**ELECTRONIC SIGNATURE ACKNOWLEDGEMENT AND CONSENT FORM**

I, Robert Perryman, agree and understand that by signing the Electronic Signature Acknowledgment and Consent Form, that all electronic signatures are the legal equivalent of my manual/handwritten signature and I consent to be legally bound to this agreement. I further agree my signature on this document is as valid as if I signed the document in writing. This is to be used in conjunction with the use of the electronic signature for the submission of the SB17 Annual Certification required by 51.3525(e) that I elected to have signed electronically. Under penalty of perjury, I herewith affirm that my electronic signature was signed by myself with full knowledge and consent and am legally bound to these terms and conditions.



Signature

8-19-2024

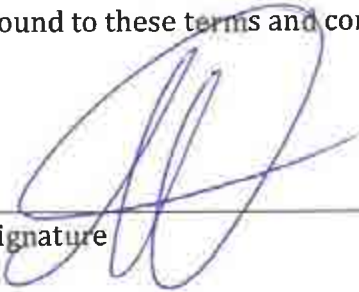
Date

Please check one:

- President
- Board Chair

**ELECTRONIC SIGNATURE ACKNOWLEDGEMENT AND CONSENT FORM**

I, Vincent Solis agree and understand that by signing the Electronic Signature Acknowledgment and Consent Form, that all electronic signatures are the legal equivalent of my manual/handwritten signature and I consent to be legally bound to this agreement. I further agree my signature on this document is as valid as if I signed the document in writing. This is to be used in conjunction with the use of the electronic signature for the submission of the SB17 Annual Certification required by 51.3525(e) that I elected to have signed electronically. Under penalty of perjury, I herewith affirm that my electronic signature was signed by myself with full knowledge and consent and am legally bound to these terms and conditions.

  
Signature

  
Date

Please check one:

- President
- Board Chair

Institution: Central Texas College  
Date Submitted: 08/22/24  
Pages: 24

# SENATE BILL 17

[Home](#) / [About CTC](#) / [Senate Bill 17](#)

During the 88<sup>th</sup> regular session in 2023, the Texas Legislature passed and the Governor signed into law Senate Bill 17, which prohibits certain initiatives related to diversity, equity, and inclusion at public institutions of higher education, including community colleges. The law is effective January 1, 2024. The full text of SB 17 can be found [here](#). Also, the Texas Association of School Board Community College Services developed a useful [FAQ](#) that details the law and the responsibilities it places on institutions.

The administration of Central Texas College has thoroughly reviewed the statute together with existing campus programs and policies. Ensuring full compliance with SB 17 will be an ongoing process as the impacts of the new law evolve. There are restrictions, though many of the activities that have historically taken place on campus remain permissible.

CTC has always been a welcome and accepting home to a vibrant population of students, faculty, and staff, and it will continue to be a place of access, belonging, and connections while navigating the mandates of this new law.


Sincerely,

Dr. Michele J. Carter, Chancellor

Available at: <https://www.ctcd.edu/about-ctc/senate-bill-17/>

**ELECTRONIC SIGNATURE ACKNOWLEDGEMENT AND CONSENT FORM**

I, Jimmy Towers, agree and understand that by signing the Electronic Signature Acknowledgment and Consent Form, that all electronic signatures are the legal equivalent of my manual/handwritten signature and I consent to be legally bound to this agreement. I further agree my signature on this document is as valid as if I signed the document in writing. This is to be used in conjunction with the use of the electronic signature for the submission of the SB17 Annual Certification required by 51.3525(e) that I elected to have signed electronically. Under penalty of perjury, I herewith affirm that my electronic signature was signed by myself with full knowledge and consent and am legally bound to these terms and conditions.

  
\_\_\_\_\_  
Signature

8/20/24  
\_\_\_\_\_  
Date

Please check one:

- President
- Board Chair

Central Texas College District Human Resource Management Operating Policies and Procedures Manual
Policy No. 105: Equal Employment Opportunity

**I. PURPOSE**

To foster an employment environment free from all aspects of discrimination.

**II. SCOPE**

This policy applies to all CTCD employees at all locations.

**III. RESPONSIBILITY**

- A. The Board of Trustees periodically delineates CTCD policy and responsibility in regard to equal employment opportunity and non-discrimination.
- B. The CTCD Chancellor is responsible for the overall development, implementation, coordination, monitoring and auditing functions of equal employment opportunity. To ensure proper implementation and monitoring, the Chancellor has delegated equal employment opportunity responsibility to the Chief Human Resources Officer as an integral function of Human Resource Management.
- C. The Chief Human Resources Officer is charged with the responsibility for development, implementation, coordination, reporting and dissemination of information regarding equal employment opportunity for all CTCD personnel.

**IV. POLICY**

A. Equal Employment Opportunity

Central Texas College District is an equal opportunity institution. We are unequivocally committed to a policy of equal access and equal opportunity in employment practices. The College does not discriminate on the basis of race, color, religion, gender, national origin, age, disability, veteran status, genetic information, sexual orientation, gender identity or transgender status. As such, CTCD is committed to providing equal opportunity to all applicants and employees in all phases of the employment process including recruitment, hiring practices, retention, promotions, job assignments, benefits, compensation and training. Accordingly, it is the policy of the College to maintain an academic and work environment free of discrimination and harassment in accordance with all applicable federal, state and local statutes and regulations.

- 1. CTCD is committed to the practice of equal opportunity through a positive and continuing review of programs with the goal to maintain a balanced workforce in terms of ethnicity and gender.

2. The Coordinator, Equal Employment Opportunity assists the administration, faculty and staff in achieving the goals and objectives of the Institution in providing equal access and opportunity in compliance with all applicable policies and laws.

3. The Coordinator, Equal Employment Opportunity will provide ongoing training, monitor employment practices and serve as an employee advocate. All employees are expected to comply with existing policies and laws.

## B. Affirmative Action in Employment

CTCD is a federal contractor and has established an on-going program of affirmative action with good faith efforts directed towards the following:

1. Determination of the extent to which minorities and women are under-utilized in major categories and identification and elimination of the specific causes of such under-utilization;

2. Identification and elimination of any employment practices that adversely impact minorities, women and others protected by applicable law and the replacement of such practices with ones based on merit and valid job qualifications;

3. Development, through special recruitment efforts, of applicant pools in which qualified minorities and women are represented in proportions sufficient to help reduce their under-utilization, where such has occurred;

4. Development, through special recruitment efforts, of applicant pools in which handicapped/disabled persons and veterans are represented equitably;

## C. Prohibited Diversity, Equity and Inclusion Actions

No employee shall, except as required by law, engage in conduct that:

1. Establishes or maintains a diversity, equity, and inclusion office;

2. Hires or assigns an employee or contracts with a third party to perform the duties of a diversity, equity, and inclusion office;

3. Compels, requires, induces, or solicits any person to provide a diversity, equity, and inclusion statement or gives preferential consideration to any person based on the provision of a diversity, equity, and inclusion statement;

4. Gives preference on the basis of race, sex, color, ethnicity, or national origin to an applicant for employment, an employee, or a participant in any function of the institution; or

5. Requires participation in diversity, equity, and inclusion training

## **V. PROCEDURES**

Administrative, faculty and supervisory personnel are responsible for implementing consistent policies to eliminate any discriminatory practice, either intentional or inadvertent, with respect to the policies stated herein. The Affirmative Action Plan is available to all employees for review in the Human Resource Management office.

Employees will be subject to appropriate disciplinary action up to and including termination of employment for violations of this policy.

<b>Central Texas College Materials Management Policy and Procedures Manual</b>	<b>Policy No. 100</b>  <b>Purchasing Policy</b> <b>Reviewed: June 4, 2024</b> <b>Revised: June 4, 2024</b>
<b>Purchasing Policy</b>	

## **I. AUTHORITY FOR PROCUREMENT**

The Board of Trustees of the CTCD, hereinafter called the District, has delegated to the Chancellor the authority for all administration to include contracting and procurement activities of the District. This authority is contained in Board Document 314 and further delineated in Procedural Document No. 314.30 (Business Services), which directs that all procedures and practices for contracting District services and the procurement (Purchase or Lease) of supplies, equipment, services, and construction adhere strictly to the applicable laws of the United States of America and the State of Texas to include those prescribed in the Texas Education Code, Local Government Code, Texas Revised Civil Statutes, Attorney General Opinions, Vernon's Annotated Texas Statutes, Federal regulations, and other sources.

Responsibility for direction, performance, and accountability for procurement administration is assigned to the Director of Business Services. For the purpose of efficiency in administration and management, the responsibility for purchasing of supplies, materials, equipment, and construction from outside vendors for all District activities has been centralized in the Purchasing Department, which is an office within the Materials Management Division. The Director of Business Services also acts as the Purchasing Agent for the District and is delegated the authority to act as Agent for the District in carrying out the purchasing activities.

Except as described within this manual, no obligation for purchases shall be entered into without written authorization from the Chancellor. In the case of overseas campuses or sites outside the state of Texas, the Chancellor may delegate this authority as needed. The District will not assume responsibility for the payment of purchases other than those made in compliance with these procedures.

## **II. RESPONSIBILITIES AND OBJECTIVES**

Purchasing services begins when a user department determines a need for goods or services and ends when that need is delivered to the requesting user. The Purchasing Department serves District customers by acquiring all products and services necessary to meet institutional requirements. The Department is charged with the responsibility of acquiring these products and services from acceptable sources at the most reasonable prices, and ensuring they are delivered as specified by the District customer. In providing these services, purchases of all supplies, equipment, and services will be made on a competitive basis whenever possible and will meet the minimum specifications required by the requesting department. The objectives and responsibilities of the Purchasing Department are as follows:

- A. Serve as the focal point for the purchasing effort within the District and to monitor it administratively.
- B. Acquire what District customers need, ensuring that delivery is timely and at the best value, in terms of price, quality, and service.
- C. Work in concert with the Receiving and Shipping Department in processing complaints, claims, and adjustments, and to negotiate for the return of material or other arrangements to the satisfaction of all parties.
- D. Act as the focal point for all communications with suppliers relating to bids and purchase orders.
- E. Ensure that specifications submitted for Requests for Proposals are worded to clearly describe the minimum requirements, but general enough to establish free and open competitive bidding.
- F. Consolidate purchases whenever possible in order to obtain quantity discounts for volume purchases and to enter into requirements contracts with vendors that will provide correspondingly more favorable prices.
- G. Provide customers with current information on new products and services, substitute materials, prices, and available alternatives when appropriate.
- H. Coordinate with the Inventory Manager and identify serviceable and functional items within the inventory that will meet the needs of the requesting department.
- I. Coordinate with the Accounts Payable Department to ensure cash discounts by prompt processing of vendor invoices and taking advantage of exemptions for state and other taxes applicable to educational institution purchases.
- J. Provide prices and estimates of costs of materials and supplies upon request.
- K. Provide better public relations by providing vendors consistent, equitable treatment obtained by dealing with one office.
- L. Develop, maintain, and keep current lists of dependable vendors for the various supplies and materials required.

### **III. INDIVIDUAL RESPONSIBILITY**

Except as set forth herein, any employee who purchases or orders any item or service in the name of the District or who individually obligates the credit of the District without adhering to the procedures outlined herein shall be individually responsible for payment to the vendor or return of the item.

**IV. GENERAL OBJECTIVES**

- A. To afford the most competitive opportunity for individual vendors to provide items to the District.
- B. To minimize the administrative costs of manpower, storage, and freight costs associated with accomplishing the purchasing function.

**V. CATEGORIES OF PROCUREMENT**

Purchases are divided into levels based upon dollar value and method of procurement. The levels of purchase are:

- A. **Level I - Less than \$10,000** may be ordered in the most expeditious manner by use of one quotation. Quotations will be verbally accepted based upon past experience considering price, quality, and delivery date.

**NOTE:** Level I purchases may be made in accordance with level III requirements, if it appears to be in the best interest of the District. Level I grant purchases shall be in accordance with Section XV of this policy.

- B. **Level II - \$10,000 to \$49,999.99** shall require one of the following competitive quotation procedures:

- 1. One time purchase of personal property shall require competitive quotation procedures consisting of at least three telephone, email, or electronic bids. Bids will be recorded on either manually or electronically. The Purchasing Department will ensure that the all required information is provided such as vendor information, price, quantity, quality of product, delivery time and method, and if necessary; warranty and experience. The Department must provide a final technical review and award recommendation to Purchasing. A requisition shall be entered into the Datatel Colleague purchasing system by the requesting department in accordance with the price as quoted by the successful vendor.

**Note:** If a level II purchase is made using an approved CTC purchasing cooperative contract then the three (3) quote requirement is not required. For more information regarding approved Co-ops please contact the purchasing department. Level II grant purchases shall be in accordance with section XV of this policy.

2. Multiple purchases of categories of personal property that over the course of the current fiscal year will total \$10,000 but not exceed \$49,999.99 shall require the same procedures as above except that the vendors will be chosen from lists developed by the Purchasing Department. Development of these lists will be accomplished by the Purchasing Department advertising the material categories in the Killeen Daily Herald annually requesting that interested vendors submit their name, facsimile, and telephone numbers to the Purchasing Department. Interested departments may add vendors that they believe will be responsive. The approved vendor lists for each category will be sent to each interested department. Once established, each purchase, no matter how small, must be made by contacting at least three vendors from the approved list. The vendors contacted and the prices quoted must be listed in the comments box of the requisition screen so that it will not appear on the purchase order (PO).

**Note:** Level II contracts may be let in accordance with the requirements of Level III, if it appears to be in the best interest of the District.

- C. **Level III - \$50,000 or more** shall require a formal bid (see Procedures Policy No.110), and Board Approval. Notice of the time when and the place where the bids will be opened must be advertised in the Killeen Daily Herald at least once a week for two consecutive weeks, the last of which must be ten days prior to the bid due date. Where a department anticipates spending \$50,000 or more in aggregate for the fiscal year through multiple purchases with the same vendor, then they are required to follow level III procedures. Exceptions to this level are:

1. Produce and fuel contracts must be bid in accordance with section V.B. above.
2. Federally funded child nutrition programs are subject to competitive bidding if the contract is valued at \$10,000 or more.
3. Federally funded professional services contracts must be let by competitive bid.

**Note:** Level III grant purchases shall be in accordance with section XV of this policy.

## **VI. APPROVING AUTHORITY FOR PURCHASES**

- A. Purchases of less than \$2,500.
  1. Department Manager
  2. Dean/Division Director
  3. Fiscal Officer
- B. Purchases from \$2,500 up to and including \$4,999.99.
  1. Department Manager
  2. Dean/Division Director
  3. Fiscal Officer
  4. Cognizant Executive Officer

- C. Purchases from \$5,000 up to and including \$9,999.99.
  - 1. Department Manager
  - 2. Dean/Division Director
  - 3. Fiscal Officer
  - 4. Cognizant Executive Officer
  - 5. Deputy Chancellor for Finance and Administration
  
- D. Purchases from \$10,000 up to and including \$49,999.99.
  - 1. Department Manager
  - 2. Dean/Division Director
  - 3. Fiscal Officer
  - 4. Cognizant Executive Officer
  - 5. Deputy Chancellor for Finance and Administration
  - 6. Chancellor
  
- E. Purchases of \$50,000 or more.
  - 1. Department Manager
  - 2. Dean/Division Director
  - 3. Fiscal Officer
  - 4. Cognizant Executive Officer
  - 5. Deputy Chancellor for Finance and Administration
  - 6. Chancellor
  - 7. Board of Trustees

**NOTES**

- A. The Board of Trustees will be informed and vote to approve or disapprove any contract, agreement, and grant purchases during their monthly meeting. This applies to all vendors with whom the college anticipates spending \$50,000 or more during the fiscal year.
  
- B. Purchases made from resale accounts for Auxiliary Services are not subject to the approving authority above.
  
- C. The published approving authority is applicable to off campus locations.
  
- D. The College District reserves the right to reject any and all bids, accept any bid, waive technicalities and award a bid which best serves the College District.

**VII. BLANKET PURCHASE ORDERS**

The purpose of blanket POs (BPOs) is to reduce the number of requests processed for repetitive, scheduled, or unscheduled requirements for rent/lease payments, taxes, utilities, office supplies, electrical supplies, etc. Designated Continental Campus sites may use BPOs for procurement of office supplies and other administrative items (consumables) that may be required on a frequent basis. BPOs are valid for the fiscal year (September 1 through August 31) within which they were requested. Specifically excluded from purchase by BPOs are materials and items of equipment that cost \$1,000.00 or more (inventory items) and items which are deemed “sensitive” in nature. Requests for exception to this policy must be submitted to the Director, Business Services, in writing, giving full justification prior to entering the item into the Purchasing System.

The Department Manager with approving authority for a BPO is responsible for ensuring that the College receives the goods and services obtained under said BPO.

**VIII. COMPETITIVE BIDDING**

Statutes containing requirements for competitive bidding are found in the Texas Education Code, Local Government Code, and Vernon's Civil Statutes. The Purchasing module of the TEA Financial Accountability System Resource Guide provides the many requirements in the competitive bidding process.

The Categories of Procurement outlined in section V above will be adhered to and Level III procurement must be processed in accordance with Procedures No. 110.

**IX. LEASE AGREEMENTS**

The procurement of equipment by lease agreement is subject to the Category

**X. PROVISIONS**

- A. The Professional Services Procurement Act, Texas Statutes Government specifically prohibits the procurement of professional services of any licensed architect, physician, certified public accountant, land surveyor, professional engineer etc. from the competitive bid process. These procurements are the prerogative of the Board of Trustees.
- B. Blanket purchase agreements may be executed and approved for execution as outlined in the levels stated above.

**XI. EMERGENCY PURCHASES**

Emergency purchases exceeding the dollar amount triggering competitive procurement requirements shall be made in conformance with paragraph (h) Section 44.031 Texas Education Code, which states:

"If school equipment, school facility or a portion of a school facility is destroyed, or severely damaged, or, experiences a major unforeseen operational or structural failure, and the board of trustees determines that the delay posed by the contract methods required by this section would prevent or substantially impair the conduct of classes or other essential school activities, then contracts for the replacement or repair of the equipment, school facility, or portion of the school facility may be made by a method other than the methods required by this section."

The Chancellor may authorize the purchase of items in this type emergency and subsequently report the action to the Board of Trustees.

**XII. VENDOR LIST**

- A. The Purchasing Department will maintain vendor lists for bid procurement of a general nature. The primary source of vendors is either the telephone book yellow pages, the Internet, or a standard form provided to any vendor who requests that their company name be included. When a bid is issued, the Purchasing Department will make every effort to ensure that all appropriate vendors domiciled within the District receive a copy of the bid.

Departments desiring to initiate bid procedures for special categories of materials, will submit a recommended vendor list along with the specifications. The Purchasing Department will also research the category through the Internet for sources such as the Texas Building and Procurement Commission's Central Master Bidders List and supplement the list if necessary.

- B. The District will afford all vendors who request it an equal opportunity to be placed on the vendor list. By the same token, vendors who habitually fail to meet contract requirements will be removed from the list upon recommendation by the department involved.

**XIII. GIFTS AND GRATUITIES**

No employee of the District involved in any way with the purchasing process shall accept or receive, directly or indirectly, from any person, firm or corporation to whom any contract for the purchase of materials, supplies, equipment, or construction for the District may be awarded, by rebate, gifts, or otherwise, any money or anything of value whatsoever, or any promise, obligation or contract for future rewards or compensation.

**XIV. CONFLICT OF INTEREST**

As a general rule the District does not enter into purchasing contracts with students, faculty, or staff or members of faculty or staff immediate families. Acquisitions from a business in which an employee has financial interest is prohibited, unless full disclosure of the background facts are presented in writing to the Director of Business Services.

**XV. RESTRICTIONS ON CERTAIN PURCHASES**

- A. Except as authorized by the Chancellor within the limits of the authority delegated by the Board of Trustees, items of a personal nature, such as brief cases, Christmas cards, fountain pens, flowers, and gifts for any occasion may not be purchased with District funds. The purchase of specialty or promotional items such as t-shirts, mugs or pens will be coordinated with the Director, Community
- B. Memberships must be purchased in the name of the District and are restricted to those that are required to support the mission of the department for which they are purchased. Further, all memberships must be approved by the appropriate Executive Officer. This approval is required for the initial membership and each renewal.
- C. Subscriptions must be purchased in the name of the District and are restricted to those that are required to support the mission of the department for which they are purchased. Publications available in the College Library will not be purchased by departments, except when it is determined vital to the department operation. In either case, subscriptions must be approved by the appropriate Executive Officer. This approval is required for the initial subscription and each renewal.
- D. Purchases from Sponsored Project Funds (e.g. Carl Perkins) will be made in accordance with CTC purchasing procedures, the Texas Higher Education Coordinating Board Perkins V Equipment Inventory Guide, and CTC procurement policy 130. Additionally, if a governing document specifies alternative procedures, those procedures will be followed on a case by case basis. It is the responsibility of the Project Director or Manager to be aware of any special purchase limitations or requirements applicable to a particular sponsored project and ensure that they are met.

- E. Purchases made with grant funds will be made in accordance with CTC purchasing policy and procedures. Where a grant requires specific or alternative procurement procedures those will be followed in accordance with the award and contractual requirements to the extent allowed by law. It is the responsibility of the department awarded the grant, and the Grant's Manager to be aware of any special purchase limitations or requirements applicable to a particular sponsored project and ensure that they are met.

**XVI. PURCHASE REQUESTS REQUIRING PREPAYMENT**

The requirement that a check must accompany the PO must be so stated within the requisition. This may be accomplished by adding the phrase *prepayment required*  
– *please issue check* in the printed comments section.

**XVII. PURCHASES FOR OVERSEAS SHIPMENT**

Purchase Requisitions that require the goods requested to be delivered to the Central Campus Shipping and Receiving Department for subsequent shipment to an overseas campus must include the shipping cost. This cost will consist of two elements. First, the freight cost, which can be easily determined by the weight, size, and mode selected; and second, the cost of crating material. Over-estimating is better than under estimating, because those funds not used will be returned to the requestor's account. Failure to include the shipping cost will cause undue delay in the requested item's arrival at the overseas site.

**XVIII. COLLEGE SPONSORED EVENTS**

Central Texas College sponsored events which request food and/or beverage service must be coordinated with the College's contract food service provider. CTC's contract provider will work with the department to establish an event plan. When completed, the event plan will be used to initiate a requisition, which will include the quantity, description, and unit price of each line item listed on the event plan. In the "printed comments" section of the requisition, the following information from the event plan should be included: a) filename; b) control number; c) event date; d) event time; e) event location; and f) department point of contact information. Once the requisition is approved, a purchase order (PO) will be issued to the contract food service provider. Reimbursement for food/beverage services obtained outside of the College's contract food service provider is not available. This policy is applicable to Central Campus only.

**XIX. CREDIT CARD PURCHASES**

College issued credit cards are used to expedite the procurement of goods and services without circumventing College purchasing policies and State procurement guidelines. Any purchase made in violation of College policies and procedures is unauthorized and will become the responsibility of the individual placing the order. The individual placing an unauthorized order will bear the cost of goods and services received.

The individual whose name appears on the credit card is responsible for ensuring that the College receives the goods and services purchased with the card. The cardholder must promptly forward the receipt and purchase order number, or requisition number in cases of emergency purchases, to the Accounts Payable Department to expedite reconciliation of the credit card invoice.

See Appendix C of the Materials Management Purchasing Policies and Procedures Manual for a complete overview of the College's credit card program.

**XX. PURCHASE OF EMPLOYEE APPAREL**

The purchase of employee apparel, i.e., polo and oxford style shirts, required in the performance CTC job duties must be made through the College's contracted web store. Prior to any transaction, the department must gain approval through the responsible Dean or Division Director and ensure the availability of funds. Approval and issuance of a PO or BPO constitute appropriate approval. When the purchase is to be made via the college credit card, a PO to Bank of America should be processed and approved prior to the transaction. At a minimum, a written or electronic record of Dean or Division Director approval must be gained prior to entering an online transaction. The individual entering the online purchase will be held responsible for any purchases made via a College credit card if proper approval is not gained prior to the purchase.

**Note:** This policy does not apply to those employees who are required to wear a uniform on a daily basis.

**XXI. OFFICE SUPPLIES**

Perry Office Products is the approved vendor for office supplies, to include office equipment (excluding items listed in Item 4 below). Blanket purchase orders (BPO's) may be initiated for most items; however, fixed assets (items that cost \$1,000 or more) and sensitive items, such as cameras, audio visual items, etc., require a separate purchase order. **Please be reminded that the purpose of the BPO is to reduce the number of requests processed for repetitive or scheduled requirements.**

**XXII. TECHNOLOGY PURCHASES**

All purchases for software, information technology equipment, and communications equipment, i.e., computers, printers, scanners, fax machines, etc., must be coordinated with the Information Technology Division. All requests for such items must be submitted using the software and equipment request form on the CTC Information Technology webpage.

**XXIII. FURNITURE PURCHASES**

Krug International (KI) is the approved furniture vendor. The Purchasing Department is available to assist you with your furniture selection and purchase. This includes but is not limited to chairs, desks, tables, file cabinets, etc. Exceptions to this requirement must be pre-approved by the Deputy Chancellor for Finance and Administration.

**XXIV. GIFT CARDS**

Gift cards purchased and issued as awards and/or for drawings must be accounted for using the College's Gift Card Purchase Form. This form must be submitted to Accounts Payable as supporting documentation to issue payment along with a college credit card authorization form if applicable.

**ELECTRONIC SIGNATURE ACKNOWLEDGEMENT AND CONSENT FORM**

I, Michele J. Carter, agree and understand that by signing the Electronic Signature Acknowledgment and Consent Form, that all electronic signatures are the legal equivalent of my manual/handwritten signature and I consent to be legally bound to this agreement. I further agree my signature on this document is as valid as if I signed the document in writing. This is to be used in conjunction with the use of the electronic signature for the submission of the SB17 Annual Certification required by 51.3525(e) that I elected to have signed electronically. Under penalty of perjury, I herewith affirm that my electronic signature was signed by myself with full knowledge and consent and am legally bound to these terms and conditions.

Michele J. Carter  
Signature

8/20/2024  
Date

Please check one:

- President  
 Board Chair

### **C. Statement on Harassment, Sexual Misconduct and Discrimination**

In accordance with state and federal laws, Central Texas College is committed to providing an educational and work climate that is conducive to the personal and professional development of each individual. Discrimination and harassment on the basis of race, color, religion, sexual orientation, gender, gender identity, national origin, age, disability, veteran status, genetic information, or transgender status is prohibited. Central Texas College strives to protect the rights and privileges and to enhance the self-esteem of all its students and employees.

Students who believe they have been treated in a discriminatory or harassing manner because of membership in a protected group may discuss the allegations or file a complaint of discrimination or harassment with the Director of Student Life at 254-526-1258. Title IX concerns will also be referred to the Central Texas College Director, Risk Management / Title IX Coordinator at 254-501-3028. Students may also file a complaint of discriminatory treatment in the provision of educational programs and services with the Department of Education, Office of Civil Rights.

No student or prospective student shall be required to provide a diversity, equity and inclusion statement or be required to participate in diversity, equity and inclusion training, except as required by law.

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**Title IX prohibits harassment and discrimination on the basis of sex or gender in education programs on all CTCD campuses, or at any and all activities sponsored by, or in which CTCD participates. Sexual violence is a form of sexual harassment and is prohibited. Central Texas College will not tolerate violence of any kind, to include: domestic violence, dating violence, sexual assault, sexual harassment, or stalking. (See XII. Sexual Assault and Other Prohibited Violence for more information.)**

To raise a sexual misconduct discrimination or harassment concern or to file a complaint contact:

- CTCD Police at 254-526-1427
- Director of Student Life at 254-526-1258 - Students
- Human Resources Department at 254-526-1128 – Faculty and Staff
- Director, Risk Management / Title IX Coordinator at 254-501-3028
- Online complaint: <https://www.ctcd.edu/locations/central-campus/student-support/title-ix/report-sexual-misconduct/>



**Internal Audit Report  
Senate Bill 17 Compliance Review  
August 15, 2024**

**Executive Summary**

**Audit Objective**

To determine if Central Texas College District (CTCD) is in compliance with Senate Bill (SB) 17.

**Background**

The 88th Texas State Legislature passed, and Governor Greg Abbott signed into law, SB 17, "Responsibility of Governing Boards Regarding Diversity, Equity, and Inclusion Initiatives," which amends Texas Education Code 51.5325. Effective January 1, 2024, SB 17 prohibits community colleges from engaging in certain diversity, equity, and inclusion (DEI) initiatives, with limited exceptions.

An institution of higher education may not spend money appropriated to the institution for a state fiscal year until the governing board of the institution submits to the legislature and the Texas Higher Education Coordinating Board a report certifying the board's compliance with SB 17 during the preceding state fiscal year. This reporting requirement first applies to funds appropriated to a college for the state fiscal year beginning September 1, 2024.

In the interim, between regular session of the legislature, the institution's governing board or board's designee shall publicly testify regarding compliance before the standing legislature committees with the primary jurisdiction over higher education at a public hearing of the committee regarding the board's compliance with SB 17.

A compliance audit will also be conducted by the state auditor that includes a compliance audit of each community college at least once every four years to determine if any state appropriations were spent in violation of SB 17.

**Findings**

- Board Document 443 preventing DEI initiatives was adopted by the Board of Trustees on April 23, 2024.
- No references to DEI were found in relation to offices, job titles, or employment practices in CTCD policies or on the CTCD website.
- All previously budgeted dollars for DEI initiatives have been removed.
- A review of expenses did not find any DEI expenses that were made since January 1, 2024.
- 16 Endowed Scholarships from the CTC Foundation were identified with DEI restrictions. In these cases, all the endowment charters have been amended to remove the DEI restrictions.

**Conclusion**

Based on this review, CTCD appears to have removed all DEI initiatives and references throughout the college and there have been no funds spent on DEI initiatives as of January 1, 2024; therefore, CTCD is in compliance with SB 17.

## **SCOPE AND METHODOLOGY**

Internal Audit performed the following:

- Review of Board Document 443
- Review of CTCD directory and questionnaire completed by Associate Vice Chancellor of Human Resource related to job title, job duties, and employment practices.
- Review of CTCD website for any references related to DEI.
- Review of prior DEI budgeted line items and any related expenses charged to this line item.
- Review of expenses in line items related to budget increase due to transfer of prior budgeted DEI funds.
- Review of all CTC Foundation scholarships to identify any DEI restrictions and subsequent charter amendments.

The audit period for expenses was September 1, 2023, through June 30, 2024.

## **CRITERIA**

Texas Education Code 51.3525, created by Senate Bill 17 - Responsibility of Governing Boards Regarding Diversity, Equity, and Inclusion Initiatives.

## **AUDITING STANDARDS**

We conducted this audit in accordance with generally accepted governmental auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on the audit objectives. We believe that the evidence obtained provides a reasonable basis for the findings and conclusions based on our audit objectives.

## **ACKNOWLEDGEMENTS**

We would like to acknowledge and thank the management and staff of the Central Texas College District who provided assistance in completing this audit.

## **AUDIT REPORT DISTRIBUTION**

Chancellor

General Counsel

CENTRAL TEXAS COLLEGE DISTRICT  
POLICY STATEMENT AND POSITION PAPER  
REGULATORY REQUIREMENTS FOR DIVERSITY, EQUITY  
AND INCLUSION INITIATIVES

SECTION I: INTRODUCTION

To address diversity, equity and inclusion initiatives at public institutions of higher education, Senate Bill 17 was passed by the Texas Legislature and signed by the Governor during the 88<sup>th</sup> Legislative Session. The bill is codified in Texas Education Code section 51.3525.

SECTION II: DIVERSITY, EQUITY AND INCLUSION OFFICE

The governing board of an institution of higher education, including a college district, shall ensure that each unit of the institution does not, except as required by federal law:

1. Establish or maintain a diversity, equity, and inclusion office;
2. Hire or assign an employee of the institution or contract with a third party to perform the duties of a diversity, equity, and inclusion office;
3. Compel, require, induce, or solicit any person to provide a diversity, equity, and inclusion statement or give preferential consideration to any person based on the provision of a diversity, equity, and inclusion statement;
4. Give preference on the basis of race, sex, color, ethnicity, or national origin to a participant in any function of the institution; or
5. Require as a condition of enrolling at the institution or performing any institution function any person to participate in diversity, equity, and inclusion training, which:
  - a. Includes a training, program, or activity designed or implemented in reference to race, color, ethnicity, gender identity, or sexual orientation; and
  - b. Does not include a training, program, or activity developed by an attorney and approved in writing by the institution's general counsel and the Coordinating Board for the sole purpose of ensuring compliance with any applicable court order or state or federal law.

"Diversity, equity, and inclusion office" means an office, division, or other unit of an institution of higher education established for the purpose of:

1. Influencing hiring or employment practices at the institution with respect to race, sex, color, or ethnicity, other than through the use of color-blind and sex-neutral hiring processes in accordance with any applicable state and federal antidiscrimination laws;
2. Promoting differential treatment of or providing special benefits to individuals on the basis of race, color, or ethnicity;
3. Promoting policies or procedures designed or implemented in reference to race, color, or ethnicity, other than policies or procedures approved in writing by the institution's general counsel and the Coordinating Board for the sole purpose of ensuring compliance with any applicable court order or state or federal law; or

4. Conducting trainings, programs, or activities designed or implemented in reference to race, color, ethnicity, gender identity, or sexual orientation, other than trainings, programs, or activities developed by an attorney and approved in writing by the institution's general counsel and the Coordinating Board for the sole purpose of ensuring compliance with any applicable court order or state or federal law.

### SECTION III: EXCEPTIONS

Nothing in this section (Texas Education Code 51.3525) may be construed to limit or prohibit an institution of higher education or an employee of an institution of higher education from, for purposes of applying for a grant or complying with the terms of accreditation by an accrediting agency, submitting to the grantor or accrediting agency a statement that:

1. Highlights the institution's work in supporting first-generation college students, low-income students, or underserved student populations; or
2. Certifies compliance with state and federal antidiscrimination laws.

This section may not be construed to apply to:

1. Academic course instruction;
2. Scholarly research or a creative work by an institution of higher education's students, faculty, or other research personnel or the dissemination of that research or work;
3. An activity of a student organization registered with or recognized by an institution of higher education;
4. Guest speakers or performers on short-term engagements;
5. A policy, practice, procedure, program, or activity to enhance student academic achievement or postgraduate outcomes that is designed and implemented without regard to race, sex, color, or ethnicity;
6. Data collection; or
7. Student recruitment or admissions.

### SECTION IV: COMPLIANCE

#### A. REPORT

An institution of higher education may not spend money appropriated to the institution for a state fiscal year until the governing board of the institution submits to the legislature and the Coordinating Board a report certifying the board's compliance with this section during the preceding state fiscal year.

#### B. TESTIMONY

In the interim between each regular session of the legislature, the governing board of each institution of higher education, or the board's designee, shall testify before the standing legislative committees with primary jurisdiction over higher education at a public hearing of the committee regarding the board's compliance with this section.

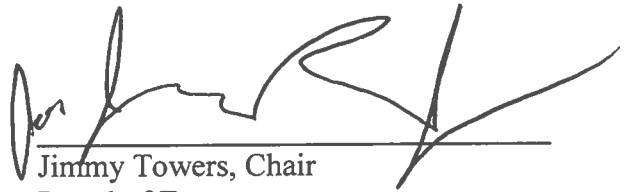
C. AUDIT

The state auditor shall periodically conduct a compliance audit of each institution of higher education to determine whether the institution has spent state money in violation of Education Code 51.3525. The state auditor shall adopt a schedule by which the state auditor will conduct compliance audits. The schedule must ensure that each institution of higher education is audited at least once every four years.

If the state auditor determines pursuant to a compliance audit that an institution of higher education has spent state money in violation of this section, the institution:

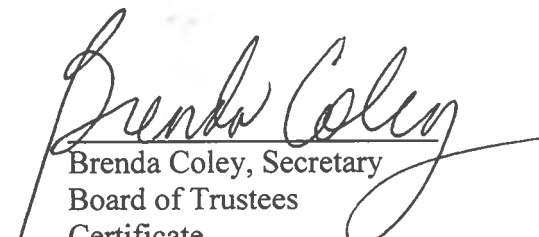
1. Must cure the violation not later than the 180th day after the date on which the determination is made; and
2. If the institution fails to cure the violation during the period described by item 1, is ineligible to receive formula funding increases, institutional enhancements, or exceptional items during the state fiscal biennium immediately following the state fiscal biennium in which the determination is made.

ADOPTED and APPROVED this 23<sup>rd</sup> day of April, 2024



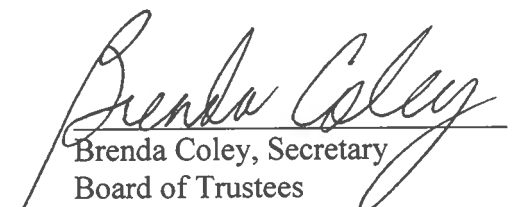
Jimmy Towers, Chair  
Board of Trustees

ATTEST:



Brenda Coley, Secretary  
Board of Trustees  
Certificate

I hereby certify that the above is true and correct of a policy statement and Position Paper adopted by the Board of Trustees, Central Texas College, at the meeting held this 23<sup>rd</sup> day of April, 2024.



Brenda Coley, Secretary  
Board of Trustees

Institution: Cisco College  
Date Submitted: 08/14/24  
Pages: 1

**ELECTRONIC SIGNATURE ACKNOWLEDGEMENT AND CONSENT FORM**

I, Dr. Thad J. Anglin, agree and understand that by signing the Electronic Signature Acknowledgment and Consent Form, that all electronic signatures are the legal equivalent of my manual/handwritten signature and I consent to be legally bound to this agreement. I further agree my signature on this document is as valid as if I signed the document in writing. This is to be used in conjunction with the use of the electronic signature for the submission of the SB17 Annual Certification required by 51.3525(e) that I elected to have signed electronically. Under penalty of perjury, I herewith affirm that my electronic signature was signed by myself with full knowledge and consent and am legally bound to these terms and conditions.

  
Signature

08/12/2024  
Date

Please check one:

- President  
 Board Chair

Institution: Clarendon College  
Date Submitted: 08/16/24  
Pages: 2

**ELECTRONIC SIGNATURE ACKNOWLEDGEMENT AND CONSENT FORM**

I, Texas D "Tex" Budholt, agree and understand that by signing the Electronic Signature Acknowledgment and Consent Form, that all electronic signatures are the legal equivalent of my manual/handwritten signature and I consent to be legally bound to this agreement. I further agree my signature on this document is as valid as if I signed the document in writing. This is to be used in conjunction with the use of the electronic signature for the submission of the SB17 Annual Certification required by 51.3525(e) that I elected to have signed electronically. Under penalty of perjury, I herewith affirm that my electronic signature was signed by myself with full knowledge and consent and am legally bound to these terms and conditions.

Texas D Budholt  
Signature

8/16/2024  
Date

Please check one:

- President  
 Board Chair

**ELECTRONIC SIGNATURE ACKNOWLEDGEMENT AND CONSENT FORM**

I, Jim Shelton, agree and understand that by signing the Electronic Signature Acknowledgment and Consent Form, that all electronic signatures are the legal equivalent of my manual/handwritten signature and I consent to be legally bound to this agreement. I further agree my signature on this document is as valid as if I signed the document in writing. This is to be used in conjunction with the use of the electronic signature for the submission of the SB17 Annual Certification required by 51.3525(e) that I elected to have signed electronically. Under penalty of perjury, I herewith affirm that my electronic signature was signed by myself with full knowledge and consent and am legally bound to these terms and conditions.

Jim Shelton  
Signature

8/16/24  
Date

Please check one:

- President
- Board Chair

Institution: Coastal Bend College  
Date Submitted: 08/23/24  
Pages: 36

**ELECTRONIC SIGNATURE ACKNOWLEDGEMENT AND CONSENT FORM**

I, Justin Hoggaard, agree and understand that by signing the Electronic Signature Acknowledgment and Consent Form, that all electronic signatures are the legal equivalent of my manual/handwritten signature and I consent to be legally bound to this agreement. I further agree my signature on this document is as valid as if I signed the document in writing. This is to be used in conjunction with the use of the electronic signature for the submission of the SB17 Annual Certification required by 51.3525(e) that I elected to have signed electronically. Under penalty of perjury, I herewith affirm that my electronic signature was signed by myself with full knowledge and consent and am legally bound to these terms and conditions.

Justin Hoggaard  
Signature

8/21/24  
Date

Please check one:

- President
- Board Chair

EMPLOYEE STANDARDS OF CONDUCT

DH  
(LEGAL)

<b>Public Servants</b>	All college district employees are public servants and therefore subject to Title 8 of the Penal Code, regarding offenses against public administration, including bribery and corrupt influence (Chapter 36), perjury and other falsification (Chapter 37), obstructing governmental operation (Chapter 38), and abuse of office (Chapter 39). [See DBD and BBFA] <i>Penal Code 1.07(a)(41), Title 8</i>
<b>Hair Texture and Style</b>	An employer, including a college district, commits an unlawful employment practice if the employer adopts or enforces a dress or grooming policy that discriminates against a hair texture or protective hairstyle commonly or historically associated with race. "Protective hairstyle" includes braids, locks, and twists. [See DAA] <i>Labor Code 21.1095</i>
<b>Low-THC Cannabis</b>	A municipality, county, or other political subdivision, including a college district, may not enact, adopt, or enforce a rule, ordinance, order, resolution, or other regulation that prohibits the cultivation, production, dispensing, or possession of low-THC cannabis, as authorized by Health and Safety Code Chapter 487.201. <i>Health and Safety Code 487.201</i>
<b>Hemp</b>	A municipality, county, or other political subdivision of this state, including a college district, may not enact, adopt, or enforce a rule, ordinance, order, resolution, or other regulation that prohibits the cultivation, handling, transportation, or sale of hemp as authorized by Agriculture Code Chapter 122. <i>Agriculture Code 122.002</i>
<b>Dextromethorphan</b>	A political subdivision of this state, including a college district, may not adopt or enforce an ordinance, order, rule, regulation, or policy that governs the sale, distribution, or possession of dextromethorphan. An ordinance, order, rule, regulation, or policy described by this section is void and unenforceable. <i>Health and Safety Code 488.005</i>
<b>Drug and Alcohol Abuse Program</b>	A person other than an individual shall not receive a grant from a Federal agency unless the person agrees to provide a drug-free workplace by:
Federal Drug-Free Workplace Act	<ol style="list-style-type: none"><li>1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violations of the prohibition [see DI(EXHIBIT)];</li><li>2. Establishing a drug-free awareness program to inform employees about the dangers of drug abuse in the workplace; the grantee's policy of maintaining a drug-free workplace; available drug counseling, rehabilitation, and employee assis-</li></ol>

EMPLOYEE STANDARDS OF CONDUCT

DH  
(LEGAL)

tance programs; and the penalties that may be imposed on employees for drug abuse violations;

3. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by item 1;
4. Notifying the employee in the statement required by item 1 that as a condition of employment in the grant the employee will abide by the terms of the statement; and notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after the conviction;
5. Notifying the granting agency within ten days after receiving notice under item 4 from an employee or otherwise receiving actual notice of a conviction;
6. Imposing a sanction on, or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by, any employee who is convicted, as required by 41 U.S.C. 8104; and
7. Making a good faith effort to continue to maintain a drug-free workplace through the implementation of items 1 to 6.

*41 U.S.C. 8103(a)(1)*

**Sex Offender  
Registration**

Not later than the later of the seventh day after the date on which the person begins to work or the first date the applicable authority by policy allows the person to register, a person required to register under Code of Criminal Procedure Chapter 62 who is employed or carries on a vocation at a public or private institution of higher education in this state shall report that fact to:

1. The authority for campus security for that institution; or
2. If an authority for campus security for that institution does not exist the local law enforcement authority of:
  - a. The municipality in which the institution is located; or
  - b. The county in which the institution is located, if the institution is not located in a municipality.

The person described above shall provide the authority for campus security or the local law enforcement authority all information the person is required to provide under Code of Criminal Procedure 62.051(c). The person shall notify the authority for campus security or the local law enforcement authority not later than the seventh

day after the date of termination of the person's status as a worker at the institution.

The authority for campus security or the local law enforcement authority shall promptly forward to the administrative office of the institution any information received from the person under Code of Criminal Procedure 62.153 and any information received from the Texas Department of Public Safety under Code of Criminal Procedure 62.005.

This section does not impose the requirements of public notification or notification to public or private primary or secondary schools on:

1. An authority for campus security; or
2. A local law enforcement authority, if those requirements relate to a person about whom the authority is not otherwise required by Code of Criminal Procedure Chapter 62 to make notifications.

*Code of Criminal Procedure 62.153(a)–(d), (f)* [See also GCA]

**Disqualification from Retirement Annuity for Conviction of Certain Felonies**

A person is not eligible to receive a service retirement annuity from the Teacher Retirement System of Texas (TRS) if the person is convicted of a qualifying felony the victim of which is a student.

"Qualifying felony" means an offense that is punishable as a felony under the following sections of the Penal Code:

1. Section 21.02 (continuous sexual abuse of young child or disabled individual);
2. Section 21.12 (improper relationship between educator and student);
3. Section 22.011 (sexual assault) or Section 22.021 (aggravated sexual assault); or
4. Section 43.24 (sale, distribution, or display of harmful material to minor).

The term includes any federal offense that contains elements that are substantially similar to the elements of a felony offense described above.

*Gov't Code 824.009(a)–(c)*

**Public Information on a Privately-Owned Device**

A current or former officer or employee of a governmental body who maintains public information on a privately-owned device shall:

EMPLOYEE STANDARDS OF CONDUCT

DH  
(LEGAL)

1. Forward or transfer the public information to the governmental body or a governmental body server to be preserved as provided by Government Code 552.004(a); or
2. Preserve the public information in its original form in a backup or archive and on the privately-owned device for the time described under Government Code 552.004(a).

*Gov't Code 552.004(b)* [See CIA and GCB]

**Diversity, Equity,  
and Inclusion  
Initiatives**

The governing board of an institution of higher education, including a college district, shall ensure that each unit of the institution adopts policies and procedures for appropriately disciplining, including by termination, an employee or contractor of the institution who engages in conduct in violation of Education Code 51.3525(b)(1) [see BG, DAA, and FA]. *Education Code 51.3525(b)(2)*

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**Note:** For related information on diversity, equity, and inclusion initiatives, see CFE for contractors, DAA(LEGAL) for employees, and FA(LEGAL) for students.

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**Diversity, Equity,  
and Inclusion Office**

The governing board of an institution of higher education, including a college district, shall ensure that each unit of the institution does not, except as required by federal law:

1. Establish or maintain a diversity, equity, and inclusion office; or
2. Hire or assign an employee of the institution or contract with a third party to perform the duties of a diversity, equity, and inclusion office.

"Diversity, equity, and inclusion office" means an office, division, or other unit of an institution of higher education established for the purpose of:

1. Influencing hiring or employment practices at the institution with respect to race, sex, color, or ethnicity, other than through the use of color-blind and sex-neutral hiring processes in accordance with any applicable state and federal antidiscrimination laws;
2. Promoting differential treatment of or providing special benefits to individuals on the basis of race, color, or ethnicity;
3. Promoting policies or procedures designed or implemented in reference to race, color, or ethnicity, other than policies or procedures approved in writing by the institution's general counsel and the Coordinating Board for the sole purpose of ensuring compliance with any applicable court order or state or federal law; or
4. Conducting trainings, programs, or activities designed or implemented in reference to race, color, ethnicity, gender identity, or sexual orientation, other than trainings, programs, or activities developed by an attorney and approved in writing by the institution's general counsel and the Coordinating Board for the sole purpose of ensuring compliance with any applicable court order or state or federal law.

*Education Code 51.3525(a)-(b)(1)*

Exceptions

Nothing in this section may be construed to limit or prohibit an institution of higher education or an employee of an institution of higher education from, for purposes of applying for a grant or complying

with the terms of accreditation by an accrediting agency, submitting to the grantor or accrediting agency a statement that:

1. Highlights the institution's work in supporting first-generation college students, low-income students, or underserved student populations; or
2. Certifies compliance with state and federal antidiscrimination laws.

This section may not be construed to apply to:

1. Academic course instruction;
2. Scholarly research or a creative work by an institution of higher education's students, faculty, or other research personnel or the dissemination of that research or work;
3. An activity of a student organization registered with or recognized by an institution of higher education;
4. Guest speakers or performers on short-term engagements;
5. A policy, practice, procedure, program, or activity to enhance student academic achievement or postgraduate outcomes that is designed and implemented without regard to race, sex, color, or ethnicity;
6. Data collection; or
7. Student recruitment or admissions.

*Education Code 51.3525(c)-(d)*

Compliance  
*Report*

An institution of higher education may not spend money appropriated to the institution for a state fiscal year until the governing board of the institution submits to the legislature and the Coordinating Board a report certifying the board's compliance with this section during the preceding state fiscal year. *Education Code 51.3525(e)*

*Testimony*

In the interim between each regular session of the legislature, the governing board of each institution of higher education, or the board's designee, shall testify before the standing legislative committees with primary jurisdiction over higher education at a public hearing of the committee regarding the board's compliance with this section. *Education Code 51.3525(f)*

*Audit*

The state auditor shall periodically conduct a compliance audit of each institution of higher education to determine whether the institution has spent state money in violation of Education Code 51.3525. The state auditor shall adopt a schedule by which the

state auditor will conduct compliance audits. The schedule must ensure that each institution of higher education is audited at least once every four years.

If the state auditor determines pursuant to a compliance audit that an institution of higher education has spent state money in violation of this section, the institution:

1. Must cure the violation not later than the 180th day after the date on which the determination is made; and
2. If the institution fails to cure the violation during the period described by item 1, is ineligible to receive formula funding increases, institutional enhancements, or exceptional items during the state fiscal biennium immediately following the state fiscal biennium in which the determination is made.

*Education Code 51.3525(g)-(h)*

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

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**Reports by College District**

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

1. As soon as practicable after the end of each academic year, the college district shall prepare an annual performance report for that academic year, under Education Code 130.0035. [See AFA]
2. Not later than June 1 of each even-numbered year and on request of the Legislative Budget Board (LBB) or the governor's Office of Budget and Policy (OBP), the college district shall report customer service information to the LBB and the OBP, under Government Code 2114.002. [See AFA]
3. In the form and manner and at the times required by the Coordinating Board, the college district shall report to the Coordinating Board on the enrollment status of students of the college district, under Education Code 130.0036. [See AFA]
4. The college district shall follow applicable institutional and financial assistance information dissemination requirements found at 20 U.S.C. 1092. [See AFA]
5. The minutes of the last regular meeting held by the board during a calendar year must reflect whether each member of the board has completed any training required to be completed by the member as of the meeting date, under Education Code 61.084. [See BBD]
6. The college district shall submit to the legislature and the Coordinating Board a report certifying the board's compliance regarding diversity, equity, and inclusion initiatives during the preceding state fiscal year, under Education Code 51.3525. [See BG]
7. The college district shall report monthly to the retirement system set out in Government Code 825.404, in a form it prescribes, the employee salary and other information required under Government Code 825.406. [See CAAB, CAM]

8. The investment officer shall prepare a report on the Public Funds Investment Act (PFIA) and deliver it to the board no later than the 180th day after the last day of each regular session of the legislature, under Government Code 2256.007. [See CAK]
9. Not less than quarterly and within a reasonable time after the end of the period, the investment officer shall prepare and submit to the board a written report of investment transactions for all funds covered by the PFIA, under Education Code 51.0032 and Government Code 2256.023. [See CAK]
10. The college district shall submit its audited annual financial report to the Coordinating Board by January 1st of each year, under 19 Administrative Code 13.62. [See CDA]
11. Not later than November 20 of each year, a college district shall submit an annual financial report regarding the college district's use of appropriated money during the preceding fiscal year to the government officials specified in Government Code 2101.011. [See CDA]
12. The board shall be responsible for the preparation of an annual financial statement, under Local Government Code 140.005. [See CDA]
13. The college district shall annually compile and report information regarding debt obligations, under Local Government Code 140.008. [See CDA]
14. Three copies of the annual audit report for the fiscal year ending August 31 shall be filed with the Coordinating Board by January 1 following the close of the fiscal year for which the audit was made, an electronic copy shall be posted to the Coordinating Board's collection server, and required copies shall be sent to other governmental agencies, under the publication *Budget Requirements and Annual Financial Reporting Requirements for Texas Public Community Colleges*. [See CDC]
15. Annually, a college district that enters into a qualifying purchasing contract shall present a written report on any contract-related fee as an agenda item in an open meeting of the board of trustees, under Education Code 44.0331. [See CF]
16. Annually, a college district shall report to the State Energy Conservation Office (SECO) regarding the college district's goal to reduce electric consumption, the college district's efforts to meet the goal, and progress the college district has made, under Health and Safety Code 388.005. [See CH]

17. Not later than March 1 of each year, each college district police department shall submit a report containing information about traffic stops during the previous calendar year to the Texas Commission on Law Enforcement Officers and Standards and the governing body of each county or municipality served by the department, under Code of Criminal Procedure 2.134. [See CHA]
18. At least once every three years, a college district shall conduct a security audit of the college district's facilities and report the results of the security audit to the Texas School Safety Center, under Education Code 37.108. [See CG]
19. No later than January 1 of each odd-numbered year, the college district shall submit a written report regarding the institution's compliance with the online course information posting to certain state officials, under Education Code 51.974 and 19 Administrative Code 4.225 to 4.228. [See EFA]
20. Not later than May 1 of each year and in the form prescribed by the Coordinating Board, each college district shall provide to the Coordinating Board and the legislature a report on courses taken by students who, during the preceding academic year, transferred to a general academic teaching institution or earned an associate degree at the college, under Education Code 51.4034. [See EFA]
21. Every five years, following the same timetable as the regular accreditation reports sent to the Southern Association of Colleges and Schools Commission on Colleges (SACSCOC) or its successor, each college district shall review its policies regarding credit earned as part of an approved field of study curriculum, and report the results to the Coordinating Board, under 19 Administrative Code 4.33(a). [See EFAA]
22. On an annual basis during the designated time period, the college district shall review course sequences for accuracy and submit any revisions or changes to the Coordinating Board, under Education Code 51.96852(c) and 19 Administrative Code 4.364. [See EFB]
23. A college district offering a baccalaureate degree program shall review each program and submit a report on the operation, quality, and effectiveness of the programs to the Coordinating Board in a specified format by January 1 of each odd-numbered year, under Education Code 130.011 and 19 Administrative Code 2.89, 2.183, and 9.678. [See EFBB]

24. Contact hours for career technical/workforce continuing education courses from public two-year colleges must be determined and reported in compliance with Coordinating Board policy as outlined in the Guidelines for Instructional Programs in Workforce Education as approved by the Coordinating Board, the Workforce Education Course Manual, and state law, under 19 Administrative Code 9.113, 9.114, and 9.116. [See EFCB]
25. No later than the July 1 immediately following the 12-month period ending August 31 during which 150 percent of the normal time for completion or graduation has elapsed for the students, the college district shall report on the completion and transfer-out rates of certificate- or degree-seeking, first-time, full-time undergraduate students, under 34 C.F.R. 668.45. [See EGC]
26. Annually, by July 1, a college district that is attended by students receiving athletically-related student aid must produce a report containing student athlete completion and transfer-out rates, under 34 C.F.R. 668.48. [See EGC]
27. At the end of each semester, the college district shall report to the Coordinating Board certain information for undergraduate students, under 19 Administrative Code 4.60. [See EI]
28. At times prescribed by the Coordinating Board, the college district shall report to the Coordinating Board all programs and services provided for persons with intellectual and developmental disabilities by the college district, under Education Code 61.0663. [See FA]
29. Not later than May 1 of each academic year, a college district shall submit to the Coordinating Board a report that contains certain information regarding students enrolled at the institution for the current academic year who are the parent or guardian of a child younger than 18 years of age, under Education Code 51.9357. [See FAA]
30. The college district shall report to the Coordinating Board all information regarding adjusted tuition rates for excessive hours and repeated courses required to comply with the provisions of 19 Administrative Code Chapter 13, Subchapter F, under 19 Administrative Code 13.109. [See FD]
31. The college district shall report to the Coordinating Board the types and amounts of tuition and fees charged to students by semester during the previous academic year, under 19 Administrative Code 13.143. [See FD]

32. Annually, the college district chief executive officer shall certify in writing to the Coordinating Board that the college district is in substantial compliance with Education Code Chapter 51, Subchapter E-2, under Education Code 51.258. [See DIAA, FFDA]
33. By October 1 of each year, a college district that provides on-campus housing shall prepare, publish, and distribute, through appropriate publications or mailings, an annual fire safety report to all current students and employees and, upon request, to any applicant for enrollment or employment, under 34 C.F.R. 668.41(e)(1). [See FG]
34. Not later than the 14th day before the first class day of each fall or spring semester and at student orientation, the college district shall provide a report to each student 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]
35. By October 1 of each year, the college district shall prepare, publish, and distribute, through appropriate publications or mailings, an annual security report to all current students and employees and, upon request, to any applicant for enrollment or employment, under 20 U.S.C. 1092(f) and 34 C.F.R. 668.41(e)(1). [See GCC]
36. The college district must report statistics for the three most recent calendar years concerning the occurrence on campus, in or on noncampus buildings or property and on public property, of certain crimes that are reported to local police agencies or to a campus security authority, under 34 C.F.R. 668.46. [See GCC]
37. The college district shall, in a manner that is timely and will aid in the prevention of similar crimes, report to the campus community on crimes that are considered by the college district to represent a threat to students and employees, under 34 C.F.R. 668.46(e). [See GCC]
38. The college district shall report student performance during the first year a student is enrolled after graduation from high school to the high school or public two-year college the student last attended, under Education Code 51.403 and 19 Administrative Code 9.23. [See GH]

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

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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*

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

Generally

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 the individual's 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 the individual's employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect the individual's 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

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	admission to, or employment in, any program established to provide apprenticeship or other training. <i>42 U.S.C. 2000e-2(d)</i>
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. <i>42 U.S.C. 2000e-2(e)</i>
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. <i>42 U.S.C. 2000e-3(b)</i>
Additional Considerations Sex Discrimination Gender Stereotypes Pregnancy	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, 490 U.S. 228 (1989)</i>  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. <i>42 U.S.C. 2000e(k)</i>
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

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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*

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

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**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.

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

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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)

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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)*

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

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**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.

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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)*

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

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**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 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.

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	<p>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.</p> <p><i>42 U.S.C. 12102(1), (4)(C)–(D); 29 C.F.R. 1630.2(g), (j)(1), .3</i></p>
<p><i>Regarded as Having Such an Impairment</i></p>	<p>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.</p> <p><i>42 U.S.C. 12102(3)(A); 29 C.F.R. 1630.2(g), (l)</i></p>
<p>Transitory and Minor</p>	<p>Item 3 in the definition of “disability,” above, (“regarded as having such an impairment”) shall not apply to impairments that are transitory or minor. A transitory impairment is an impairment with an actual or expected duration of six months or less. <i>42 U.S.C. 12102(3)(B); 29 C.F.R. 1630.2(j)(1)(ix)</i></p>
<p><i>Mitigating Measures</i></p>	<p>The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as medication, medical supplies, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy or supplies; use of assistive technology; reasonable accommodations or auxiliary aids or services; or learned behavioral or adaptive neurological modifications.</p> <p>The ameliorative effects of mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity.</p> <p>“Ordinary eyeglasses and contact lenses” are lenses that are intended to fully correct visual acuity or to eliminate refractive error.</p> <p>“Low-vision devices” means devices that magnify, enhance, or otherwise augment a visual image.</p> <p><i>42 U.S.C. 12102(4)(E)</i></p>
<p>Other Definitions</p>	<p>“Major life activities” include, but are not limited to:</p>
<p><i>Major Life Activities</i></p>	<ol style="list-style-type: none"><li>1. Caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, and working; and</li></ol>

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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

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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 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 DHA] 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 whose employment, by reason of such current alcohol abuse,

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	<p>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>

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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 FAB].

*28 C.F.R. 35.140*

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

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**Accommodations  
Based on Pregnancy**

It shall be an unlawful employment practice for a covered entity, including a college district, to:

1. Not make reasonable accommodations to the known limitations related to the pregnancy, childbirth, or related medical conditions of a qualified employee, unless such covered entity can demonstrate that the accommodation would impose an undue hardship on the operation of the business of such covered entity;
2. Require a qualified employee affected by pregnancy, childbirth, or related medical conditions to accept an accommodation other than any reasonable accommodation arrived at through the interactive process;
3. Deny employment opportunities to a qualified employee if such denial is based on the need of the covered entity to make reasonable accommodations to the known limitations related to the pregnancy, childbirth, or related medical conditions of the qualified employee; or
4. Take adverse action in terms, conditions, or privileges of employment against a qualified employee on account of the employee requesting or using a reasonable accommodation to the known limitations related to the pregnancy, childbirth, or related medical conditions of the employee.

*42 U.S.C. 2000gg-1*

Retaliation  
Prohibited

No person shall discriminate against any employee because such employee has opposed any act or practice made unlawful by this section or because such employee made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this section.

*42 U.S.C. 2000gg-2(f)*

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Definitions

*Known Limitation*

The term “known limitation” means physical or mental condition related to, affected by, or arising out of pregnancy, childbirth, or related medical conditions that the employee or employee’s representative has communicated to the employer whether or not such condition meets the definition of disability specified in the Americans with Disabilities Act (ADA) of 1990, 42 U.S.C. 12102. *42 U.S.C. 2000gg(4)*

*Qualified Employee*

The term “qualified employee” means an employee or applicant who, with or without reasonable accommodation, can perform the essential functions of the employment position, except that an employee or applicant shall be considered qualified if:

1. Any inability to perform an essential function is for a temporary period;
2. The essential function could be performed in the near future; and
3. The inability to perform the essential function can be reasonably accommodated.

*42 U.S.C. 2000gg(6)*

*Reasonable Accommodation and Undue Hardship*

The terms “reasonable accommodation and “undue hardship” have the meanings given such terms in the ADA, 42 U.S.C. 12111, and shall be construed as such terms are construed under the ADA and as set forth in the regulations required by this section, including with regard to the interactive process that will typically be used to determine an appropriate reasonable accommodation. *42 U.S.C. 2000gg(7)*

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**Note:** See Title VII—Discrimination on the Basis of Sex, Race, Color, Religion, or National Origin, above, for additional federal prohibitions on discrimination based on pregnancy, and State Law, below, for state prohibitions on discrimination based on pregnancy.

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**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 en-

force protections afforded any person under the Uniformed Services Employment and 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)*

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

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### **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.

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

*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. *Labor Code 21.122(a), (c)*

*Exception*

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 Chapter 21 if the employer establishes that the practice is not intentionally devised or operated to contravene the prohibitions of Chapter 21 and is justified by business necessity. *Labor Code 21.115(a)*

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. *Labor Code 21.054*

Selection Criterion

An employer may not use a qualification standard, employment test, or other selection criterion based on an individual's uncorrected vision unless the standard, test, or criterion is consistent with business necessity and job-related for the position to which the standard, test, or criterion applies. *Labor Code 21.115(b)*

EMPLOYMENT OBJECTIVES  
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*Bona Fide  
Occupational  
Qualification*

If disability, religion, sex, national origin, or age is a bona fide occupational qualification reasonably necessary to the normal operation of the particular business or enterprise, performing any of the following practices on the basis of disability, religion, sex, national origin, or age of an employee, member, or other individual is not an unlawful employment practice:

1. An employer hiring and employing an employee;
2. An employment agency classifying or referring an individual for employment; or
3. An employer controlling an apprenticeship, on-the-job training, or other training or retraining program admitting or employing an individual in its program.

*Labor Code 21.119*

Job Advertisement

An employer, labor organization, employment agency, or joint labor-management committee controlling an apprenticeship, on-the-job training, or other training or retraining program commits an unlawful employment practice if the employer, labor organization, employment agency, or committee prints or publishes or causes to be printed or published a notice or advertisement relating to employment that:

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

Labor Code 21.059 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.

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This section does not apply to standards of compensation or terms, conditions, or privileges of employment that are discriminatory on the basis of race, color, disability, religion, sex, national origin, or age.

*Labor Code 21.102(b)–(c)*

Diversity, Equity,  
and Inclusion  
Initiatives

The governing board of an institution of higher education, including a college district, shall ensure that each unit of the institution does not, except as required by federal law:

1. Compel, require, induce, or solicit any person to provide a diversity, equity, and inclusion statement or give preferential consideration to any person based on the provision of a diversity, equity, and inclusion statement;
2. Give preference on the basis of race, sex, color, ethnicity, or national origin to an applicant for employment, an employee, or a participant in any function of the institution; or
3. Require as a condition of performing any institution function any person to participate in diversity, equity, and inclusion training, which:
  - a. Includes a training, program, or activity designed or implemented in reference to race, color, ethnicity, gender identity, or sexual orientation; and
  - b. Does not include a training, program, or activity developed by an attorney and approved in writing by the institution's general counsel and the Coordinating Board for the sole purpose of ensuring compliance with any applicable court order or state or federal law.

*Education Code 51.3525(b)(1)*

*Exceptions*

Nothing in this section may be construed to limit or prohibit an institution of higher education or an employee of an institution of higher education from, for purposes of applying for a grant or complying with the terms of accreditation by an accrediting agency, submitting to the grantor or accrediting agency a statement that:

1. Highlights the institution's work in supporting first-generation college students, low-income students, or underserved student populations; or
2. Certifies compliance with state and federal antidiscrimination laws.

This section may not be construed to apply to:

1. Academic course instruction;

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2. Scholarly research or a creative work by an institution of higher education's faculty or other research personnel or the dissemination of that research or work;
3. Guest speakers or performers on short-term engagements;
4. A policy, practice, procedure, program, or activity to enhance student academic achievement or postgraduate outcomes that is designed and implemented without regard to race, sex, color, or ethnicity;
5. Data collection; or
6. Student recruitment or admissions.

*Education Code 51.3525(c)-(d)*

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**Note:** For related information on diversity, equity, and inclusion initiatives, see BG(LEGAL) for diversity, equity, and inclusion offices, CFE(LEGAL) for contractor discipline, DH(LEGAL) for employee discipline, and FA(LEGAL) for students.

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Additional  
Considerations  
*Sexual  
Harassment*

"Employer" means a person who employs one or more employees or acts directly in the interests of an employer in relation to an employee.

"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 employment, 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 employment;
3. The advance, request, or conduct has the purpose or effect of unreasonably interfering with an individual's work performance; or
4. The advance, request, or conduct has the purpose or effect of creating an intimidating, hostile, or offensive working environment.

An employer commits an unlawful employment practice if sexual harassment of an employee occurs and the employer or the employer's agents or supervisors:

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1. Know or should have known that the conduct constituting sexual harassment was occurring; and
2. Fail to take immediate and appropriate corrective action.

*Labor Code 21.141–.142, 40 TAC 819.11(6), (10),.12(k)*

*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*

*Hair Texture or  
Style*

A provision under Labor Code Chapter 21 referring to discrimination because of race or on the basis of race includes discrimination because of or on the basis of an employee's hair texture or protective hairstyle commonly or historically associated with race.

An employer, labor union, or employment agency commits an unlawful employment practice if the employer, labor union, or employment agency adopts or enforces a dress or grooming policy that discriminates against a hair texture or protective hairstyle commonly or historically associated with race.

"Protective hairstyle" includes braids, locks, and twists.

*Labor Code 21.1095 [See DH]*

*Religious  
Discrimination*

A provision in 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)*

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*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]*

*Access for  
Religious  
Organizations  
During Disasters*

A governmental entity may not:

1. At any time, including during a declared state of disaster, prohibit a religious organization from engaging in religious and other related activities or continuing to operate in the discharge of the organization's foundational faith-based mission and purpose; or
2. During a declared state of disaster order a religious organization to close or otherwise alter the organization's purposes or activities.

*Gov't Code 2401.002(b) [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*

EMPLOYMENT OBJECTIVES  
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<i>Discrimination Based on Lack of Disability</i>	Nothing in Chapter 21 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 the public servant's office or employment commits an offense if the public servant 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>
Sexual Harassment of Unpaid Interns	<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"><li>1. Know or should have known that the conduct constituting sexual harassment was occurring; and</li><li>2. Fail to take immediate and appropriate corrective action.</li></ol> <p>An individual is considered to be an unpaid intern of an employer if:</p> <ol style="list-style-type: none"><li>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;</li><li>2. The individual's internship experience is for the individual's benefit;</li><li>3. The individual does not displace the employer's regular employees but works under close supervision of the employer's existing staff;</li></ol>

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(LEGAL)

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 42 U.S.C. Chapter 21, Subchapter VI, 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

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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:

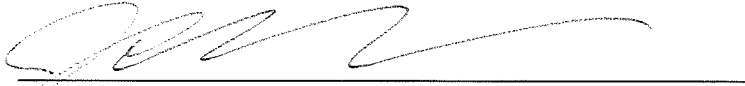
1. Posting of notices;
2. Publication in newspapers and magazines;
3. Placement of notices in recipients' publications; and
4. Distribution of memoranda or other written communications.

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*

**ELECTRONIC SIGNATURE ACKNOWLEDGEMENT AND CONSENT FORM**

I, JEFFREY M. BEEBILL, agree and understand that by signing the Electronic Signature Acknowledgment and Consent Form, that all electronic signatures are the legal equivalent of my manual/handwritten signature and I consent to be legally bound to this agreement. I further agree my signature on this document is as valid as if I signed the document in writing. This is to be used in conjunction with the use of the electronic signature for the submission of the SB17 Annual Certification required by 51.3525(e) that I elected to have signed electronically. Under penalty of perjury, I herewith affirm that my electronic signature was signed by myself with full knowledge and consent and am legally bound to these terms and conditions.



Signature

8-20-2024

Date

Please check one:

President

Board Chair

Institution: College of the Mainland  
Date Submitted: 08/27/24  
Pages: 64

**ELECTRONIC SIGNATURE ACKNOWLEDGEMENT AND CONSENT FORM**

I, Donald G. Garton, agree and understand that by signing the Electronic Signature Acknowledgment and Consent Form, that all electronic signatures are the legal equivalent of my manual/handwritten signature and I consent to be legally bound to this agreement. I further agree my signature on this document is as valid as if I signed the document in writing. This is to be used in conjunction with the use of the electronic signature for the submission of the SB17 Annual Certification required by 51.3525(e) that I elected to have signed electronically. Under penalty of perjury, I herewith affirm that my electronic signature was signed by myself with full knowledge and consent and am legally bound to these terms and conditions.

Donald G. Garton  
Signature

5/26/2024  
Date

Please check one:

- President  
 Board Chair

ELECTRONIC SIGNATURE ACKNOWLEDGEMENT AND CONSENT FORM

I, WARREN NICHOLS, agree and understand that by signing the Electronic Signature Acknowledgment and Consent Form, that all electronic signatures are the legal equivalent of my manual/handwritten signature and I consent to be legally bound to this agreement. I further agree my signature on this document is as valid as if I signed the document in writing. This is to be used in conjunction with the use of the electronic signature for the submission of the SB17 Annual Certification required by 51.3525(e) that I elected to have signed electronically. Under penalty of perjury, I herewith affirm that my electronic signature was signed by myself with full knowledge and consent and am legally bound to these terms and conditions.



Signature

8-26-24  
Date

Please check one:

- President  
 Board Chair

EMPLOYMENT OBJECTIVES  
EQUAL EMPLOYMENT OPPORTUNITY

DAA  
(LOCAL)

<b>Purpose</b>	The purpose of the College District's equal employment opportunity policy is to reaffirm that the College District is an equal opportunity/affirmative action employer and to ensure that all applicants are selected without regard for race, color, religion, sex, national origin, age, disability, veteran status, sexual orientation, genetic information, gender identity, or gender expression.
<b>Affirmative Action</b>	The Board authorizes the annual development and implementation of an Affirmative Action Plan in accordance with the Equal Employment Opportunity Commission's Uniform Guidelines on Employee Selection Procedures.
<b>Employment Discrimination Training</b>	Pursuant to Section 21.010 of the Texas Labor Code, the College District shall provide to employees an employment discrimination training program. The training program must provide the employee with information regarding the College District's policies and procedures relating to employment discrimination, including employment discrimination involving sexual harassment. Each employee shall complete the training not later than the 30th day after the date the employee is hired and shall complete supplemental training every two years.
<b>English Only Rule</b>	<p>The College District prides itself in its diversity. To this end, the College District invites its staff and students to engage in casual conversation in whatever language desired.</p> <p>Furthermore, neither students nor staff should be reprimanded or retaliated against for speaking the language of their choice in casual or business-related conversations.</p> <p>However, nothing in this policy shall be construed to limit any reasonable requirement that the English language be spoken in classrooms and other curricular in which English is the predominate language.</p>
<b>Prohibited Discrimination</b>	<p>Conduct and actions covered under this policy shall include those that are deemed to be prohibited by the following:</p> <ol style="list-style-type: none"><li>1. Title IX of the Education Act of 1972;</li><li>2. Titles VI and VII of the Civil Rights Act of 1964;</li><li>3. Sections 503 and 504 of the Rehabilitation Act of 1973;</li><li>4. The Americans with Disabilities Act (ADA) of 1990;</li><li>5. The Age Discrimination in Employment Act (ADEA) of 1967;</li><li>6. The Lily Ledbetter Fair Pay Act of 2009; and</li><li>7. Other federal, state, and local laws as well as other College District policies.</li></ol>

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

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**Diversity, Equity,  
and Inclusion  
Initiatives**

Except as required by federal law, the College District shall not:

1. Compel, require, induce, or solicit any person to provide a diversity, equity, and inclusion statement or give preferential consideration to any person based on the provision of a diversity, equity, and inclusion statement;
2. Give preference on the basis of race, sex, color, ethnicity, or national origin to a participant in any College District function; or
3. Require as a condition of enrolling at the College District or performing any College District function any person to participate in diversity, equity, and inclusion training that references race, color, ethnicity, gender identity, or sexual orientation, unless it was developed by an attorney and approved in writing by the College District's general counsel and the Coordinating Board for the sole purpose of ensuring compliance with any applicable court order or state or federal law.

Exceptions

Nothing in this section may be construed to limit or prohibit the College District or a College District employee from, for purposes of applying for a grant or complying with the terms of accreditation by an accrediting agency, submitting to the grantor or accrediting agency a statement that:

1. Highlights the College District's work in supporting first-generation college students, low-income students, or underserved student populations; or
2. Certifies compliance with state and federal antidiscrimination laws.

The prohibitions do not apply to:

1. Submitting a statement as part of a grant application or to comply with the terms of accreditation that highlights the College District's work in supporting first-generation college students, low-income students, or underserved student populations, or that certifies compliance with state and federal antidiscrimination laws;
2. Academic course instruction;
3. Scholarly research or a creative work by College District employees or students;

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4. An activity of a student organization registered with or recognized by the College District;
5. Guest speakers or performers on short-term engagements;
6. A policy, practice, procedure, program, or activity to enhance student academic achievement or postgraduate outcomes that is designed and implemented without regard to race, sex, color, or ethnicity;
7. Data collection; or
8. Student recruitment or admissions.

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**Note:** For related information on diversity, equity, and inclusion initiatives, see BG for diversity, equity, and inclusion offices, CFE for contractor discipline, DH for employee discipline, and FA for students.

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EMPLOYEE STANDARDS OF CONDUCT

DH  
(LEGAL)

<b>Public Servants</b>	All college district employees are public servants and therefore subject to Title 8 of the Penal Code, regarding offenses against public administration, including bribery and corrupt influence (Chapter 36), perjury and other falsification (Chapter 37), obstructing governmental operation (Chapter 38), and abuse of office (Chapter 39). [See DBD and BBFA] <i>Penal Code 1.07(a)(41), Title 8</i>
<b>Hair Texture and Style</b>	An employer, including a college district, commits an unlawful employment practice if the employer adopts or enforces a dress or grooming policy that discriminates against a hair texture or protective hairstyle commonly or historically associated with race. "Protective hairstyle" includes braids, locks, and twists. [See DAA] <i>Labor Code 21.1095</i>
<b>Low-THC Cannabis</b>	A municipality, county, or other political subdivision, including a college district, may not enact, adopt, or enforce a rule, ordinance, order, resolution, or other regulation that prohibits the cultivation, production, dispensing, or possession of low-THC cannabis, as authorized by Health and Safety Code Chapter 487.201. <i>Health and Safety Code 487.201</i>
<b>Hemp</b>	A municipality, county, or other political subdivision of this state, including a college district, may not enact, adopt, or enforce a rule, ordinance, order, resolution, or other regulation that prohibits the cultivation, handling, transportation, or sale of hemp as authorized by Agriculture Code Chapter 122. <i>Agriculture Code 122.002</i>
<b>Dextromethorphan</b>	A political subdivision of this state, including a college district, may not adopt or enforce an ordinance, order, rule, regulation, or policy that governs the sale, distribution, or possession of dextromethorphan. An ordinance, order, rule, regulation, or policy described by this section is void and unenforceable. <i>Health and Safety Code 488.005</i>
<b>Drug and Alcohol Abuse Program</b>	A person other than an individual shall not receive a grant from a Federal agency unless the person agrees to provide a drug-free workplace by:
Federal Drug-Free Workplace Act	<ol style="list-style-type: none"><li>1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violations of the prohibition [see DI(EXHIBIT)];</li><li>2. Establishing a drug-free awareness program to inform employees about the dangers of drug abuse in the workplace; the grantee's policy of maintaining a drug-free workplace; available drug counseling, rehabilitation, and employee assis-</li></ol>

EMPLOYEE STANDARDS OF CONDUCT

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tance programs; and the penalties that may be imposed on employees for drug abuse violations;

3. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by item 1;
4. Notifying the employee in the statement required by item 1 that as a condition of employment in the grant the employee will abide by the terms of the statement; and notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after the conviction;
5. Notifying the granting agency within ten days after receiving notice under item 4 from an employee or otherwise receiving actual notice of a conviction;
6. Imposing a sanction on, or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by, any employee who is convicted, as required by 41 U.S.C. 8104; and
7. Making a good faith effort to continue to maintain a drug-free workplace through the implementation of items 1 to 6.

*41 U.S.C. 8103(a)(1)*

**Sex Offender  
Registration**

Not later than the later of the seventh day after the date on which the person begins to work or the first date the applicable authority by policy allows the person to register, a person required to register under Code of Criminal Procedure Chapter 62 who is employed or carries on a vocation at a public or private institution of higher education in this state shall report that fact to:

1. The authority for campus security for that institution; or
2. If an authority for campus security for that institution does not exist the local law enforcement authority of:
  - a. The municipality in which the institution is located; or
  - b. The county in which the institution is located, if the institution is not located in a municipality.

The person described above shall provide the authority for campus security or the local law enforcement authority all information the person is required to provide under Code of Criminal Procedure 62.051(c). The person shall notify the authority for campus security or the local law enforcement authority not later than the seventh

day after the date of termination of the person's status as a worker at the institution.

The authority for campus security or the local law enforcement authority shall promptly forward to the administrative office of the institution any information received from the person under Code of Criminal Procedure 62.153 and any information received from the Texas Department of Public Safety under Code of Criminal Procedure 62.005.

This section does not impose the requirements of public notification or notification to public or private primary or secondary schools on:

1. An authority for campus security; or
2. A local law enforcement authority, if those requirements relate to a person about whom the authority is not otherwise required by Code of Criminal Procedure Chapter 62 to make notifications.

*Code of Criminal Procedure 62.153(a)–(d), (f)* [See also GCA]

**Disqualification from Retirement Annuity for Conviction of Certain Felonies**

A person is not eligible to receive a service retirement annuity from the Teacher Retirement System of Texas (TRS) if the person is convicted of a qualifying felony the victim of which is a student.

"Qualifying felony" means an offense that is punishable as a felony under the following sections of the Penal Code:

1. Section 21.02 (continuous sexual abuse of young child or disabled individual);
2. Section 21.12 (improper relationship between educator and student);
3. Section 22.011 (sexual assault) or Section 22.021 (aggravated sexual assault); or
4. Section 43.24 (sale, distribution, or display of harmful material to minor).

The term includes any federal offense that contains elements that are substantially similar to the elements of a felony offense described above.

*Gov't Code 824.009(a)–(c)*

**Public Information on a Privately-Owned Device**

A current or former officer or employee of a governmental body who maintains public information on a privately-owned device shall:

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1. Forward or transfer the public information to the governmental body or a governmental body server to be preserved as provided by Government Code 552.004(a); or
2. Preserve the public information in its original form in a backup or archive and on the privately-owned device for the time described under Government Code 552.004(a).

*Gov't Code 552.004(b)* [See CIA and GCB]

**Diversity, Equity,  
and Inclusion  
Initiatives**

The governing board of an institution of higher education, including a college district, shall ensure that each unit of the institution adopts policies and procedures for appropriately disciplining, including by termination, an employee or contractor of the institution who engages in conduct in violation of Education Code 51.3525(b)(1) [see BG, DAA, and FA]. *Education Code 51.3525(b)(2)*

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**Note:** For complaints of discrimination, harassment, and retaliation on the basis of a protected characteristic, see FFDA and FFDB.

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**Diversity, Equity,  
and Inclusion  
Initiatives**

Except as required by federal law, the College District shall not:

1. Compel, require, induce, or solicit any person to provide a diversity, equity, and inclusion statement or give preferential consideration to any person based on the provision of a diversity, equity, and inclusion statement;
2. Give preference on the basis of race, sex, color, ethnicity, or national origin to a participant in any College District function; or
3. Require as a condition of enrolling at the College District or performing any College District function any person to participate in diversity, equity, and inclusion training that references race, color, ethnicity, gender identity, or sexual orientation, unless it was developed by an attorney and approved in writing by the College District's general counsel and the Coordinating Board for the sole purpose of ensuring compliance with any applicable court order or state or federal law.

Exceptions

The prohibitions do not apply to:

1. Academic course instruction;
2. Scholarly research or a creative work by College District employees or students;
3. An activity of a student organization registered with or recognized by the College District;
4. Guest speakers or performers on short-term engagements;
5. A policy, practice, procedure, program, or activity to enhance student academic achievement or postgraduate outcomes that is designed and implemented without regard to race, sex, color, or ethnicity;
6. Data collection; or
7. Student recruitment or admissions.

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**Note:** For related information on diversity, equity, and inclusion initiatives, see BG for diversity, equity, and inclusion offices, CFE for contractor discipline, DAA for employees, and DH for employee discipline.

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The organizational structure of the College District shall be flexible and responsive and shall promote academic excellence, student success, and accountability.

The College President shall build a capable, unified, and diverse leadership group. As chief executive officer, the College President is responsible for determining and specifying in writing the staffing and scope of individual managerial positions. The College President shall develop and publish an organization chart for the College District. The College President shall keep the other College District officers well informed about Board and presidential issues, activities, and plans.

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**Note:** For related information on diversity, equity, and inclusion initiatives, see CFE for contractor discipline, DAA for employees, DH for employee discipline, and FA for students.

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**Diversity, Equity,  
and Inclusion Office**

Except as required by federal law, the College District shall not:

1. Establish or maintain a diversity, equity, and inclusion office; or
2. Hire or assign an employee or contract with a third party to perform the duties of a diversity, equity, and inclusion office.

"Diversity, equity, and inclusion office" means an office, division, or other unit of the College District established for the purpose of:

1. Influencing hiring or employment practices at the College District with respect to race, sex, color, or ethnicity, other than through the use of color-blind and sex-neutral hiring processes in accordance with any applicable state and federal antidiscrimination laws;
2. Promoting differential treatment of or providing special benefits to individuals on the basis of race, color, or ethnicity;
3. Promoting policies or procedures designed or implemented in reference to race, color, or ethnicity, other than policies or procedures approved in writing by the College District's general counsel and the Coordinating Board for the sole purpose of ensuring compliance with any applicable court order or state or federal law; or
4. Conducting trainings, programs, or activities designed or implemented in reference to race, color, ethnicity, gender identity, or sexual orientation, other than trainings, programs, or activities developed by an attorney and approved in writing by

the College District's general counsel and the Coordinating Board for the sole purpose of ensuring compliance with any applicable court order or state or federal law.

Exceptions

Nothing in this section may be construed to limit or prohibit the College District or a College District employee from, for purposes of applying for a grant or complying with the terms of accreditation by an accrediting agency, submitting to the grantor or accrediting agency a statement that:

1. Highlights the College District's work in supporting first-generation college students, low-income students, or underserved student populations; or
2. Certifies compliance with state and federal antidiscrimination laws.

The prohibitions do not apply to:

1. Academic course instruction;
2. Scholarly research or a creative work by College District employees or students;
3. An activity of a student organization registered with or recognized by the College District;
4. Guest speakers or performers on short-term engagements;
5. A policy, practice, procedure, program, or activity to enhance student academic achievement or postgraduate outcomes that is designed and implemented without regard to race, sex, color, or ethnicity;
6. Data collection; or
7. Student recruitment or admissions.

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

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**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 the individual's 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 the individual's employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect the individual's 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

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	admission to, or employment in, any program established to provide apprenticeship or other training. <i>42 U.S.C. 2000e-2(d)</i>
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. <i>42 U.S.C. 2000e-2(e)</i>
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. <i>42 U.S.C. 2000e-3(b)</i>
Additional Considerations Sex Discrimination Gender Stereotypes Pregnancy	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, 490 U.S. 228 (1989)</i>  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. <i>42 U.S.C. 2000e(k)</i>
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

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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*

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

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**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.

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

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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)

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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)*

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

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**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.

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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)*

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

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**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 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.

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	<p>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.</p> <p><i>42 U.S.C. 12102(1), (4)(C)–(D); 29 C.F.R. 1630.2(g), (j)(1), .3</i></p>
<p><i>Regarded as Having Such an Impairment</i></p>	<p>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.</p> <p><i>42 U.S.C. 12102(3)(A); 29 C.F.R. 1630.2(g), (l)</i></p>
<p>Transitory and Minor</p>	<p>Item 3 in the definition of “disability,” above, (“regarded as having such an impairment”) shall not apply to impairments that are transitory or minor. A transitory impairment is an impairment with an actual or expected duration of six months or less. <i>42 U.S.C. 12102(3)(B); 29 C.F.R. 1630.2(j)(1)(ix)</i></p>
<p><i>Mitigating Measures</i></p>	<p>The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as medication, medical supplies, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy or supplies; use of assistive technology; reasonable accommodations or auxiliary aids or services; or learned behavioral or adaptive neurological modifications.</p> <p>The ameliorative effects of mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity.</p> <p>“Ordinary eyeglasses and contact lenses” are lenses that are intended to fully correct visual acuity or to eliminate refractive error.</p> <p>“Low-vision devices” means devices that magnify, enhance, or otherwise augment a visual image.</p> <p><i>42 U.S.C. 12102(4)(E)</i></p>
<p>Other Definitions</p>	<p>“Major life activities” include, but are not limited to:</p>
<p><i>Major Life Activities</i></p>	<ol style="list-style-type: none"><li>1. Caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, and working; and</li></ol>

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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

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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 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 DHA] 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 whose employment, by reason of such current alcohol abuse,

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	<p>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 FAB].

*28 C.F.R. 35.140*

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

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**Accommodations  
Based on Pregnancy**

It shall be an unlawful employment practice for a covered entity, including a college district, to:

1. Not make reasonable accommodations to the known limitations related to the pregnancy, childbirth, or related medical conditions of a qualified employee, unless such covered entity can demonstrate that the accommodation would impose an undue hardship on the operation of the business of such covered entity;
2. Require a qualified employee affected by pregnancy, childbirth, or related medical conditions to accept an accommodation other than any reasonable accommodation arrived at through the interactive process;
3. Deny employment opportunities to a qualified employee if such denial is based on the need of the covered entity to make reasonable accommodations to the known limitations related to the pregnancy, childbirth, or related medical conditions of the qualified employee; or
4. Take adverse action in terms, conditions, or privileges of employment against a qualified employee on account of the employee requesting or using a reasonable accommodation to the known limitations related to the pregnancy, childbirth, or related medical conditions of the employee.

*42 U.S.C. 2000gg-1*

Retaliation  
Prohibited

No person shall discriminate against any employee because such employee has opposed any act or practice made unlawful by this section or because such employee made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this section.

*42 U.S.C. 2000gg-2(f)*

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EQUAL EMPLOYMENT OPPORTUNITY

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(LEGAL)

Definitions

*Known Limitation*

The term “known limitation” means physical or mental condition related to, affected by, or arising out of pregnancy, childbirth, or related medical conditions that the employee or employee’s representative has communicated to the employer whether or not such condition meets the definition of disability specified in the Americans with Disabilities Act (ADA) of 1990, 42 U.S.C. 12102. *42 U.S.C. 2000gg(4)*

*Qualified Employee*

The term “qualified employee” means an employee or applicant who, with or without reasonable accommodation, can perform the essential functions of the employment position, except that an employee or applicant shall be considered qualified if:

1. Any inability to perform an essential function is for a temporary period;
2. The essential function could be performed in the near future; and
3. The inability to perform the essential function can be reasonably accommodated.

*42 U.S.C. 2000gg(6)*

*Reasonable Accommodation and Undue Hardship*

The terms “reasonable accommodation and “undue hardship” have the meanings given such terms in the ADA, 42 U.S.C. 12111, and shall be construed as such terms are construed under the ADA and as set forth in the regulations required by this section, including with regard to the interactive process that will typically be used to determine an appropriate reasonable accommodation. *42 U.S.C. 2000gg(7)*

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**Note:** See Title VII—Discrimination on the Basis of Sex, Race, Color, Religion, or National Origin, above, for additional federal prohibitions on discrimination based on pregnancy, and State Law, below, for state prohibitions on discrimination based on pregnancy.

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**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 en-

force protections afforded any person under the Uniformed Services Employment and 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)*

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

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### **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.

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

*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. *Labor Code 21.122(a), (c)*

*Exception*

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 Chapter 21 if the employer establishes that the practice is not intentionally devised or operated to contravene the prohibitions of Chapter 21 and is justified by business necessity. *Labor Code 21.115(a)*

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. *Labor Code 21.054*

Selection Criterion

An employer may not use a qualification standard, employment test, or other selection criterion based on an individual's uncorrected vision unless the standard, test, or criterion is consistent with business necessity and job-related for the position to which the standard, test, or criterion applies. *Labor Code 21.115(b)*

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*Bona Fide  
Occupational  
Qualification*

If disability, religion, sex, national origin, or age is a bona fide occupational qualification reasonably necessary to the normal operation of the particular business or enterprise, performing any of the following practices on the basis of disability, religion, sex, national origin, or age of an employee, member, or other individual is not an unlawful employment practice:

1. An employer hiring and employing an employee;
2. An employment agency classifying or referring an individual for employment; or
3. An employer controlling an apprenticeship, on-the-job training, or other training or retraining program admitting or employing an individual in its program.

*Labor Code 21.119*

Job Advertisement

An employer, labor organization, employment agency, or joint labor-management committee controlling an apprenticeship, on-the-job training, or other training or retraining program commits an unlawful employment practice if the employer, labor organization, employment agency, or committee prints or publishes or causes to be printed or published a notice or advertisement relating to employment that:

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

Labor Code 21.059 does not apply if disability, religion, sex, national origin, or age is a bona fide occupational qualification.

*Labor Code 21.059; 40 TAC 819.12(i)*

Bona Fide  
Employee Benefit  
Plan

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

*Exception*

An employee benefit plan may not excuse a failure to hire on the basis of age. A seniority system or employee benefit plan may not require or permit involuntary retirement on the basis of age except as permitted by Labor Code 21.103.

EMPLOYMENT OBJECTIVES  
EQUAL EMPLOYMENT OPPORTUNITY

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This section does not apply to standards of compensation or terms, conditions, or privileges of employment that are discriminatory on the basis of race, color, disability, religion, sex, national origin, or age.

*Labor Code 21.102(b)–(c)*

Diversity, Equity,  
and Inclusion  
Initiatives

The governing board of an institution of higher education, including a college district, shall ensure that each unit of the institution does not, except as required by federal law:

1. Compel, require, induce, or solicit any person to provide a diversity, equity, and inclusion statement or give preferential consideration to any person based on the provision of a diversity, equity, and inclusion statement;
2. Give preference on the basis of race, sex, color, ethnicity, or national origin to an applicant for employment, an employee, or a participant in any function of the institution; or
3. Require as a condition of performing any institution function any person to participate in diversity, equity, and inclusion training, which:
  - a. Includes a training, program, or activity designed or implemented in reference to race, color, ethnicity, gender identity, or sexual orientation; and
  - b. Does not include a training, program, or activity developed by an attorney and approved in writing by the institution's general counsel and the Coordinating Board for the sole purpose of ensuring compliance with any applicable court order or state or federal law.

*Education Code 51.3525(b)(1)*

*Exceptions*

Nothing in this section may be construed to limit or prohibit an institution of higher education or an employee of an institution of higher education from, for purposes of applying for a grant or complying with the terms of accreditation by an accrediting agency, submitting to the grantor or accrediting agency a statement that:

1. Highlights the institution's work in supporting first-generation college students, low-income students, or underserved student populations; or
2. Certifies compliance with state and federal antidiscrimination laws.

This section may not be construed to apply to:

1. Academic course instruction;

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2. Scholarly research or a creative work by an institution of higher education's faculty or other research personnel or the dissemination of that research or work;
3. Guest speakers or performers on short-term engagements;
4. A policy, practice, procedure, program, or activity to enhance student academic achievement or postgraduate outcomes that is designed and implemented without regard to race, sex, color, or ethnicity;
5. Data collection; or
6. Student recruitment or admissions.

*Education Code 51.3525(c)-(d)*

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**Note:** For related information on diversity, equity, and inclusion initiatives, see BG(LEGAL) for diversity, equity, and inclusion offices, CFE(LEGAL) for contractor discipline, DH(LEGAL) for employee discipline, and FA(LEGAL) for students.

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Additional  
Considerations  
*Sexual  
Harassment*

"Employer" means a person who employs one or more employees or acts directly in the interests of an employer in relation to an employee.

"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 employment, 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 employment;
3. The advance, request, or conduct has the purpose or effect of unreasonably interfering with an individual's work performance; or
4. The advance, request, or conduct has the purpose or effect of creating an intimidating, hostile, or offensive working environment.

An employer commits an unlawful employment practice if sexual harassment of an employee occurs and the employer or the employer's agents or supervisors:

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1. Know or should have known that the conduct constituting sexual harassment was occurring; and
2. Fail to take immediate and appropriate corrective action.

*Labor Code 21.141–.142, 40 TAC 819.11(6), (10),.12(k)*

*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*

*Hair Texture or  
Style*

A provision under Labor Code Chapter 21 referring to discrimination because of race or on the basis of race includes discrimination because of or on the basis of an employee's hair texture or protective hairstyle commonly or historically associated with race.

An employer, labor union, or employment agency commits an unlawful employment practice if the employer, labor union, or employment agency adopts or enforces a dress or grooming policy that discriminates against a hair texture or protective hairstyle commonly or historically associated with race.

"Protective hairstyle" includes braids, locks, and twists.

*Labor Code 21.1095 [See DH]*

*Religious  
Discrimination*

A provision in 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)*

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EQUAL EMPLOYMENT OPPORTUNITY

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(LEGAL)

*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]*

*Access for  
Religious  
Organizations  
During Disasters*

A governmental entity may not:

1. At any time, including during a declared state of disaster, prohibit a religious organization from engaging in religious and other related activities or continuing to operate in the discharge of the organization's foundational faith-based mission and purpose; or
2. During a declared state of disaster order a religious organization to close or otherwise alter the organization's purposes or activities.

*Gov't Code 2401.002(b) [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*

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<i>Discrimination Based on Lack of Disability</i>	Nothing in Chapter 21 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 the public servant's office or employment commits an offense if the public servant 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>
Sexual Harassment of Unpaid Interns	<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"><li>1. Know or should have known that the conduct constituting sexual harassment was occurring; and</li><li>2. Fail to take immediate and appropriate corrective action.</li></ol> <p>An individual is considered to be an unpaid intern of an employer if:</p> <ol style="list-style-type: none"><li>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;</li><li>2. The individual's internship experience is for the individual's benefit;</li><li>3. The individual does not displace the employer's regular employees but works under close supervision of the employer's existing staff;</li></ol>

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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 42 U.S.C. Chapter 21, Subchapter VI, 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*

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**Note:** For complaints of discrimination, harassment, and retaliation on the basis of a protected characteristic, see FFDA and FFDB.

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**Section I: Generally**

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

An officer or employee of a political subdivision, including a college district, who is acting or purporting to act in an official capacity may not, because of the student's race, religion, color, sex, or national origin, refuse to permit the person to participate in a program owned, operated, or managed by or on behalf of the political subdivision; refuse to grant a benefit to the person; or impose an unreasonable burden on the person. *Civ. Prac. & Rem. Code 106.001(a)*

**Section II: Religious Freedom**

A governmental entity, including a college district, shall make no law prohibiting the free exercise of religion. *U.S. Const. Amends. I, XIV*

A government agency, including a college district, may not substantially burden a student's free exercise of religion, unless the government agency demonstrates that the application of the burden to the person is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that interest. *Civ. Prac. & Rem. Code 110.003*

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]*

Access for  
Religious  
Organizations  
During Disasters

A governmental entity may not:

1. At any time, including during a declared state of disaster, prohibit a religious organization from engaging in religious and other related activities or continuing to operate in the discharge of the organization's foundational faith-based mission and purpose; or
2. During a declared state of disaster order a religious organization to close or otherwise alter the organization's purposes or activities.

*Gov't Code 2401.002(b) [See GA]*

**Section III:  
Discrimination on  
the Basis of Sex**

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance. *20 U.S.C. 1681; 34 C.F.R. 106.31*

Educational programs and activities include:

1. Housing. *34 C.F.R. 106.32*
2. Comparable facilities. *34 C.F.R. 106.33*
3. Access to course offerings. *34 C.F.R. 106.34*
4. Counseling. *34 C.F.R. 106.36*
5. Financial assistance. *34 C.F.R. 106.37*
6. Employment assistance to students. *34 C.F.R. 106.38*
7. Health and insurance benefits and services. *34 C.F.R. 106.39*
8. Athletics. *34 C.F.R. 106.41*

Parental, Family,  
and Marital Status

A recipient shall not apply any rule concerning a student's actual or potential parental, family, or marital status that treats students differently on the basis of sex. [See also FAA] *34 C.F.R. 106.40(a)*

Sexual Harassment

Sexual harassment of students is discrimination on the basis of sex under Title IX. *Franklin v. Gwinnett County Schools, 503 U.S. 60 (1992)* [See also FFDA]

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<i>Definition of Sexual Harassment</i>	Sexual harassment of students is conduct that is so severe, pervasive, and objectively offensive that it can be said to deprive the victim of access to the educational opportunities or benefits provided by the school. Sexual harassment does not include simple acts of teasing and name-calling, however, even when the comments target differences in gender. <u><i>Davis v. Monroe County Bd. of Educ.</i></u> , 526 U.S. 629 (1999)
<i>Employee–Student Sexual Harassment</i>	An official of an educational entity who has authority to address alleged harassment by employees on the entity’s behalf shall take corrective measures to address the harassment or abuse. <u><i>Gebser v. Lago Vista Indep. Sch. Dist.</i></u> , 524 U.S. 274 (1998)
<i>Student–Student Sexual Harassment</i>	An educational entity must reasonably respond to known student-on-student harassment where the harasser is under the entity’s disciplinary authority. <u><i>Davis v. Monroe County Bd. of Educ.</i></u> , 526 U.S. 629 (1999)
Clery Act—Campus Sexual Assault Programs	<p>An institution’s Clery Act annual security report [see GCC] must include a statement of policy regarding the institution’s programs to prevent dating violence, domestic violence, sexual assault, and stalking and of procedures that the institution will follow when one of these crimes is reported. The statement must include:</p> <ol style="list-style-type: none"><li>1. A description of the institution's educational programs and campaigns to promote the awareness of dating violence, domestic violence, sexual assault, and stalking, as described below at Programs to Prevent Dating Violence, Domestic Violence, Sexual Assault, and Stalking;</li><li>2. Procedures victims should follow if a crime of dating violence, domestic violence, sexual assault, or stalking has occurred, including written information about:<ol style="list-style-type: none"><li>a. The importance of preserving evidence that may assist in proving that the alleged criminal offense occurred or may be helpful in obtaining a protection order;</li><li>b. How and to whom the alleged offense should be reported;</li><li>c. Options about the involvement of law enforcement and campus authorities, including notification of the victim's option to:<ol style="list-style-type: none"><li>(1) Notify proper law enforcement authorities, including on-campus and local police;</li></ol></li></ol></li></ol>

- (2) Be assisted by campus authorities in notifying law enforcement authorities if the victim so chooses; and
      - (3) Decline to notify such authorities; and
    - d. Where applicable, the rights of victims and the institution's responsibilities for orders of protection, "no-contact" orders, restraining orders, or similar lawful orders issued by a criminal, civil, or tribal court or by the institution;
3. Information about how the institution will protect the confidentiality of victims and other necessary parties, including how the institution will:
  - a. Complete publicly available recordkeeping, including Clery Act reporting and disclosures, without the inclusion of personally identifying information about the victim, as defined in the Violence Against Women Act of 1994, 42 U.S.C. 13925(a)(20); and
  - b. Maintain as confidential any accommodations or protective measures provided to the victim, to the extent that maintaining such confidentiality would not impair the ability of the institution to provide the accommodations or protective measures;
4. A statement that the institution will provide written notification to students and employees about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for victims, both within the institution and in the community;
5. A statement that the institution will provide written notification to victims about options for, available assistance in, and how to request changes to academic, living, transportation, and working situations or protective measures. The institution must make such accommodations or provide such protective measures if the victim requests them and if they are reasonably available, regardless of whether the victim chooses to report the crime to campus police or local law enforcement;
6. An explanation of the procedures for institutional disciplinary action in cases of alleged dating violence, domestic violence, sexual assault, or stalking, as described below at Procedures for Institutional Disciplinary Action; and

7. A statement that, when a student or employee reports to the institution that the student or employee has been a victim of dating violence, domestic violence, sexual assault, or stalking, whether the offense occurred on or off campus, the institution will provide the student or employee a written explanation of the student's or employee's rights and options, as described in items 1 through 6 of this list.

*20 U.S.C. 1092(f)(8); 34 C.F.R. 668.46(b)(11)*

*Programs to  
Prevent Dating  
Violence,  
Domestic  
Violence, Sexual  
Assault, and  
Stalking*

An institution must include in its annual security report a statement of policy that addresses the institution's programs to prevent dating violence, domestic violence, sexual assault, and stalking. The statement must include:

1. A description of the institution's primary prevention and awareness programs for all incoming students and new employees, which must include:
  - a. A statement that the institution prohibits the crimes of dating violence, domestic violence, sexual assault, and stalking, as those terms are defined in 34 C.F.R. 668.46(a) [see Definitions];
  - b. The definition of "dating violence," "domestic violence," "sexual assault," and "stalking" in the applicable jurisdiction [see Penal Code 22.011, 22.021, 42.072; Family Code 71.0021, 71.004];
  - c. The definition of "consent," in reference to sexual activity, in the applicable jurisdiction;
  - d. A description of safe and positive options for bystander intervention;
  - e. Information on risk reduction; and
  - f. The information described in 34 C.F.R. 668.46(b)(11) and 34 C.F.R. 668.46(k)(2); and
2. A description of the institution's ongoing prevention and awareness campaigns for students and employees, including information described at item 1.

An institution's programs to prevent dating violence, domestic violence, sexual assault, and stalking must include, at a minimum, the information required to be included in the statement.

*34 C.F.R. 668.46(j)*

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Awareness Programs	“Awareness programs” means community-wide or audience-specific programming, initiatives, and strategies that increase audience knowledge and share information and resources to prevent violence, promote safety, and reduce perpetration. <i>34 C.F.R. 668.46(j)(2)(i)</i>
Bystander Intervention	“Bystander intervention” means safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of dating violence, domestic violence, sexual assault, or stalking. Bystander intervention includes recognizing situations of potential harm, understanding institutional structures and cultural conditions that facilitate violence, overcoming barriers to intervening, identifying safe and effective intervention options, and taking action to intervene. <i>34 C.F.R. 668.46(j)(2)(ii)</i>
Ongoing Prevention and Awareness Campaigns	“Ongoing prevention and awareness campaigns” means programming, initiatives, and strategies that are sustained over time and focus on increasing understanding of topics relevant to and skills for addressing dating violence, domestic violence, sexual assault, and stalking, using a range of strategies with audiences throughout the institution and including information described in item 1, above. <i>34 C.F.R. 668.46(j)(2)(iii)</i>
Primary Prevention Programs	“Primary prevention programs” means programming, initiatives, and strategies informed by research or assessed for value, effectiveness, or outcome that are intended to stop dating violence, domestic violence, sexual assault, and stalking before they occur through the promotion of positive and healthy behaviors that foster healthy, mutually respectful relationships and sexuality, encourage safe bystander intervention, and seek to change behavior and social norms in healthy and safe directions. <i>34 C.F.R. 668.46(j)(2)(iv)</i>
Risk Reduction	“Risk reduction” means options designed to decrease perpetration and bystander inaction, and to increase empowerment for victims in order to promote safety and to help individuals and communities address conditions that facilitate violence. <i>34 C.F.R. 668.46(j)(2)(v)</i>
<i>Procedures for Institutional Disciplinary Action</i>	<p>An institution must include in its annual security report a clear statement of policy that addresses the procedures for institutional disciplinary action in cases of alleged dating violence, domestic violence, sexual assault, or stalking, as defined in <i>34 C.F.R. 668.46(a)</i>, and that:</p> <ol style="list-style-type: none"><li>1. Describes each type of disciplinary proceeding used by the institution; the steps, anticipated timelines, and decision-making process for each type of disciplinary proceeding; how to file a disciplinary complaint; and how the institution determines which type of proceeding to use based on the circumstances</li></ol>

of an allegation of dating violence, domestic violence, sexual assault, or stalking;

2. Describes the standard of evidence that will be used during any institutional disciplinary proceeding arising from an allegation of dating violence, domestic violence, sexual assault, or stalking;
3. Lists all of the possible sanctions that the institution may impose following the results of any institutional disciplinary proceeding for an allegation of dating violence, domestic violence, sexual assault, or stalking; and
4. Describes the range of protective measures that the institution may offer to the victim following an allegation of dating violence, domestic violence, sexual assault, or stalking;
5. Provides that the proceedings will:
  - a. Include a prompt, fair, and impartial process from the initial investigation to the final result;
  - b. Be conducted by officials who, at a minimum, receive annual training on the issues related to dating violence, domestic violence, sexual assault, and stalking and on how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability;
  - c. Provide the accuser and the accused with the same opportunities to have others present during any institutional disciplinary proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice;
  - d. Not limit the choice of adviser or presence for either the accuser or the accused in any meeting or institutional disciplinary proceeding; however, the institution may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties; and
  - e. Require simultaneous notification, in writing, to both the accuser and the accused, of:
    - (1) The result of any institutional disciplinary proceeding that arises from an allegation of dating violence, domestic violence, sexual assault, or stalking;
    - (2) The institution's procedures for the accused and the victim to appeal the result of the institutional

disciplinary proceeding, if such procedures are available;

- (3) Any change to the result; and
- (4) When such results become final.

*34 C.F.R. 668.46(k)*

Compliance with 34 C.F.R. 668.46(k) does not constitute a violation of Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g. *34 C.F.R. 668.46(l)*

Prompt, Fair,  
and Impartial  
Proceeding

“Prompt, fair, and impartial proceeding” includes a proceeding that is:

1. Completed within reasonably prompt time frames designated by an institution's policy, including a process that allows for the extension of time frames for good cause with written notice to the accuser and the accused of the delay and the reason for the delay;
2. Conducted in a manner that:
  - a. Is consistent with the institution's policies and transparent to the accuser and accused;
  - b. Includes timely notice of meetings at which the accuser or accused, or both, may be present; and
  - c. Provides timely and equal access to the accuser, the accused, and appropriate officials to any information that will be used during informal and formal disciplinary meetings and hearings; and
3. Conducted by officials who do not have a conflict of interest or bias for or against the accuser or the accused.

*34 C.F.R. 668.46(k)(3)(i)*

Adviser

“Adviser” means any individual who provides the accuser or accused support, guidance, or advice. *34 C.F.R. 668.46(k)(3)(ii)*

Proceeding

“Proceeding” means all activities related to a non-criminal resolution of an institutional disciplinary complaint, including, but not limited to, fact-finding investigations, formal or informal meetings, and hearings. Proceeding does not include communications and meetings between officials and victims concerning accommodations or protective measures to be provided to a victim. *34 C.F.R. 668.46(k)(3)(iii)*

Result “Result” means any initial, interim, and final decision by any official or entity authorized to resolve disciplinary matters within the institution. The result must include any sanctions imposed by the institution. Notwithstanding FERPA, the result must also include the rationale for the result and the sanctions. *34 C.F.R. 668.46(k)(3)(iv)*

*Definitions*

Dating Violence

“Dating violence” means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse and dating violence does not include acts covered under the definition of domestic violence.

For the purposes of complying with the requirements of this section and 34 C.F.R. 668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

*34 C.F.R. 668.46(a)*

Domestic Violence

“Domestic violence” is a felony or misdemeanor crime of violence committed:

1. By a current or former spouse or intimate partner of the victim;
2. By a person with whom the victim shares a child in common;
3. By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
4. By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or
5. By any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

For the purposes of complying with the requirements of this section and 34 C.F.R. 668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

*34 C.F.R. 668.46(a)*

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Programs to Prevent Dating Violence, Domestic Violence, Sexual Assault, and Stalking

“Programs to prevent dating violence, domestic violence, sexual assault, and stalking” means comprehensive, intentional, and integrated programming, initiatives, strategies, and campaigns intended to end dating violence, domestic violence, sexual assault, and stalking that:

1. Are culturally relevant, inclusive of diverse communities and identities, sustainable, responsive to community needs, and informed by research or assessed for value, effectiveness, or outcome; and
2. Consider environmental risk and protective factors as they occur on the individual, relationship, institutional, community, and societal levels.

Programs to prevent dating violence, domestic violence, sexual assault, and stalking include both primary prevention and awareness programs directed at incoming students and new employees and ongoing prevention and awareness campaigns directed at students and employees, as defined in 34 C.F.R. 668.46(j)(2).

*34 C.F.R. 668.46(a)*

Sexual Assault

“Sexual assault” means an offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI's Uniform Crime Reporting (UCR) program and included in Appendix A of 34 C.F.R. Part 668, Subpart D. *34 C.F.R. 668.46(a)*

Stalking

“Stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others, or suffer substantial emotional distress.

For the purposes of this definition:

1. Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
2. Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.

*34 C.F.R. 668.46(a)*

**Section IV:  
Discrimination on  
the Basis of Race,  
Color, or National  
Origin**

No person in the United States shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program to which 34 C.F.R. Part 100 applies.

A recipient under any program to which Part 100 applies may not, directly or through contractual or other arrangements, on the ground of race, color, or national origin:

1. Deny an individual any service, financial aid, or other benefit provided under the program;
2. Provide any service, financial aid, or other benefit to an individual that is different, or is provided in a different manner, from that provided to others under the program;
3. Subject an individual to segregation or separate treatment in any matter related to his receipt of any service, financial aid, or other benefit under the program;
4. Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under the program;
5. Treat an individual differently from others in determining whether he satisfies any admission, enrollment, quota, eligibility, membership, or other requirement or condition that individuals must meet in order to be provided any service, financial aid, or other benefit provided under the program;
6. Deny an individual an opportunity to participate in the program through the provision of services or otherwise or afford him an opportunity to do so that is different from that afforded others under the program (including the opportunity to participate in the program as an employee but only to the extent set forth in 34 C.F.R. 100.3(c)); or
7. Deny a person the opportunity to participate as a member of a planning or advisory body that is an integral part of the program.

A recipient, in determining the types of services, financial aid, or other benefits, or facilities that will be provided under any such program, or the class of individuals to whom, or the situations in which, such services, financial aid, other benefits, or facilities will be provided under any such program, or the class of individuals to be afforded an opportunity to participate in any such program, may not, directly or through contractual or other arrangements, utilize criteria or methods of administration that have the effect of subjecting individuals to discrimination because of their race, color, or na-

tional origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program as respect individuals of a particular race, color, or national origin.

*42 U.S.C. 2000d; 34 C.F.R. 100.3(a)–(b)*

Hair Texture or  
Style

Discrimination on the basis of hair texture or a protective hairstyle in student dress or grooming policies is prohibited in accordance with Education Code 51.979 [see FLBA]. *Education Code 51.979*

**Section V: Diversity,  
Equity, and Inclusion  
Initiatives**

The governing board of an institution of higher education, including a college district, shall ensure that each unit of the institution does not, except as required by federal law:

1. Compel, require, induce, or solicit any person to provide a diversity, equity, and inclusion statement or give preferential consideration to any person based on the provision of a diversity, equity, and inclusion statement;
2. Give preference on the basis of race, sex, color, ethnicity, or national origin to a participant in any function of the institution; or
3. Require as a condition of enrolling at the institution or performing any institution function any person to participate in diversity, equity, and inclusion training, which:
  - a. Includes a training, program, or activity designed or implemented in reference to race, color, ethnicity, gender identity, or sexual orientation; and
  - b. Does not include a training, program, or activity developed by an attorney and approved in writing by the institution's general counsel and the Coordinating Board for the sole purpose of ensuring compliance with any applicable court order or state or federal law.

*Education Code 51.3525(b)(1)*

Exceptions

This section may not be construed to apply to:

1. Academic course instruction;
2. Scholarly research or a creative work by an institution of higher education's students or the dissemination of that research or work;
3. An activity of a student organization registered with or recognized by an institution of higher education;
4. Guest speakers or performers on short-term engagements;

5. A policy, practice, procedure, program, or activity to enhance student academic achievement or postgraduate outcomes that is designed and implemented without regard to race, sex, color, or ethnicity;
6. Data collection; or
7. Student recruitment or admissions.

*Education Code 51.3525(c)-(d)*

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**Note:** For related information on diversity, equity, and inclusion initiatives, see BG(LEGAL) for diversity, equity, and inclusion offices, CFE(LEGAL) for contractor discipline, DAA(LEGAL) for employees, and DH(LEGAL) for employee discipline.

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**Section VI:  
Discrimination on  
the Basis of Age**

No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving federal financial assistance. *42 U.S.C. 6102; 34 C.F.R. 110.10*

Exceptions

*Normal Operation  
or Statutory  
Objective*

A recipient is permitted to take an action otherwise prohibited by 34 C.F.R. 110.10 if the action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity. An action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity, if:

1. Age is used as a measure or approximation of one or more other characteristics;
2. The other characteristic or characteristics must be measured or approximated in order for the normal operation of the program or activity to continue, or to achieve any statutory objective of the program or activity;
3. The other characteristic or characteristics can be reasonably measured or approximated by the use of age; and
4. The other characteristic or characteristics are impractical to measure directly on an individual basis.

*34 C.F.R. 110.12*

*Reasonable  
Factors Other  
Than Age*

A recipient is permitted to take an action otherwise prohibited by 34 C.F.R. 110.10 that is based on a factor other than age, even though that action may have a disproportionate effect on persons of different ages. An action may be based on a factor other than

age only if the factor bears a direct and substantial relationship to the normal operation of the program or activity or to the achievement of a statutory objective. *34 C.F.R. 110.13*

*Special Benefits  
for Children and  
the Elderly*

If a recipient operating a program or activity provides special benefits to the elderly or to children, the use of age distinctions is presumed to be necessary to the normal operation of the program or activity, notwithstanding the provisions of 34 C.F.R. 110.12. *34 C.F.R. 110.16*

*Affirmative Action*

Even in the absence of a finding of discrimination, a recipient may take affirmative action to overcome the effects of conditions that resulted in limited participation in the recipient's program or activity on the basis of age. *34 C.F.R. 110.15*

Notice

A recipient shall notify its beneficiaries, in a continuing manner, of information regarding the provisions of the Age Discrimination Act of 1975 and the associated regulations. *34 C.F.R. 110.25(b)*

**Section VII:  
Discrimination on  
the Basis of  
Disability**

ADA

Under the Americans with Disabilities Act (ADA), no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, including a college district, or be subjected to discrimination by any such entity. A public entity shall not exclude or otherwise deny equal services, programs, or activities to an individual or entity because of the known disability of an individual with whom the individual or entity is known to have a relationship or association. *42 U.S.C. 12132; 28 C.F.R. 35.130*

Section 504

Under Section 504 of the Rehabilitation Act, no otherwise qualified individual with a disability shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. *29 U.S.C. 794(a)*

Disability

"Disability" means, with respect to an individual:

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

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

The term "disability" does not include:

1. Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;
2. Compulsive gambling, kleptomania, or pyromania; or
3. Psychoactive substance use disorders resulting from current illegal use of drugs.

*42 U.S.C. 12102(1), (4)(C)–(D); 28 C.F.R. 35.108(a), (d), (g)*

*Regarded as  
Having Such an  
Impairment*

An individual meets the requirement of being “regarded as having such an impairment” if the individual establishes that he or she has been subjected to an action prohibited under the ADA because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity. *42 U.S.C. 12102(3)(A); 28 C.F.R. 35.108(f)*

*Transitory and  
Minor*

Item 3 in the definition of “Disability,” above, (“regarded as having such an impairment”) shall not apply to impairments that are transitory or minor. A transitory impairment is an impairment with an actual or expected duration of six months or less. *42 U.S.C. 12102(3)(B); 28 C.F.R. 35.108(d)(1)(ix), (f)(2)*

*Mitigating  
Measures*

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

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

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

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

*42 U.S.C. 12102(4)(E); 28 C.F.R. 35.108(d)(1)(viii), (4)*

*Major Life  
Activities*

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

1. Caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting,

bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, and working; and

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

In determining whether an impairment substantially limits a major life activity, the term "major" shall not be interpreted strictly to create a demanding standard. Whether an activity is a major life activity is not determined by reference to whether it is of central importance to daily life.

*42 U.S.C. 12102(2); 28 C.F.R. 35.108(c)-(d)*

*Physical or  
Mental  
Impairment*

"Physical or mental impairment" means:

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

Physical or mental impairment includes, but is not limited to, contagious and noncontagious diseases and conditions such as the following: orthopedic, visual, speech, and hearing impairments, and cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, intellectual disability, emotional illness, dyslexia and other specific learning disabilities, Attention Deficit Hyperactivity Disorder, Human Immunodeficiency Virus infection (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism.

Physical or mental impairment does not include homosexuality or bisexuality.

*28 C.F.R. 35.108(b)*

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Qualified Individual with a Disability	<p>The term “qualified individual with a disability” means an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by the college district. <i>42 U.S.C. 12131(2); 28 C.F.R. 35.104</i></p>
<i>Individual with a Disability</i>	<p>“Individual with a disability” means a person who has a disability. The term individual with a disability does not include an individual who is currently engaging in the illegal use of drugs, when the public entity acts on the basis of such use. <i>28 C.F.R. 35.104</i></p>
Student with a Disability	<p>A “student with a disability” is one who has a physical or mental impairment that substantially limits one or more of the student’s major life activities, has a record of having such an impairment, or is being regarded as having such an impairment.</p> <p>The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures, such as medication, medical supplies, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics, hearing aids, mobility devices, oxygen therapy, assistive technology, or learned behavioral or adaptive neurological modifications.</p> <p>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.</p> <p>A student meets the requirement of being “regarded as” having an impairment if the student establishes that he or she has been subjected to a prohibited action because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity. This provision does not apply to impairments that are transitory or minor. A transitory impairment is one with an actual or expected duration of six months or less.</p> <p><i>29 U.S.C. 705(20)(B); 42 U.S.C. 12102(1), (3)–(4)</i></p>
Reasonable Modification	<p>A public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.</p> <p>A public entity is not required to provide a reasonable modification to an individual who meets the definition of “disability” solely under</p>

the “regarded as” prong of the definition of “disability” at 28 C.F.R. 35.108(a)(1)(iii).

*28 C.F.R. 35.130(b)(7)*

Communications

A public entity shall take appropriate steps to ensure that communications with applicants, participants, and members of the public, and companions with disabilities are as effective as communications with others. A public entity shall furnish appropriate auxiliary aids and services where necessary to afford individuals with disabilities, including applicants, participants, companions, and members of the public, an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity of a public entity. In determining what types of auxiliary aids or services are necessary, a public entity shall give primary consideration to the requests of the individual with disabilities. In order to be effective, auxiliary aids and services must be provided in accessible formats, in a timely manner, and in such a way as to protect the privacy and independence of the individual with a disability. *28 C.F.R. 35.160*

*Auxiliary Aids  
and Services*

“Auxiliary aids and services” include:

1. Qualified interpreters on-site or through video remote interpreting (VRI) services; notetakers; real-time computer-aided transcription services; written materials; exchange of written notes; telephone handset amplifiers; assistive listening devices; assistive listening systems; telephones compatible with hearing aids; closed caption decoders; open and closed captioning, including real-time captioning; voice, text, and video-based telecommunications products and systems, including text telephones (TTYs), videophones, and captioned telephones, or equally effective telecommunications devices; videotext displays; accessible electronic and information technology; or other effective methods of making aurally delivered information available to individuals who are deaf or hard of hearing;
2. Qualified readers; taped texts; audio recordings; Braille materials and displays; screen reader software; magnification software; optical readers; secondary auditory programs (SAP); large print materials; accessible electronic and information technology; or other effective methods for making visually delivered materials available to individuals who are blind or have low vision;
3. Acquisition or modification of equipment or devices; and
4. Other similar services and actions.

*28 C.F.R. 35.104*

*Limits of  
Required  
Modification*

Title 28 C.F.R. Chapter I, Part 35, Subpart E does not require a public entity to take any action that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity or in undue financial and administrative burdens. The decision that compliance would result in such alteration or burdens must be made by the head of the public entity or his or her designee after considering all resources available for use in the funding and operation of the service, program, or activity and must be accompanied by a written statement of the reasons for reaching that conclusion. *28 C.F.R. 35.164*

Direct Threat

The ADA does not require a public entity to permit an individual to participate in or benefit from the services, programs, or activities of the public entity when that individual poses a direct threat to the health or safety of others.

“Direct threat” means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures, or by the provision of auxiliary aids or services as provided below.

*28 C.F.R. 35.104*

In determining whether an individual poses a direct threat to the health or safety of others, a public entity must make an individualized assessment, based on reasonable judgment that relies on current medical knowledge or on the best available objective evidence, to ascertain:

1. The nature, duration, and severity of the risk;
2. The probability that the potential injury will actually occur; and
3. Whether reasonable modifications of policies, practices, or procedures or the provision of auxiliary aids or services will mitigate the risk.

*28 C.F.R. 35.139*

Services Inventory

The Coordinating Board shall maintain an inventory of all postsecondary educational programs and services provided for persons with intellectual and developmental disabilities by institutions of higher education. The Coordinating Board shall:

1. Post the inventory on the Coordinating Board's internet website in an easily identifiable and accessible location;
2. Submit the inventory to TEA for inclusion in the transition and employment guide under Education Code 29.0112; and
3. Update the inventory at least once every two years.

At times prescribed by the Coordinating Board, each institution of higher education, including each college district, shall report to the Coordinating Board all programs and services described above provided by that institution.

*Education Code 61.0663*

**Section VIII:  
Retaliation**

No recipient of federal financial assistance or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title VI, Title IX, or Section 504 or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding or hearing under 34 C.F.R. Parts 100, 104, or 106. *34 C.F.R. 100.7(e) (Title VI), 104.61 (Section 504), 106.71 (Title IX)*

**Section IX: Handgun  
License as Proof of  
Identification**

A person may not deny the holder of a concealed handgun license issued under Government Code Chapter 411, Subchapter H access to goods, services, or facilities, except as provided by Transportation Code 521.460 (regarding motor vehicle rentals) or in regard to the operation of a motor vehicle, because the holder has or presents a concealed handgun license rather than a driver's license or other acceptable form of personal identification.

This section does not affect the requirement under Government Code 411.205 that a person present a driver's license or identification certificate in addition to a concealed handgun license.

*Business and Commerce Code 506.001*

**Required Vendor  
Disclosure**

The disclosure requirement applies to a person who is a vendor.  
*Local Gov't Code 176.002(a)*

A person is not subject to the disclosure requirements if the person is a state, a political subdivision of a state, the federal government, or a foreign government, or an employee or agent of such an entity, acting in the employee's or agent's official capacity. *Local Gov't Code 176.002(b)*

A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:

1. Has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds \$2,500 during the 12-month period preceding the date that the officer becomes aware that a contract between the local governmental entity and vendor has been executed or the local governmental entity is considering entering into a contract with the vendor;
2. Has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value of more than \$100 in the 12-month period preceding the date the officer becomes aware that a contract between the local governmental entity and vendor has been executed or the local governmental entity is considering entering into a contract with the vendor, excluding any gift that is:
  - a. A political contribution as defined by Election Code Title 15; or
  - b. Food accepted as a guest; or
3. Has a family relationship with a local government officer of that local governmental entity.

A person who is both a local government officer and a vendor of a local governmental entity is required to file the vendor questionnaire required by Local Government Code 176.006(a)(1) only if the person:

1. Enters or seeks to enter into a contract with the local governmental entity; or
2. Is an agent of a person who enters or seeks to enter into a contract with the local governmental entity.

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

1. The date that the vendor:
  - a. Begins discussions or negotiations to enter into a contract with the local governmental entity; or
  - b. Submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or
2. The date the vendor becomes aware:
  - a. Of an employment or other business relationship with a local government officer, or a family member of the officer;
  - b. That the vendor has given one or more gifts; or
  - c. Of a family relationship with a local government officer.

*Local Gov't Code 176.003(a)(2), (a-1), .006(a)-(b), (e)*

Definitions

*Vendor*

“Vendor” means a person who enters or seeks to enter into a contract with a local governmental entity. The term includes an agent of a vendor. The term includes an officer or employee of a state agency when that individual is acting in a private capacity to enter into a contract. The term does not include a state agency except for Texas Correctional Industries. *Local Gov't Code 176.001(7)*

*Agent*

“Agent” means a third party who undertakes to transact some business or manage some affair for another person by the authority or on account of the other person. The term includes an employee. *Local Gov't Code 176.001(1)*

*Business  
Relationship*

“Business relationship” means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

1. A transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;
2. A transaction conducted at a price and subject to terms available to the public; or
3. A purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

*Local Gov't Code 176.001(1-a)*

PURCHASING AND ACQUISITION  
VENDOR RELATIONS

CFE  
(LEGAL)

<i>Family Member</i>	“Family member” means a person related to another person within the first degree by consanguinity or affinity, as described by Government Code Chapter 573, Subchapter B. [See DBE(EXHIBIT)] <i>Local Gov’t Code 176.001(2)</i>
<i>Family Relationship</i>	“Family relationship” means a relationship between a person and another person within the third degree by consanguinity or the second degree by affinity, as those terms are defined by Government Code Chapter 573, Subchapter B. [See DBE(EXHIBIT)] <i>Local Gov’t Code 176.001(3)</i>
<i>Records Administrator</i>	“Records administrator” means the director, county clerk, municipal secretary, superintendent, or other person responsible for maintaining the records of the local governmental entity or another person designated by the local governmental entity to maintain statements and questionnaires filed under Local Government Code Chapter 176 and perform related functions. [See CIA] <i>Local Gov’t Code 176.001(5)</i>
<i>Gift</i>	“Gift” means a benefit offered by a person, including food, lodging, transportation, and entertainment accepted as a guest. The term does not include a benefit offered on account of kinship or a personal, professional, or business relationship independent of the official status of the recipient. <i>Local Gov’t Code 176.001(2-b)</i>
<i>Investment Income</i>	“Investment income” means dividends, capital gains, or interest income generated from: <ol style="list-style-type: none"><li>1. A personal or business:<ol style="list-style-type: none"><li>a. Checking or savings account;</li><li>b. Share draft or share account; or</li><li>c. Other similar account;</li></ol></li><li>2. A personal or business investment; or</li><li>3. A personal or business loan.</li></ol> <i>Local Gov’t Code 176.001(2-d)</i>
<i>Disclosure Form</i>	The Texas Ethics Commission shall adopt a conflict of interest questionnaire that requires disclosure of a vendor’s business and family relationships with a local governmental entity. <i>Local Gov’t Code 176.006(b)</i>
<i>Electronic Filing</i>	The required questionnaire, including signature requirements, may be filed electronically in a form approved by the Commission. <i>Local Gov’t Code 176.008</i>

PURCHASING AND ACQUISITION  
VENDOR RELATIONS

CFE  
(LEGAL)

Updates	A vendor shall file an updated completed questionnaire with the appropriate records administrator not later than the seventh business day after the date on which the vendor becomes aware of an event that would make a statement in the questionnaire incomplete or inaccurate. <i>Local Gov't Code 176.006(d)</i>
List of Local Government Officers	The records administrator for a local governmental entity shall maintain a list of local government officers of the entity and shall make that list available to the public and any person who may be required to file a conflict of interest questionnaire. [See BBFA] <i>Local Gov't Code 176.0065</i>
Internet Posting	A local governmental entity that maintains an internet website shall provide access to the conflict of interest questionnaires required to be filed under this policy on that website. <i>Local Gov't Code 176.009</i>
Contract Declared Void	The governing body of a local governmental entity may, at its discretion, declare a contract void if the governing body determines that a vendor failed to file a conflict of interest questionnaire required by Local Government Code 176.006. <i>Local Gov't Code 176.013(e)</i>
Violations	<p>A vendor commits an offense under Local Government Code Chapter 176 if the vendor:</p> <ol style="list-style-type: none"><li>1. Is required to file a conflict of interest questionnaire under Local Government Code 176.006; and</li><li>2. Either:<ol style="list-style-type: none"><li>a. Knowingly fails to file the required questionnaire with the appropriate records administrator not later than 5:00 p.m. on the seventh business day after the date on which the vendor becomes aware of the facts that require the filing of the questionnaire; or</li><li>b. Knowingly fails to file an updated questionnaire with the appropriate records administrator not later than 5:00 p.m. on the seventh business day after the date on which the vendor becomes aware of an event that would make a statement in a questionnaire previously filed by the vendor incomplete or inaccurate.</li></ol></li></ol> <p>It is an exception to the application of the offense that the vendor filed the required questionnaire not later than the seventh business day after the date the vendor received notice from the local governmental entity of the alleged violation.</p> <p><i>Local Gov't Code 176.013(b), (g)</i></p>

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**Note:** The [Conflict of Interest Questionnaire, Form CIQ](#),<sup>1</sup> is available on the Texas Ethics Commission website.

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**Diversity, Equity,  
and Inclusion  
Initiatives**

The governing board of an institution of higher education, including a college district, shall ensure that each unit of the institution adopts policies and procedures for appropriately disciplining, including by termination, a contractor of the institution who engages in conduct in violation of Education Code 51.3525(b)(1) [see BG, DAA, and FA]. *Education Code 51.3525(b)(2)*

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<sup>1</sup> Conflict of Interest Forms: <https://www.ethics.state.tx.us/forms/conflict/>

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**Note:** For related information on diversity, equity, and inclusion initiatives, see CFE for contractors, DAA(LEGAL) for employees, and FA(LEGAL) for students.

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**Diversity, Equity,  
and Inclusion Office**

The governing board of an institution of higher education, including a college district, shall ensure that each unit of the institution does not, except as required by federal law:

1. Establish or maintain a diversity, equity, and inclusion office; or
2. Hire or assign an employee of the institution or contract with a third party to perform the duties of a diversity, equity, and inclusion office.

"Diversity, equity, and inclusion office" means an office, division, or other unit of an institution of higher education established for the purpose of:

1. Influencing hiring or employment practices at the institution with respect to race, sex, color, or ethnicity, other than through the use of color-blind and sex-neutral hiring processes in accordance with any applicable state and federal antidiscrimination laws;
2. Promoting differential treatment of or providing special benefits to individuals on the basis of race, color, or ethnicity;
3. Promoting policies or procedures designed or implemented in reference to race, color, or ethnicity, other than policies or procedures approved in writing by the institution's general counsel and the Coordinating Board for the sole purpose of ensuring compliance with any applicable court order or state or federal law; or
4. Conducting trainings, programs, or activities designed or implemented in reference to race, color, ethnicity, gender identity, or sexual orientation, other than trainings, programs, or activities developed by an attorney and approved in writing by the institution's general counsel and the Coordinating Board for the sole purpose of ensuring compliance with any applicable court order or state or federal law.

*Education Code 51.3525(a)-(b)(1)*

Exceptions

Nothing in this section may be construed to limit or prohibit an institution of higher education or an employee of an institution of higher education from, for purposes of applying for a grant or complying

with the terms of accreditation by an accrediting agency, submitting to the grantor or accrediting agency a statement that:

1. Highlights the institution's work in supporting first-generation college students, low-income students, or underserved student populations; or
2. Certifies compliance with state and federal antidiscrimination laws.

This section may not be construed to apply to:

1. Academic course instruction;
2. Scholarly research or a creative work by an institution of higher education's students, faculty, or other research personnel or the dissemination of that research or work;
3. An activity of a student organization registered with or recognized by an institution of higher education;
4. Guest speakers or performers on short-term engagements;
5. A policy, practice, procedure, program, or activity to enhance student academic achievement or postgraduate outcomes that is designed and implemented without regard to race, sex, color, or ethnicity;
6. Data collection; or
7. Student recruitment or admissions.

*Education Code 51.3525(c)-(d)*

Compliance  
*Report*

An institution of higher education may not spend money appropriated to the institution for a state fiscal year until the governing board of the institution submits to the legislature and the Coordinating Board a report certifying the board's compliance with this section during the preceding state fiscal year. *Education Code 51.3525(e)*

*Testimony*

In the interim between each regular session of the legislature, the governing board of each institution of higher education, or the board's designee, shall testify before the standing legislative committees with primary jurisdiction over higher education at a public hearing of the committee regarding the board's compliance with this section. *Education Code 51.3525(f)*

*Audit*

The state auditor shall periodically conduct a compliance audit of each institution of higher education to determine whether the institution has spent state money in violation of Education Code 51.3525. The state auditor shall adopt a schedule by which the

state auditor will conduct compliance audits. The schedule must ensure that each institution of higher education is audited at least once every four years.

If the state auditor determines pursuant to a compliance audit that an institution of higher education has spent state money in violation of this section, the institution:

1. Must cure the violation not later than the 180th day after the date on which the determination is made; and
2. If the institution fails to cure the violation during the period described by item 1, is ineligible to receive formula funding increases, institutional enhancements, or exceptional items during the state fiscal biennium immediately following the state fiscal biennium in which the determination is made.

*Education Code 51.3525(g)-(h)*

PURCHASING AND ACQUISITION  
VENDOR RELATIONS

CFE  
(LOCAL)

For purposes of this policy, a vendor is defined as a seller of goods or services. A vendor must receive permission from the vice president for fiscal affairs or designee prior to entering College District property for the purpose of soliciting goods or services.

Vendors permitted on campus shall include those invited to:

1. Provide demonstrations, submit bids, or acquaint the staff with goods and services to be purchased for College District purposes.
2. Provide required or approved College District-wide services (e.g., retirement plans or approved insurance programs) that are of benefit to the staff, students, or the College District.

The College President shall have the authority to invite vendors to participate in College District functions, programs, or activities as appropriate.

**Diversity, Equity,  
and Inclusion  
Initiatives**

The College President or designee shall develop procedures addressing the discipline, up to and including termination, of a College District contractor who violates Education Code 51.3525(b)(1). [See BG, DAA, and FA]

Institution: Collin County Community College District  
Date Submitted: 08/28/24  
Pages: 3

**Texas Education Code Section 51.3525 Certification Form**

I certify, under penalty of perjury and the loss of funding to the **Texas Legislature and the Texas Higher Education Coordinating Board**, that **Collin County Community College District** has complied with the requirements in Tex. Educ. Code § 51.3525:

I certify, in accordance with Tex. Educ. Code § 51.3525(b)(1)(A), this institution does not, except as required by federal law, have any office, division or unit with the established purpose of:

- influencing hiring or employment practices at the institution with respect to race, sex, color, or ethnicity, other than through the use of color-blind and sex-neutral hiring processes in accordance with any applicable state and federal antidiscrimination laws;
- promoting differential treatment of or providing special benefits to individuals on the basis of race, color, or ethnicity;
- promoting policies or procedures designed or implemented in reference to race, color, or ethnicity, other than policies or procedures approved in writing by this institution's general counsel and the Texas Higher Education Coordinating Board for the sole purpose of ensuring compliance with any applicable court order or state or federal law; or
- conducting trainings, programs, or activities designed or implemented in reference to race, color, ethnicity, gender identity, or sexual orientation, other than trainings, programs, or activities developed by an attorney and approved in writing by this institution's general counsel and the Texas Higher Education Coordinating Board for the sole purpose of ensuring compliance with any applicable court order or state or federal law.

I certify, in accordance with Tex. Educ. Code § 51.3525(b)(1)(B), this institution has not, except as required by federal law, hired or assigned an employee of the institution, or contracted with a third party to perform the duties of a diversity, equity, and inclusion office as defined in Tex. Educ. Code § 51.3525(a).

I certify, in accordance with Tex. Educ. Code § 51.3525(b)(1)(C), this institution does not, except as required by federal law, compel, require, induce, or solicit any person to provide a diversity, equity, and inclusion statement or give preferential consideration to any person based on the provision of a diversity, equity, and inclusion statement.

I certify, in accordance with Tex. Educ. Code § 51.3525(b)(1)(D), this institution does not, except as required by federal law, give preference on the basis of race, sex, color, ethnicity, or national origin to an applicant for employment, an employee, or a participant in any function of the institution.

I certify, in accordance with Tex. Educ. Code § 51.3525(b)(1)(E), this institution does not, except as required by federal law, require any person, as a condition of enrolling at the institution or performing any institution function, to participate in diversity, equity, and inclusion training, which includes a training, program, or activity designed or implemented in reference to race, color, ethnicity, gender identity, or sexual orientation, unless the training meets the exception in Tex. Educ. Code § 51.3525(b)(1)(E)(ii).

I certify, in accordance with Tex. Educ. Code § 51.3525(b)(2), that this institution has adopted policies and procedures for appropriately disciplining, including by termination, an employee or contractor of the institution who engages in conduct in violation of Tex. Educ. Code § 51.3525(b)(1)(A)-(E).

I certify, in accordance with Tex. Educ. Code § 51.3525(e), that no state appropriations to this institution for **FY2024** have been spent prior to submission of this certification report to the Legislature and the Texas Higher Education Coordinating Board.

I understand the State Auditor's Office will conduct a compliance audit for this institution and if violations of Tex. Educ. Code § 51.3525 are found, this institution must cure the violation within 180 days or become ineligible to receive formula funding increases, institutional enhancements, or exceptional items during the state fiscal biennium immediately following the state fiscal biennium in which the determination is made.

I understand all complaints regarding any violations made by this institution will be sent to the State Auditor's Office for review.

To ensure full compliance with Tex. Educ. Code § 51.3525, in the past fiscal year **Collin County Community College District** has conducted the following: Adoption of Board policies addressing SB 17 requirements on March 26, 2024, and included in CFE (Local).

Failure to return a certification form to the Texas Higher Education Coordinating Board by September 1, 2024, will be considered an act of non-compliance with the law and can subject the above referenced institution to all penalties allowed by law.

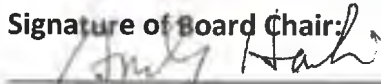
**Signature of Institution President:**



H. Neil Matkin, Ed.D.

Date: 8/27/24

**Signature of Board Chair:**



Andrew Hardin

Date: 8/27/24

**Date submitted to THECB:** \_\_\_\_\_

**Date submitted to the Legislature:** \_\_\_\_\_

Institution: Dallas College (1)  
Date Submitted: 08/22/24  
Pages: 3



I certify, under penalty of perjury and the loss of funding to Dallas College that Dallas College has complied with the requirements in Tex. Educ. Code § 51.3525:

I] I certify, in accordance with Tex. Educ. Code § 51.3525(b)(1)(A), this institution does not, except as required by federal law, have any office, division or unit with the established purpose of:

- influencing hiring or employment practices at the institution with respect to race, sex, color, or ethnicity, other than through the use of color-blind and sex-neutral hiring processes in accordance with any applicable state and federal antidiscrimination laws;
- promoting differential treatment of or providing special benefits to individuals on the basis of race, color, or ethnicity;
- promoting policies or procedures designed or implemented in reference to race, color, or ethnicity, other than policies or procedures approved in writing by this institution's general counsel and the Texas Higher Education Coordinating Board for the sole purpose of ensuring compliance with any applicable court order or state or federal law; or
- conducting trainings, programs, or activities designed or implemented in reference to race, color, ethnicity, gender identity, or sexual orientation, other than trainings, programs, or activities developed by an attorney and approved in writing by this institution's general counsel and the Texas Higher Education Coordinating Board for the sole purpose of ensuring compliance with any applicable court order or state or federal law.

I] I certify, in accordance with Tex. Educ. Code § 51.3525(b)(1)(B), this institution has not, except as required by federal law, hired or assigned an employee of the institution, or contracted with a third party to perform the duties of a diversity, equity, and inclusion office as defined in Tex. Educ. Code § 51.3525(a).

I] I certify, in accordance with Tex. Educ. Code § 51.3525(b)(1)(C), this institution does not, except as required by federal law, compel, require, induce, or solicit any person to provide a diversity, equity, and inclusion statement or give preferential consideration to any person based on the provision of a diversity, equity, and inclusion statement.

I] I certify, in accordance with Tex. Educ. Code § 51.3525(b)(1)(D), this institution does not, except as required by federal law, give preference on the basis of race, sex, color, ethnicity, or

national origin to an applicant for employment, an employee, or a participant in any function of the institution.

I certify, in accordance with Tex. Educ. Code § 51.3525(b)(1)(E), this institution does not, except as required by federal law, require any person, as a condition of enrolling at the institution or performing any institution function, to participate in diversity, equity, and inclusion training, which includes a training, program, or activity designed or implemented in reference to race, color, ethnicity, gender identity, or sexual orientation, unless the training meets the exception in Tex. Educ. Code § 51.3525(b)(1)(E)(ii).

I certify, in accordance with Tex. Educ. Code § 51.3525(e), that no state appropriations to this institution for *[insert fiscal year]* have been spent prior to submission of this certification report to the Legislature and the Texas Higher Education Coordinating Board.

I understand the State Auditor's Office will conduct a compliance audit for this institution and if violations of Tex. Educ. Code § 51.3525 are found, this institution must cure the violation within 180 days or become ineligible to receive formula funding increases, institutional enhancements,

I certify, in accordance with Tex. Educ. Code § 51.3525(b)(2), that this institution has adopted policies and procedures for appropriately disciplining, including by termination, an employee or contractor of the institution who engages in conduct in violation of Tex. Educ. Code § 51.3525(b)(1)(A)-(E).

or exceptional items during the state fiscal biennium immediately following the state fiscal biennium in which the determination is made.

I understand all complaints regarding any violations made by this institution will be sent to the State Auditor's Office for review.

To ensure full compliance with Tex. Educ. Code § 51.3525, in the past fiscal year Dallas College has conducted the following:

Dallas College has ensured compliance with SB 17 by doing the following:

1. Does not have a DEI office;
2. Removing all DEI language from job postings;
3. Does not provide any DEI training to employees;
4. Does not give preference based on race, ethnicity, gender identity, sexual orientation, or religion

Failure to return a certification form to the Texas Higher Education Coordinating Board by September 1, 2024, will be considered an act of non-compliance with the law and can subject the above referenced institution to all penalties allowed by law.

Signature of Institution President: \_\_\_\_\_

Date: 7/24/2024

Signature of Board Chair: \_\_\_\_\_

Date: 8.7.2024

Date submitted to THECB: \_\_\_\_\_

Date submitted to the Legislature: \_\_\_\_\_

Institution: Dallas College (2)  
Date Submitted: 08/29/24  
Pages: 2

**ELECTRONIC SIGNATURE ACKNOWLEDGEMENT AND CONSENT FORM**

I, Justin H. Lonon agree and understand that by signing the Electronic Signature Acknowledgment and Consent Form, that all electronic signatures are the legal equivalent of my manual/handwritten signature and I consent to be legally bound to this agreement. I further agree my signature on this document is as valid as if I signed the document in writing. This is to be used in conjunction with the use of the electronic signature for the submission of the SB17 Annual Certification required by 51.3525(e) that I elected to have signed electronically. Under penalty of perjury, I herewith affirm that my electronic signature was signed by myself with full knowledge and consent and am legally bound to these terms and conditions.

  
Signature

8/26/2024  
Date

Please check one:

- Chancellor
- Board Chair

**ELECTRONIC SIGNATURE ACKNOWLEDGEMENT AND CONSENT FORM**

I, Paul Mayer, agree and understand that by signing the Electronic Signature Acknowledgment and Consent Form, that all electronic signatures are the legal equivalent of my manual/handwritten signature and I consent to be legally bound to this agreement. I further agree my signature on this document is as valid as if I signed the document in writing. This is to be used in conjunction with the use of the electronic signature for the submission of the SB17 Annual Certification required by 51.3525(e) that I elected to have signed electronically. Under penalty of perjury, I herewith affirm that my electronic signature was signed by myself with full knowledge and consent and am legally bound to these terms and conditions.

Paul Mayer  
Paul Mayer (Aug 28, 2024 13:04 CDT)

Signature

Aug 28, 2024

Date

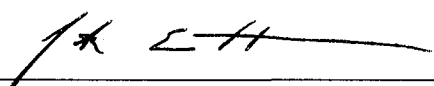
Please check one:

- President
- Board Chair

Institution: Del Mar College District  
Date Submitted: 08/30/24  
Pages: 54

**ELECTRONIC SIGNATURE ACKNOWLEDGEMENT AND CONSENT FORM**

I, Mark Escamilla, agree and understand that by signing the Electronic Signature Acknowledgment and Consent Form, that all electronic signatures are the legal equivalent of my manual/handwritten signature and I consent to be legally bound to this agreement. I further agree my signature on this document is as valid as if I signed the document in writing. This is to be used in conjunction with the use of the electronic signature for the submission of the SB17 Annual Certification required by 51.3525(e) that I elected to have signed electronically. Under penalty of perjury, I herewith affirm that my electronic signature was signed by myself with full knowledge and consent and am legally bound to these terms and conditions.

  
Signature

8/28/2024  
Date

Please check one:

- President
- Board Chair

# Supporting Documentation

# Amended Policies



# DEL MAR COLLEGE

OFFICE OF VICE PRESIDENT  
ADMINISTRATION AND HUMAN RESOURCES

**TO:** Mark Escamilla, Ph.D.  
President and CEO

**FROM:** Tammy McDonald   
Vice President of Administration and Human Resources

**DATE:** November 30, 2023

**RE:** Policy Revisions, Deletions, and Additions for Board Review and Approval  
Administrative Procedure Revisions, Deletions, an Additions for Board Notification

## SUMMARY:

This policy work is to comply with some of the changes made during the Texas 88<sup>th</sup> Legislative Session with priority effective dates and to follow the Del Mar College Board policy review schedule.

Additional policy work will be presented to the Board of Regents throughout FY 23/24.

## STAFF RECOMMENDATION:

- Board Action to Approve recommended revisions, deletions, additions to Board “B” policies.
- No action needed for Notification to the Board of administrative “A” procedure revisions, deletions, additions.

## SUPPORTING DOCUMENTS:

Presentation  
Tracking Form  
Policy/Procedure Work

# DMC Policy Review Administrative Procedure Notification

December 5, 2023

Tammy McDonald  
Vice President, Administration & HR

Jessica A. Alaniz  
Executive Director of Administration



DEL MAR COLLEGE

## **Policy Review Team**

- **Tammy McDonald, Vice President of Administration and Human Resources**
- **Jerry Henry, Executive Director of Human Resources**
- **Jessica A. Alaniz, Executive Director of Administration**
- **Rita Hernandez, Dean of Student Engagement and Retention**
- **Augustin Rivera, Jr., General Counsel**

# DMC Policy Review Process

## Board Policy Review

Board Policies are reviewed by College Administration as outlined in the schedule below with the exception of changes in laws, statutes, regulations, and requirements executed at federal, state, local levels, and by accrediting bodies that requires review outside the schedule. The CEO or their designee has oversight of the policy review process.

College Administration will perform review of policies according to the review schedule below and make recommendations to the Board of Regents as necessary.

## Policy Review Schedule

Fiscal Year	Chapter 1 Board of Regents	Chapter 2 Administrative Org	Chapter 3 General Admin	Chapter 4 Business / Finance	Chapter 5 Human Resources	Chapter 6 Faculty	Chapter 7 Student Services	Chapter 8 Misc.	Chapter 9 Prohibiting Sexual Misconduct	Chapter 10 Carrying Handguns on Campus by License Holder
2021	X	X								X
2022			X	X						
2023					X	X				
2024							X	X		
2025									X	X
2026	X	X								
2027			X	X						
2028					X	X				
2029							X	X		
2030									X	X

## **DMC Policy Review – FY23/24**

- **FY22/23 - Scheduled to review Chapters 5 (HR) & 6 (Faculty)**
  - **pending due to anticipated legislative changes**
- **FY23/24 – Scheduled to review Chapters 7 (Students) & 8 (Misc.)**

# DMC Policy Review - FY23/24

## FY23/24 “B” Policies for Approval & “A” Procedure Notifications

- Policies “B” & Procedures “A” Impacted by Legislation
  - State
    - HB 1 DEI Practices & Programs
    - SB 17 DEI Offices & Initiatives
    - SB 1376 Military Employment Preference
    - SB 412 Protection for Pregnant & Parenting Students
  - Policy & Procedure revisions/additions/deletions that span across multiple chapters
  - Includes a few policy & procedure revisions not related to legislation
    - Revise campus references
    - Title revisions
    - Revise outdated Administrative procedures with current practice for example: how employment opportunities are advertised

## **DMC Policy Review Schedule - FY23/34**

- **Deletion of B5.4 Affirmative Action Policy (chapter 5)**
  - **Sections related to Equal Opportunity relocated to other policy sections**
- **Removal of all references to Affirmative Action – (multiple chapters)**
  - For example:**
    - **Office of Human Resources and Equal Opportunity/Affirmative Action revised to Office of Human Resources**
- **Added language to B5.11 Universal Conditions of Employment to comply with SB17's requirement for disciplining employees who engage in conduct in violation of the law**
- **Renaming and expansion of Military Employment Preference that applies in hiring practices (chapter 5)**
- **New policy for Protections for Pregnant & Parenting Students (chapter 7-B7.34)**

# **DMC Policy Review Schedule- FY23/34**

## **Timeline**

- **December**
  - **First round of policy & procedure revisions**
  - **Additional policy revisions will be presented for the remainder of FY23/24 as related to legislative changes & DMC policy review schedule**

Thank you



DEL MAR COLLEGE

"B" BOARD POLICY RECOMMENDATION  
 "A" ADMINISTRATIVE PROCEDURE NOTIFICATION

Del Mar College Manual of Policies and Procedures

12 05 23 001			
Policy No: Various Throughout Manual			
Originator: T McDonald, J Henry, J Alaniz, R Hernandez			
Tammy McDonald, VP Admin & HR <span style="color: blue; font-family: cursive;">jmc</span>			
<b>For Review or Courtesy Copy To:</b>	<b>Review</b>	<b>Courtesy Copy</b>	<b>Date</b>
Deans' Council		X	11/30/2023
Chairs' Council		X	11/30/2023
Faculty Council		X	11/30/2023
Exempt Council		X	11/30/2023
Non-Exempt Council		X	11/30/2023
Executive Cabinet		X	11/30/2023
President/CEO Signature: <span style="color: black; font-family: cursive;">[Signature]</span>			Date: 11/30/2023
Presented to Board of Regents:			Date: 12/05/23
Board Policy or Administrative Procedure Notice		"B" Approval & "A" Notification	
Rev 07/23			

**Blue = New language**      **Red Strikethrough= Deletion**  
**Green = Existing language relocated/renumbered to other policy section**

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**A2.4.2 Standing Committees and other Councils:** ~~The~~ *Information about* standing committees and other councils of the College *is found on DMC Share at the following link:* <https://dmcollege.sharepoint.com/committees/SitePages/Home.aspx> ~~include, but are not limited to, the Affirmative Action Committee, the Curriculum Committee, the Instruction and Student Development Council, and the CEO's Staff. (For a complete listing with current members, *Standing Committee Membership*, now found on *DMC Share*).~~

## A5.9 Employment Physical Examination Policy

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**A5.9.4 Procedure:** The Office of Human Resources ~~and Equal Opportunity/Affirmative Action~~ website will be responsible for scheduling new employment physical examinations for top candidates.

**A5.9.4.1** Upon completion of the Physical Examination Consent form, top candidates will be scheduled for a new employment examination.

**A5.9.4.2** Results of the examination will remain confidential and shall be available only to those College officials with bona fide need for such information.

**A5.9.4.3** Upon written request to the *Executive* Director of Human Resources ~~and Equal Opportunity/Affirmative Action~~, an applicant will be given the results of the applicant's new employment examination.

**A5.9.4.4** Back X-rays (3 views) and chest X-rays (AP and lateral) will be required of top candidates for any position classified as labor intensive. Upon the discretion of the College's designated physician and confirmation of the *Executive* Director of Human Resources ~~and Equal Opportunity/Affirmative Action~~, a five (5) view X-ray may be taken.

**A5.9.4.5** Top candidates will be required to comply with the recommendations of the College's designated physician as a condition of employment.

**A5.9.4.6** The College's designated physician will make a recommendation to the *Executive* Director of Human Resources ~~and Equal Opportunity/Affirmative Action~~ with respect to ~~handicapped~~ individuals as to whether or not the top candidate is reasonably capable of performing all the essential elements of the job, and if not, whether or not reasonable accommodation to a candidate's ~~handicap~~ *disability* can be made so that with such accommodation the top candidate can perform all the essential elements of the job.

**A5.49 Progressive Discipline:** The College uses a progressive disciplinary process whereby employees, other than at-will employees, are made aware of a problem and are given a reasonable opportunity to take corrective action. The administrative guidelines for the progressive disciplinary process are published and distributed by the Office of Human Resources ~~and Equal Opportunity/Affirmative Action~~. This progressive disciplinary process is not intended to be used in situations where an employee's actions are so egregious that it requires more serious discipline up to and including termination.

## B5.50 Discrimination and Harassment Complaint Policy for Employees

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**A5.50.1.2 District Complaint Coordinator:** The District Complaint Coordinator, who is the *Executive* Director of Human Resources, shall receive any complaint of alleged retaliation, discrimination or harassment, as identified herein, assist the Complainant in the use of the complaint form, and provide the Complainant with information about various internal and external mechanisms through which the complaint may be filed, including applicable time limits for filing with external agencies. An employee is also free to bring complaints under this section to any supervisor, manager or administrator of the College. Complaints received by any supervisor, manager or administrator of the College shall be promptly forwarded to the District Complaint Coordinator. The District Complaint Coordinator may identify a designee within the *Office of* Human Resources/~~Equal Opportunity and Affirmative Action office~~ to receive complaints.

**A5.54.4 Restrictions and Exclusion of Service and Therapy Animals:** Service and therapy animals can be restricted from certain campus areas, or excluded from campus for the following reasons:

**Aggressive or Disruptive Behavior :** An animal may be removed and excluded from campus if its behavior is not controlled such that it is unruly or disruptive. “Unruly” or “disruptive” behaviors include, but are not limited to, excessive, inappropriate barking, growling, and, or aggressive behavior. The College may exclude uncontrolled service or therapy animals under these circumstances. It will be the employee’s responsibility to immediately arrange for 1) a substitute assistant; 2) another trained service or therapy animal; and, or 3) additional training for the current service or therapy animal. In the event additional training is obtained for the service or therapy animal the employee will be required to present proof of any such additional training before the animal will be allowed on campus.

**Health and Safety Concerns:** A service or therapy animal may be restricted from entering an area where it poses a threat to the health and safety of the campus community such as food preparation areas not otherwise open to the public, or laboratories or workshops that might interfere with or compromise the work being done. Exceptions to restricted areas may be granted on a case-by-case basis through the *Office of Human Resources and Equal Opportunity/Affirmative Action Office* and the person directing or managing the restricted area.

**Health of the Service or Therapy Animal :** A service or therapy animal that is ill or in poor health may not be allowed on College property. An ill service or therapy animal may not be allowed on campus unless the employee can provide a written statement from a veterinarian that the animal poses no threat to the health and safety of the College community.

**A5.54.5 Treatment of Service and Therapy Animals by the Del Mar College**

**Community:** Employees and students of the College community will abide by the following practices with regard to service and therapy animals: 1) service and therapy animals are allowed to accompany a disabled employee at all times and in all places on campus, except as provided by A5.53.4; 2) touching or petting of a service or therapy animal is prohibited unless invited to do so by the disabled employee; 3) feeding of a service or therapy animal is prohibited except by the disabled employee; 4) a service or therapy animal should not be deliberately startled; 5) no action should be taken to separate a disabled employee from his or her service or therapy animal, except under emergency situations where it may become necessary.

**A5.54.6 Conflicting Disabilities:** Other employees or students of the College with medical condition(s) that are affected by animals including, but not limited to, respiratory diseases, asthma or severe allergies should contact the *Office of* Human Resources ~~and Equal Opportunity/Affirmative Action Office~~ if they have a concern about exposure to a service or therapy animal. The employee or student will be asked to provide medical documentation that identifies the condition(s), and will allow determination to be made as to whether an accommodation is necessary.

**A5.55 Prohibition of Disability Discrimination:** The College strictly prohibits discrimination against employees based on disability as defined by state and federal law. If an employee believes he or she has suffered discrimination based on disability, including the illegal denial of an accommodation, or retaliation for having requested an accommodation, the employee should immediately contact the *Office of Human Resources* ~~and Equal Opportunity/Affirmative Action Office~~ as provided by **B5.50**.

## B6.6 Faculty Promotion in Rank

**A6.6.8 Review by the Chief Academic Officer (CAO):** The CAO will review all promotion recommendations; the CAO has the authority to interview the faculty member, the Chair, and/or the Dean separately or together, and others who may have knowledge of facts to verify or refute information contained in the promotion file. By March 7, the CAO will forward a list of positive and negative recommendations for faculty promotions to the CEO.

**A6.6.8.1** A faculty member receiving the positive recommendation of the Chair, the Dean, and the CAO will be notified by the CAO of recommendation for promotion on or before March 7.

**A6.6.8.2** Where there is disagreement in the recommendations or agreement on a negative recommendation by the Chair, the Dean, and the CAO, the CAO will notify the faculty member in writing on or before March 7 by addressing the same to the official mailing address as recorded in the Del Mar College Office of Human Resources ~~and Equal Opportunity/Affirmative Action~~. The faculty member's notification will state that the faculty member has the option of either appealing or withdrawing from consideration within five (5) working days of the date on the CAO's notification letter. A copy of the standard procedures to be followed during an appeal will be attached to the notification to the faculty member. The faculty member's Chair and Dean will be notified of the disagreement or agreement in recommendations, either orally or in writing.

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**A6.6.20 Chief Executive Officer Decision and Notification:** The Chief Executive Officer (CEO) of the College shall consider all of the recommendations received from the Chief Academic Officer (CAO) and the Promotion Appeals Committee and render a decision on or before July 1. The faculty member will be notified in writing by addressing the same to the faculty member's Del Mar College address and a second copy mailed to the faculty member's official mailing address as recorded in the Del Mar College *Office of* Human Resources ~~Office~~.

**A8.3 Medical and Related Crisis Situations on Campus:** The first priority is to assist the individual in crisis. The Good Samaritan Act of 1977 protects students and College personnel from lawsuits unless actions are "willfully and wantonly negligent."

**A8.3.1 Victims of Accidents:** For victims of accidents, render first aid to the extent of your training. Control bleeding and treat for shock. If needed, administer CPR if you are trained. Seek assistance if you are not. Do not move a person with broken bones. First aid kits are available in various offices.

**A8.3.1.1** Medical emergencies, other than an accident, that are likely to occur fall into a few categories. Epileptic seizure, both petit mal and grand mal, calls mainly for a cool head. Try to keep the victim from injury in falling. Be ready to reassure the victim upon recovery; try to minimize embarrassment. During the attack, the victim of petit mal or of narcolepsy should be helped to a chair. There is usually not a need to call an ambulance unless secondary injuries occur.

**A8.3.1.2** Check whether a choking victim can cough or speak at all. If so, just give the victim time to recover. If not, clear the victim's airway by an appropriate method.

**A8.3.1.3** For the apparent heart attack, or for the victim who is found unconscious, send for EMS Ambulance immediately (911). Then if you are trained, administer CPR until the EMS ambulance arrives. If the victim needs medical treatment or ambulance transportation, the victim will be billed by the City of Corpus Christi. If the victim refuses medical treatment, no one will be billed for the EMS ambulance call.

**A8.3.1.4** If the victim is an employee, submit a report to the Office of Human Resources ~~and Equal Opportunity/Affirmative Action~~ on the ~~following two-part form:~~ *Employee Accident/Injury/Illness Form (EHS 001)*.

### B3.3 Accessibility/Custodianship of Records

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**A3.3.2.2** The Office of Human Resources ~~and Equal Opportunity/Affirmative Action~~ is responsible for personnel records of all College employees except work study students.

**A3.3.2.2.1** This office is responsible for providing confidentiality of these records from disclosure except as essential to the conduct of official College business or upon written release by the individual concerned.

**A3.3.2.2.2** Personnel files will be secured in the HR Vault.

**A3.3.2.2.3** The *Executive HR* Director *of Human Resources* will keep a list of employees who are authorized:

- \* to have access to the vault combination
- \* to have access to the vault

**A3.3.2.2.4** The vault combination will be changed when key personnel transfer or leave employment.

## B3.23 Computer and Network Resources Use Policy

**A3.23.1.3** Consistent with the College's ~~Equal Opportunity/Affirmative Action~~ policies, the computer and network resources may not be used to store, transmit, or receive any text, image, audio, or video materials that are discriminatory, abusive, profane, threatening, harassing, or sexually offensive.

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**A.3.23.4.1.1** The front page of all documents on the Del Mar College servers must contain:

- the email address of the person(s) or service unit(s) in charge of the page.
  - the date of the last review; all pages should be reviewed every six months to ensure accuracy.
  - a link to the Del Mar College Home page
  - a link to the Equal Opportunity/~~Affirmative Action~~ Website and the disclaimer statements.
  - The phrase "Del Mar College" included in the title of the page (appears in the top frame of the browser window). [Example: "Department of Business Administration" becomes "Del Mar College Department of Business Administration"]
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**A3.23.4.1.2.5** Any images or data that are discriminatory, abusive, profane, harassing, or sexually offensive. (~~See the College's Statement of Equal Opportunity/Affirmative Action.~~) When a complaint regarding discriminatory, abusive, profane, harassing, or sexually offensive material is received by Del Mar College, the matter will be turned over the Web Advisory Committee for review. Recommendations will then be made to the appropriate Dean or office.

**B5.3 Employment Practices:** Del Mar College is an Equal Opportunity/~~Affirmative Action~~ Employer. As provided by law, Del Mar College does not discriminate on the basis of race, color, sex (including pregnancy, gender identity/transgender status, sexual orientation), age, national origin, religion, disability, genetic information, or any other constitutionally or statutorily impermissible reason.

*B5.3.1 Commitment/Obligation: The Board of Regents and the Chief Executive Officer (CEO) of the College recognize a moral commitment and a legal obligation to provide equal opportunity in promotion for all employees and in employment of applicants in compliance with the Civil Rights Act of 1964, the Equal Employment Opportunity Act of 1972, the Rehabilitation Act of 1973, and the Veterans' Readjustment Act of 1974.*

*B5.3.2 Objective: The College will ensure all applicants and employees are treated, as provided by law, without regard to race, color, sex, (including pregnancy, gender identity/transgender status, sexual orientation), age, national origin, religion, disability, genetic information, or any other constitutionally or statutorily impermissible reason.*

*B5.3.3 Practices: In its continuing efforts to be a fair employer, the College will be guided by the following equal employment practices:*

*B5.3.3.1 As provided by law, the College will provide qualified applicants an opportunity to enter, and continue in, College employment without regard to race, color, sex (including pregnancy, gender identity/transgender status, sexual orientation), age, national origin, religion, disability, genetic information, or any other constitutionally or statutorily impermissible reason.*

*B5.3.3.2 The College will seek to employ that person who is best qualified and who is most suited for a particular position.*

*B5.3.3.3 The College will endeavor to compensate each employee in an equitable manner in line with approved job duties and responsibilities.*

*B5.3.3.4 The College will not exclude a disabled person who is qualified from participating in, deny the benefits of, or otherwise subject such a person to discrimination in employment or in the programs and activities of the College.*

*In addition, the College will comply with the provisions of the Americans With Disabilities Act, as amended.*

*B5.3.3.5 The College 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:*

*(SECTION 1. Section 657.002, Texas Government Code)*

- (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;*  
*and*
- (5) the spouse of a veteran with a disability as described by Section 657.002(4) if the spouse is the primary source of income for the veteran's household.*

*B5.3.3.6 The College will endeavor, whenever consistent with other provisions of the policy, to give priority to Del Mar employees who apply for vacant positions and, to this end, may first consider promotion of employees from within before announcing employment opportunities to the public.*

*B5.3.3.7 The CEO may choose to promote from within, using any procedures the CEO deems appropriate and in the best interest of the college.*

*B5.3.4 Application to Situations: This policy shall apply, but not be limited, to the following situations: employment, promotion, upgrading, demotion, reassignment, recruitment and recruitment advertising, lay-off or termination (except as otherwise provided by other policies of the Board of Regents), rates of pay or other forms of compensation, and selection of training.*

**B5.3.15 The District's Compliance Officer:** The District designates the employee who at any time employed as the Chief Human Resources Officer (CHRO) as the District's

Compliance Officer, who shall coordinate and oversee the District's efforts to comply with *all state and federal employment laws, to include but not limited to the following:*

**B5.3.15.1** Title VII of the Civil Rights Act of 1964, 42 USC 2000e, et seq., as amended, and its progeny and implementing regulations;

**B5.3.15.2** Title IX of the Education Amendments of 1972, 20 USC 1681(a) et seq., as amended, and its progeny and implementing regulations;

**B5.3.15.3** Title II of the Americans with Disabilities Act of 1990, 42 USC 12101-12117, as amended, and its progeny and implementing regulations;

**B5.3.15.4** The Age Discrimination in Employment Act of 1967, 29 USC 621, et. seq., as amended, and its progeny and implementing regulations;

**B5.3.15.5** The Fair Labor Standards Act of 1938, 29 USC 201, et. seq., as amended, and its progeny and implementing regulations;

**B5.3.15.6** The Family Medical Leave Act of 1993, 29 USC 2601, et. seq., as amended, and its progeny and implementing regulations; and

**B5.3.15.7** Texas Commission on Human Rights Act of 1983, Chapter 21, Texas Labor Code, as amended, and its progeny and implementing regulations.

***B5.3.5.8 Title II of the Genetic Information Nondiscrimination Act of 2008 (GINA)***

***B5.3.5.9 The Pregnant Workers Fairness Act of 2023***

**B5.3.26 The District's Complaint Coordinator:** The District designates the employee who at any time is employed in the position of *Executive* Director of Human Resources as the District's Complaint Coordinator, who shall assist the Compliance Officer in the performance of duties.

**B5.3.37 Obligation of Notification:** The Chief Executive Officer (CEO) of the College is charged with the obligation of notifying all employees of the name, office address, and telephone number of the Compliance Officer and the Complaint Coordinator.

~~**B5.4 Affirmative Action Policy:** The purpose of the Affirmative Action Program is to comply with the requirements of Executive Orders 11246, 11375, future orders or statutes, and to provide equal opportunity in a results-oriented system of employment and all other personnel functions at Del Mar College.~~

~~**B5.4.1 Commitment/Obligation:** The Board of Regents and the Chief Executive Officer (CEO) of the College recognize a moral commitment and a legal obligation to provide equal opportunity in promotion for all employees and in employment of applicants in compliance with Executive Orders 11246 and 11315, the Civil Rights Act of 1964, the Equal Employment Opportunity Act of 1972 and Revised Order No. 4, the Rehabilitation Act of 1973, and the Veterans' Readjustment Act of 1974.~~

~~**B5.4.2 Goals:** The College will seek actively to increase the number of qualified minority personnel at all levels by taking affirmative action in order that applicants and employees are treated, as provided by law, without regard to race, color, sex, (including pregnancy, gender identity/transgender status, sexual orientation), age, national origin, religion, disability, genetic information, or any other constitutionally or statutorily impermissible reason.~~

~~**B5.4.2.1** Affirmative action efforts, based on the personal commitments of administrators, faculty, and supervisory staff, will be continuous; progress will be monitored through an accountability system.~~

~~**B5.4.2.2** Efforts will be made at all levels of the College to develop support for the philosophy and implementation of the Affirmative Action Policy.~~

~~**B5.4.2.3** From time to time the Board will approve recommended goals for faculty hiring by discipline. Such goals will become a part of this policy and will be filed in the documents section of the Official Minutes Book of the Board.~~

~~**B5.4.2.4** For some disciplines the next available position should remain open until the applicant pool includes qualified minority candidates. "Position to remain open" means that if no minority applies during the first advertisement, the College may extend the filing deadline or re-advertise the position. The CEO will direct the application of this policy in such a manner that no position remains open to the detriment of the students.~~

~~**B5.4.3 Responsibility:** Overall responsibility for the program rests with the CEO of the College, who will be aided by the Vice Presidents, Deans, Department Chairs, and other supervisory personnel. The Chief Human Resources Officer (CHRO) has the responsibility for monitoring the program with the assistance of the Director of Human Resources.~~

~~**B5.4.4 Practices:** In its continuing efforts to be a fair employer, the College will be guided by the following equal employment practices:~~

~~**B5.4.4.1** As provided by law, the College will provide qualified applicants an opportunity to enter, and continue in, College employment without regard to race, color, sex (including pregnancy, gender identity/transgender status, sexual orientation), age, national origin, religion, disability, genetic information, or any other constitutionally or statutorily impermissible reason.~~

~~**B5.4.4.2** The College will seek to employ that person who is best qualified and who is most suited for a particular position.~~

~~**B5.4.4.3** The College will endeavor to compensate each employee in an equitable manner in line with approved job duties and responsibilities.~~

~~**B5.4.4.4** The College will not exclude a disabled person who is qualified from participating in, deny the benefits of, or otherwise subject such a person to discrimination in employment or in the programs and activities of the College. In addition, the College will comply with the provisions of the Americans With Disabilities Act, as amended.~~

~~**B5.4.4.5** The College will give special emphasis in employment of veterans when two (2) or more applicants for employment possess equal qualifications.~~

~~**B5.4.4.6** The College will endeavor, whenever consistent with other provisions of the policy, to give priority to Del Mar employees who apply for vacant positions and, to this end, may first consider promotion of employees from within before announcing employment opportunities to the public.~~

~~**B5.4.4.7** To increase diversity in the work force, the CEO may choose to promote from within, using any procedures the CEO deems appropriate and consistent with the intent of this policy.~~

~~**B5.4.5 Application to Situations:** The Affirmative Action Policy shall apply, but not be limited, to the following situations: employment, promotion, upgrading, demotion, reassignment, recruitment and recruitment advertising, lay off or termination (except as otherwise provided by other policies of the Board of Regents), rates of pay or other forms of compensation, and selection of training, including apprenticeships.~~

**B5.6 Selection Procedures:** The Administration shall develop policies and procedures for the recruitment and employment of personnel in order to meet the needs of the College and to comply with the Equal Opportunity Affirmative Action Policy.

**A5.6.1 Scope of Search:** Nonexempt personnel will normally be recruited from within the Corpus Christi area. ~~In an effort to provide an opportunity to obtain applications from minorities, t~~The search for faculty and exempt personnel normally will be conducted statewide and/or nationwide.

**A5.6.2 Personnel Requisition/Position Justification:** The first step in recruitment will be the completion of a "Personnel Requisition" form and a "Position Justification" form by the supervisor or the Dean, as appropriate. The forms should be completed in duplicate, with the original sent to the Office of Human Resources and Equal Opportunity/Affirmative Action and the copy retained by the originator.

**A5.6.3 Advertisements:** Upon receipt of the above named forms, after justification has been verified (for both new employees and replacements) and budgetary provisions have been made, view the Office of Human Resources and Equal Opportunity/Affirmative Action website, will advertise the position.

**A5.6.3.1** The job announcement will include, at least, (1) listing with the Texas Employment Commission, (2) advertising ~~through the College Relations Office~~ in the local newspaper ~~with the advertising charged to the appropriate division (optional for nonexempt personnel); (3) listing with appropriate community action agencies;~~ and (34) posting on appropriate ~~bulletin~~ **job** boards.

**A5.6.3.2** In addition, the Dean, Department Chair, or supervisor may contact possible sources of professional applicants, ~~particularly minority applicants;~~ both within and outside the State. These College officers may advertise in national publications of the appropriate discipline.

**A5.6.3.3** All listings will specify reasonable and pertinent minimum requirements for the position, but may include preferred qualifications.

~~**A5.6.3.4** The Office of Human Resources and Equal Opportunity/Affirmative Action will respond to unsolicited applications for professional positions and keep credentials on file for at least six (6) months.~~

**A5.6.4 Applications:** Applicants should complete the standard College application form ~~on the College~~ available in the Office of Human Resources and Equal Opportunity/Affirmative Action website, where all applications for employment are processed.

**A5.6.5 Selection Guidelines:** Credentials of applicants meeting minimum job requirements will be referred to the supervisor, Department Chair, or Dean for careful screening and thorough documentation and for interview and selection.

**A5.6.5.1** Records should include a listing of all applicants, an accurate recording of the qualifications of each applicant, and the reasons for the selection of the successful applicant on the basis of qualifications relevant to the position and on the basis of nondiscrimination in accordance with the terms of the Affirmative Action Policy Equal Opportunity Policy.

**A5.6.5.2** The appropriate Vice President, the *Executive* Director of Human Resources ~~and Equal Opportunity/Affirmative Action~~, and the CEO will review recommendations for employment.

**A5.6.5.3** Once the CEO, *or designee*, has approved the recommendation in writing, the supervisor, Chair, or Dean will confer with the ~~Director~~ *Office* of Human Resources ~~and Equal Opportunity/Affirmative Action~~ about informal notification of both the successful and unsuccessful applicants.

**A5.6.5.4** The ~~Director~~ *Office* of Human Resources ~~and Equal Opportunity/Affirmative Action~~ will formally notify all unsuccessful applicants of the status of their applications and retain their credentials ~~in the Director's office~~ *as prescribed by the CHRO*.

**A5.6.6 Contracts/Records:** The Office of Human Resources ~~and Equal Opportunity/Affirmative Action~~ will prepare a contract for *regular* full-time faculty and exempt personnel. A *Hiring Proposal* ~~Employment and Change of Status form~~ will be used to initiate the hiring or change of status exempt personnel, nonexempt personnel, full-time faculty, and unclassified part-time hourly personnel. The Office of Human Resources ~~and Equal Opportunity/Affirmative Action~~ will create a personnel file, which includes transcripts, letters of recommendation, copies of appointment papers, salary sheets, and application for employment.

## **B5.11 Universal Conditions of Employment:**

**B5.11.1 Employment and Contractual Relationship:** The relationship between the District and each employee of the District is subject to all State and federal laws, Board Policy, and Administrative ~~Policy~~ *Procedures* as they presently exist or as they may be modified or amended from time to time and at any time hereafter. All contracts between the District and each employee of the District to whom a contract is extended, shall be subject to the condition hereto stated and all written contracts shall include this condition either by restatement or incorporation by reference.

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**B5.11.4.6** Repeated failure to comply with official directives, established Board Policy, or Administrative *Procedures* ~~Policy~~.

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**B5.11.4.18** *Violation of any state or federal law could be grounds for disciplinary action, up to and including termination.*  
~~Violation of the District's Policy Prohibiting Sexual Misconduct (B9.1)—~~

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**B5.11.5 Grounds for Discharge of At-Will Employees:** At-will employees serve solely at the will of the College and shall have no right, expectancy, claim, or entitlement to continued employment by the College. At-will employees may be discharged for any reason or no reason. The identification of grounds for the discharge of at-will employees does not change the employment relationship of at-will employees, nor does it create any property rights or expectation of continued employment. The following constitutes conduct that is unacceptable and may serve as grounds for discharge of at-will employees:

**B5.11.5.1** Any reason enumerated in paragraph B5.11.4 above.

**B5.11.5.2** Failure to comply with established Board Policies or Administrative ~~Policies~~ *Procedures*.

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**B5.11.5.14** *Violation of any state or federal law could be grounds for disciplinary action, up to and including termination.*

## **B5.12 Discharge, Nonrenewal, Termination, Release, or Discontinuance of Employment:**

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**B5.12.2.2.1 Step One:** The employee must file a Discharge Appeal Form (hereafter called "Contest Form") with the immediate supervisor of the Initiator (hereafter called "First Reviewer") within five (5) days after receipt of notice of proposed discharge. Such Contest Form is available in the Office of Human Resources ~~and Equal Opportunity/Affirmative Action~~. The First Reviewer shall conduct a hearing on the matter in accord with the hearing procedure described in paragraph B5.12.2.6 below and render a written decision to the employee and the Initiator within ten (10) days after completion of the hearing.

**B5.17 Group Medical and Hospitalization Insurance:** Effective September 1, 2003, all eligible employees are provided group medical and hospitalization insurance benefits through the State Employee Retirement System (ERS) on the first day of the calendar month that begins after the ~~first 90 employee's waiting period as defined by ERS ("waiting period") days of eligible employment~~ (Texas Insurance Code, sec. 1551.105). All regular employees who work half-time (½-time) or more and who meet requirements for membership in the Teacher Retirement System are eligible. Effective September 1, 2004, an adjunct faculty member is eligible to participate in the Group Benefits Program if the adjunct faculty meets the qualifications of Texas Insurance Code sec. 1551.1021. Adjunct faculty participation is offered at the adjunct's full expense. College funds will not be used to pay premiums for adjunct faculty or dependents.

**B5.17.1 Dependents:** Employees who want their eligible dependents to be covered must make the additional payments for the coverage and comply with policies and procedures as established by Employee Retirement System.

**A5.17.2 Enrollment:** Before the end of ~~ninety (90) days of employment~~ *the waiting period*, employees should enroll, themselves and/or their dependents, at the Office of Human Resources and Equal Opportunity/Affirmative Action. Further information is supplied by this office.

## B5.25 Retirement Provisions

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**B5.25.2 Teacher Retirement:** Teacher retirement is withheld from the pay of employees who meet the eligibility requirements as determined by the Teacher Retirement System. The percentage rate of salary paid by the employee shall be in conformity with State requirements. Details are available in the Office of Human Resources and Equal Opportunity/Affirmative Action.

**A5.25.2.1** Forms are available in the Office of Human Resources and Equal Opportunity/Affirmative Action for change of beneficiary, change of name, or withdrawal of funds upon termination of employment.

**A5.25.2.2** An annual accounting of funds on deposit is ~~sent~~ *provided* by TRS to each employee during the fall of each year.

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### B5.25.3 Optional Retirement

**A5.25.3.1.2** An ORP participant may change the active vendor which receives his/her ORP contributions pursuant to the College's ORP Vendor Specifications, but such change can only be effective for contributions made after the date written notice of the change is given to the College, and it can begin only as of the first day of a calendar month. The employee must complete and submit an appropriate company change form and the College ORP Salary Reduction Agreement to the *Office of* Human Resources ~~Department~~ no later than the 15<sup>th</sup> day of the month preceding the effective date of the change.

**A5.25.3.2** An employee's election to participate in the ORP will not be complete until the employee submits a copy of the active vendor's enrollment/application form, a completed ORP Salary Reduction Agreement, and Teacher Retirement System forms entitled Notice of Election to Participate in Optional Retirement Program (TRS 28) and (if applicable) Application for Refund of Participants in Optional Retirement Program (TRS 29) to the *Office of* Human Resources ~~office~~.

**A5.25.3.3** To begin to participate in the ORP in a calendar month, all necessary forms must be correctly completed, signed and received by the *Office of* Human Resources ~~Department~~ on or before the 15th day of that month. Forms received after the 15th day of a month may not be effective until the following month. Any

enrollment/application form or ORP salary reduction agreement that is submitted incorrectly or incompletely will be returned to the submitting party. The eligible employee and the vendor's representative are responsible for resubmitting the corrected forms before the ninety-first (91st) day after the employee first becomes eligible to participate in the ORP. The final, complete and correct application submission will determine the employee's effective date of participation.

**B5.30 Military Leave:** In compliance with State and national law as shown below, the following provisions are made for employees of the College to serve in state and national military forces.

**B5.30.1 Short-Term:** Article 5765. Section 7 , Vernon's Annotated Texas Statute and Section 9(g)(4) of the Military Selective Service Act of 1967, as amended, provides that any employee who is a member of the State military forces or of the reserve components of the United States Armed Forces shall be granted a leave of absence from duties without loss of ~~time~~ efficiency rating, vacation time, or salary on days during which the employee is engaged in authorized training or duty ordered or authorized by proper authority, not to exceed fifteen (15) calendar days in any one (1) calendar year.

**B5.30.1.1** All requests for military leave shall be submitted in writing on the appropriate form, which can be obtained in the Office of Human Resources ~~and Equal Opportunity/Affirmative Action~~.

**B5.30.1.2** Employees ordered to duty by proper authority shall be restored, when relieved from duty, to the same or a similar position held when they were ordered to duty.

**B5.34 Payroll Information:** The Payroll Office and/or the Office of Human Resources ~~and~~ Equal Opportunity/Affirmative Action will supply information to employees as required by law.

**B5.38 Safe Work Place:** The College will endeavor to provide each employee a safe and healthy place to work, will determine the kinds of safety training needed for employees, will sensitize employees to the need to work safely and follow safety rules, to reduce Workers' Compensation claims, and to establish more efficient methods of investigating accidents.

**A5.38.1 Safety Committee:** The Chief Executive Officer (CEO) of the College shall appoint members to the Safety Committee and delegate the responsibility of developing and implementing safety-related activities under the broad areas of accident prevention, fire prevention, education and training, accident investigation, documentation, and program evaluation.

**A5.38.2 OSHA:** The College will endeavor to comply with the regulations established by the Occupational Safety and Health Act.

**A5.38.3 Compliance:** Employees are expected to comply with all safety rules and regulations and to practice safety continually while performing their duties.

**A5.38.4 Reports:** All accidents or injuries must be reported at once to the immediate supervisor of the injured person.

**A5.38.5 Investigation:** All accidents resulting in loss of work time must be investigated by the injured person's immediate supervisor. The investigator must submit a written report within two (2) days of the injury to the Office of Human Resources and Equal Opportunity/Affirmative Action.

**A5.38.6 Use of Leave Time:** Absences due to a work-related accident, including those required for physical therapy and doctor's visits, will be charged to accumulated sick leave, personal leave, vacation, and/or leave without pay.

**A5.38.7 Return to Work:** An employee absent due to a work-related accident must submit a physician's statement to the supervisor immediately upon receiving the physician's release to return to work. The supervisor will send a copy of the physician's statement to the Office of Human Resources and Equal Opportunity/Affirmative Action.

## **B5.45 Policy on Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome**

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**B5.45.8.6** Any employee who believes he or she has been discriminated against on the basis of a diagnosis or of suspicion of having HIV, AIDS, or ARC, should immediately contact the *Office of Human Resources and Equal Opportunity/Affirmative Action Office* as provided by **B5.50**.

**B5.45.9 Reasonable Accommodation:** Students seeking accommodation HIV/AIDS-related or ARC – related disability limitations, should contact Student Services as provided by A7.8. Employees seeking accommodation HIV/AIDS-related or ARC – related disability limitations, should contact the *Office of Human Resources and Equal Opportunity/Affirmative Action Office* as provided by **B5.51**.

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**A5.45.10.6** The Committee will make it possible through the Counseling Office on the *East Heritage* Campus, in the Harvin Center, for any student or employee to receive printed information on life-threatening communicable diseases upon request. The Counseling Office on the *West Windward* Campus, in the *Health Sciences Building 1 Coleman Center*, will also maintain printed information for students or employees seeking information.

**A5.45.10.7** All complaints or reports of life-threatening communicable diseases should be reported to the CEO, Heldenfels Administration Building, *East Heritage* Campus; telephone 698-1203.

**B5.46 Employee Performance Appraisal (Non-Faculty):** Performance appraisal is a process for evaluating job performance and communicating assessment information to the employee. All regular non-faculty employees of the College should be evaluated at least once every twelve (12) months.

**A5.46.1 Performance Appraisal Handbook:** The performance appraisal process is explained in detail in the Performance Appraisal Handbooks for employees and supervisors available in the Office of Human Resources ~~and Equal Opportunity/Affirmative Action~~.

**A5.46.2 Discussion of Appraisal:** Employees have a right to discuss an appraisal at the next highest supervisory level, and when it is not possible for employees and supervisors to settle any concerns between them, they are encouraged to consult with the reviewer.

**A5.46.3 Human Resources Office:** The *Office of* Human Resources ~~Office~~ staff will answer any questions which arise out of the use of the performance appraisal system, and provide guidance as to the process available to employees to grieve a performance appraisal.

**A5.46.3.1** Employees may grieve a performance appraisal decision as provided by B5.43.

**B5.51 ADA Accommodation Policy for Employees and Job Applicants:** Del Mar College will reasonably accommodate all employees and job applicants, with known qualifying disabilities or impairments, as required by the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 (ADA), as amended by the Americans with Disabilities Act Amendments Act of 2008 (ADAAA), where no undue hardship is imposed on the College.

**A5.51.1 Purpose :** To provide a reasonable work place or application accommodation process for employees or job applicants with disabilities as provided under the Rehabilitation Act of 1973 and the ADA and ADAAA.

**A5.51.2 Who is covered :** Full or part-time employees and job applicants are invited to advise the College of any disability-based limitations to enable the College to assist the employee and determine eligibility for reasonable accommodation(s).

**A5.51.2.1** The College is under no obligation to provide reasonable accommodation unless an individual properly identifies him/herself as a person with disability-based limitations requiring an accommodation and supplies the necessary documentation.

**A5.51.2.2** The College will determine, in consultation with the employee and, if necessary, his/her medical providers, what constitutes a reasonable accommodation. The College reserves the right to request additional medical examinations, evaluations, or other appropriate information at college expense, if necessary. Supervisors must contact the *Office of Human Resources and Equal Opportunity/Affirmative Action Office* for assistance in determining the needs of employees requesting accommodations.

**A5.51.2.3** Reasonable accommodation(s) will be granted, as determined by the College, unless any such accommodation(s) will cause an undue hardship for the College. In determining what constitutes a reasonable accommodation, or an undue hardship, the College's decisions will conform to definitions and guidance provided by state and federal law.

**A5.51.2.4** The *Office of Human Resources and Equal Opportunity/Affirmative Action Office* is responsible for the management,

implementation and coordination of this policy. Any and all accommodations sought pursuant to this policy must be approved by the *Executive* Director of Human Resources ~~and Equal Opportunity/Affirmative Action Office~~ and the employee's supervisors. All information relating to an accommodation request is considered confidential.

### **A5.51.3 Procedures :**

**A5.51.3.1** The employee notifies either ~~HR-EO/AA~~ *the Office of Human Resources*, or the appropriate supervisor and the supervisor is required to notify ~~HR-EO/AA~~ *the Office of Human Resources* of his/her limitations and the need for a disability-based accommodation(s).

**A5.51.3.1.1** After notification, ~~HR-EO/AA~~ *the Office of Human Resources* will provide the employee with the DMC Reasonable Accommodation Form and the Medical Provider Certification Form to be completed in order to identify his/her limitations and the need for a disability-based accommodation. The ~~HR-EO/AA~~ *Office of Human Resources* will determine if additional documentation of the claimed disability and associated accommodations is required from the employee's medical provider.

**A5.51.3.1.2** The completed Reasonable Accommodation Form, Disability Verification Form, and job description including essential functions, are reviewed to determine what special accommodations are needed to enable the employee to perform or continue to perform his/her job responsibilities. The employee's manager, the *Executive* Director of ~~HR-EO/AA~~ *Human Resources*, and the appropriate supervisors will meet to discuss accommodation requests. The employee will be invited to propose possible accommodations and provide feedback regarding any accommodation proposed by the College.

**A5.51.3.1.3** Employees will be notified in writing once a decision is reached as to any reasonable accommodations to be provided to the employee. The employee will be required to sign and return the letter to ~~HR-EO/AA~~ *the Executive Director of Human Resources*.

**A5.51.3.1.4** In compliance with applicable laws and regulations, all documents pertaining to a disability request are placed in a confidential file, separate from the employee's personnel file, and may be opened only by the employee or an appropriate ~~HR-EO/AA~~ *Human Resources* representative on a documented and approved "as needed" basis.

**A5.52 VACANT**

**B5.43 Employee Grievance Policy Regarding Terms & Conditions of Employment:** It is the policy of Del Mar College to encourage fair, efficient, and equitable solutions for problems arising out of the employment relationship and to meet requirements of state and federal law. This grievance policy, applicable to all current employees of Del Mar College, pertains to all matters concerning an employee's terms and conditions of employment except where covered under separate College policies as identified herein.

**B5.43.1 Purpose :** This policy provides a structured process by which an employee can express a grievance regarding the terms and conditions of their employment, including, but not limited to, grievances regarding evaluations, terminations, disciplinary actions, contract non-renewals, wages, hours and leave.

**B5.43.2 Forms and Grievance Management:** The complaining party may obtain the proper form for filing the grievance from the Office of Human Resources ~~and Equal Opportunity/Affirmative Action~~. The *Executive* Director of Human Resources, or designee, shall be responsible for the receipt and management of grievances filed by employees.

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#### **B5.43.6 Steps in Grievance Procedure:**

**B5.43.6.1 Step One:** An employee desiring to express a grievance (hereafter called "Grievant") shall prepare a clear and concise statement of the grievance on the proper form and deliver it to the *Executive* Director of Human Resources, or designee within five (5) days of the occurrence of the condition being complained about. The *Executive* Director of Human Resources, or designee, shall have five (5) days to review the grievance for timeliness, applicability of the grievance policy, and a determination of the lowest level supervisor with authority to remedy the matter or action grieved. If the grievance has been properly submitted, the *Executive Director of Human Resources* ~~Human Resources Director~~, or designee, shall forward the grievance to the lowest level supervisor with authority to remedy the matter or action grieved. Within five (5) days of receipt of the written grievance, the applicable supervisor shall discuss the matter with the Grievant in person, make such other investigation as the supervisor deems

appropriate, and draft and submit a written response to the *Executive Director of Human Resources* ~~Human Resources Director~~, or designee. The *Executive Director of Human Resources*, ~~Director of Human Resources~~, or designee, shall then notify the Grievant of the supervisor's decision no later than two (2) days after receipt of the supervisor's response.

**B5.43.6.2 Step Two:** If the Grievant is not satisfied with the response received in accord with step one, the Grievant may, within three (3) days of the receipt of the response in step one, submit a notice of appeal to the *Executive Director of Human Resources* ~~Director of Human Resources~~, or designee. No later than two (2) days of receipt of a timely notice of appeal, the *Executive Director of Human Resources* ~~Director of Human Resources~~ shall forward the grievance file documents to next level supervisor with authority to remedy the matter or action grieved. Within five (5) days of receipt of the of the grievance documents and appeal, the next level supervisor shall meet with the Grievant to review the grievance, make such other investigation as the next level supervisor deems appropriate, and draft and submit a written response to the *Executive Director of Human Resources* ~~Director of Human Resources~~, or designee. The *Executive Director of Human Resources* ~~Director of Human Resources~~, or designee, shall then notify the Grievant of the supervisor's decision no later than two (2) days after receipt of the supervisor's response.

**B5.43.6.3 Step Three:** If the Grievant is not satisfied with the response received under step two, the Grievant may, within three (3) days of the receipt of the response made in step two, submit a notice of appeal to the *Executive Director of Human Resources* ~~Director of Human Resources~~, or designee. No later than two (2) days of receipt of a timely notice of appeal, the *Executive Director of Human Resources* ~~Director of Human Resources~~ shall forward the grievance file documents to the Chief Executive Officer of the College ("CEO"). In those cases where the CEO is the sole administrator with authority to address and provide relief as requested by the Grievant, then the CEO shall meet with the Grievant in person, review the grievance; make such investigation as deemed appropriate, and provide a written response to the *Executive Director of Human Resources*

~~Director of Human Resources~~, or designee, within seven (7) days after receiving the appeal. In those cases where a lower level administrator in Steps 1 or 2 has authority to address and provide relief as requested by the Grievant, then the CEO shall review the grievance; make such investigation as deemed appropriate, including meeting with the Grievant if the CEO finds a meeting is necessary; and provide a written response with seven (7) days after receiving the appeal to the *Executive Director of Human Resources* ~~Director of Human Resources~~. The *Executive Director of Human Resources* ~~Director of Human Resources~~, or designee, shall then notify the Grievant of the CEO's decision no later than two (2) days after receipt of the CEO's response .

**B5.43.6.4 Step Four:** Step four in the grievance process is available to employees grieving terminations, non-renewals, disciplinary actions pursuant to B5.50 or B7.19, or to employees who are direct reports of the CEO of the College who seek to grieve an action by the CEO concerning the terms and conditions of their employment.

- a. If the Grievant for whom step four is applicable is not satisfied with the response received under step three, the Grievant may present the grievance to the Board of Regents.
- b. Within three (3) days of receipt of the step three response, the Grievant may grieve the decision to the Board of Regents by submitting an appeal to the Director of Human Resources, or designee.
- c. No later than two (2) days of receipt of Grievant timely appeal, the *Executive Director of Human Resources* ~~Director of Human Resources~~, or designee, shall forward the request to the Del Mar College Board Liaison of the Office of the CEO of Del Mar College, along with any and all written documentation presented by the Grievant and the administration during the previous steps in the process. The Board Liaison shall be responsible for placing the grievance on the agenda of the next most immediate Board of Regents meeting scheduled, where the next most immediate meeting is no less than 10 days from receipt of the appeal, and delivering the Grievance and administration's documentation to the Chair of the Board. Where the next most immediate

meeting is less than 10 days from receipt of the appeal, the Board Liaison shall place the matter on the agenda of the next scheduled meeting following. The grievance shall be scheduled to be heard in executive (closed) session, unless the employee requests that the grievance be heard in open session. In the case of grievances based on disciplinary actions taken under B5.50 and B7.19, all parties must agree that the grievance be heard in open session.

- d. The *Executive Director of Human Resources* ~~Director of Human Resources~~, or designee, shall inform the Grievant of the date, time and place of the Board of Regents meeting at which the Grievant may present the grievance.
- e. The Board of Regents shall consider the grievance as presented by the Grievant, including any written documentation presented by the Grievant and the administration during the previous steps in the process.

## ***B7.34 Pregnant and Parenting Students***

### ***B7.34.1 Purpose and Authority***

*Del Mar College establishes this policy and related procedures and processes in its continuing effort to seek equity in education and employment, and consistent with its legal responsibility and authority to take measures to address, report, investigate, and prevent discrimination against students due to their pregnancy or parental status, as required by Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681, et. seq.; Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e; Texas Education Code § 51.982 (Tex. SB 412)."*

*This policy is intended to inform students of their rights if they are subjected to discrimination, including the complaint procedures and available support services.*

### ***B7.34.2 Statement of Policy***

*This policy protects student parents or legal guardians of children under 18 from discrimination including: requiring pregnant or parenting students to take a leave of absence or withdraw from the student's degree or certificate program; limit the student's studies; participate in an alternative program; change the student's major, degree, or certificate program or refrain from joining or cease participating in any course, activity or program at the institution.*

***B7.34.3 Definitions: The following definitions apply to terms referenced herein.***

***B7.34.3.1 Parenting student: a student who is the parent or legal guardian of a child under 18 years of age.***

***B7.34.4 Reasonable accommodations for pregnancy, childbirth, and related medical conditions.***

*Students requesting each protection or accommodation under this policy can contact the Student Parent Liaison.*

*Under Texas Ed. Code. § 51.982 (SB 412), pregnant students are entitled to reasonable accommodations that are related to the health and safety of their pregnancy.*

*For reasons related to a student's pregnancy, childbirth or any resulting medical status or condition:*

- Absences are excused.*
- Students are entitled to make up missed assignments or assessments.*
- Students will be provided additional time to complete assignments in the same manner as is allowed for other temporary medical conditions.*
- Pregnant students are to be provided with access to instructional materials and video recording of lectures for classes which the student has an excused absence*

*to the same extent that instructional materials and video recordings of lectures are made available to any other student with an excused absence.*

- *Pregnant and parenting students are allowed to take a leave of absence and if in good academic standing at the time leave is taken, may return to the student's degree or certificate program in good academic standing without being required to reapply for admission. Leave of absence periods for which pregnant or parenting student must be provided are determined by the Texas Higher Education Coordinating Board.*

#### *B7.34.5 Complaint Procedures*

*Del Mar College students can contact the appropriate Title IX coordinator or deputy Title IX coordinator to report incidents of pregnancy or parenting discrimination. Complaint procedures will follow B7.19 Discrimination and Harassment Complaint Policy for Students.*

*Note: Reporting to any individual other than the appropriate Title IX coordinator or deputy Title IX coordinator does not constitute filing a formal complaint for the purposes of initiating the Title IX complaint resolution process. To initiate the Title IX complaint resolution process, the complainant must submit a formal complaint to the appropriate Title IX coordinator or deputy Title IX coordinator listed below. Additionally, to initiate the Title IX complaint resolution process, complainants cannot remain anonymous.*

*Del Mar College designates the following persons as Title IX coordinators, deputy Title IX coordinators and Student Parent Liaison:*

#### *Title IX Coordinator:*

*Tammy F. McDonald  
Vice President for Administration and Human Resources  
101 Baldwin Blvd.  
Heldenfels Administration Bldg.  
Corpus Christi, TX 78404  
[Tmcdonall@delmar.edu](mailto:Tmcdonall@delmar.edu)  
Phone: (361) 698-2177*

#### *Deputy Title IX Coordinators:*

*District Employee Complaint Coordinator  
Jerry Henry, SPHR, SHRM-SCP  
Executive Director of Human Resources  
101 Baldwin Blvd.  
Heldenfels Administration Bldg.  
Corpus Christi, TX 78404  
[Jhenry12@delmar.edu](mailto:Jhenry12@delmar.edu)  
Phone: (361) 698-1088*

**District Student Complaint Coordinator**

**Rita Hernandez**  
**Dean of Student Engagement and Retention**  
**101 Baldwin Blvd.**  
**Harvin Center**  
**Corpus Christi, TX 78404**  
**Rhernandez18@delmar.edu**  
**Phone: (361) 698-1277**

**Student Parent Liaison**

**Sara King**  
**Director of Student Engagement and Retention**  
**7002 Yorktown Blvd.**  
**Oso Creek Campus Main Building 213**  
**Corpus Christi, TX 78414**  
**Skking10@delmar.edu**  
**361-698-3931**

***B7.34.6 Supportive Measures: Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant before or after the filing of a formal complaint or where no formal complaint has been filed. Supportive measures may include, but are not limited to, counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, and leaves of absence. Del Mar College must maintain as confidential any supportive measures provided to the complainant to the extent that maintaining such confidentiality will not impair Del Mar College's ability to provide the supportive measures. The appropriate Title IX coordinator or designee is responsible for coordinating the effective implementation of supportive measures.***

Additional Standard Term for  
Contracts & Agreements  
Re: Violation of Law

New language now included in all College agreements and contracts with outside contractors and vendors:

**1.75. Termination for Violation of the Law: The College may terminate without penalty any contract or agreement in which the contractor or vendor engages in conduct that violates any local, state, or federal law.**

**ELECTRONIC SIGNATURE ACKNOWLEDGEMENT AND CONSENT FORM**

I, CAROLA A. SCOTT, agree and understand that by signing the Electronic Signature Acknowledgment and Consent Form, that all electronic signatures are the legal equivalent of my manual/handwritten signature and I consent to be legally bound to this agreement. I further agree my signature on this document is as valid as if I signed the document in writing. This is to be used in conjunction with the use of the electronic signature for the submission of the SB17 Annual Certification required by 51.3525(e) that I elected to have signed electronically. Under penalty of perjury, I herewith affirm that my electronic signature was signed by myself with full knowledge and consent and am legally bound to these terms and conditions.

  
\_\_\_\_\_  
Signature

8/28/2024  
Date

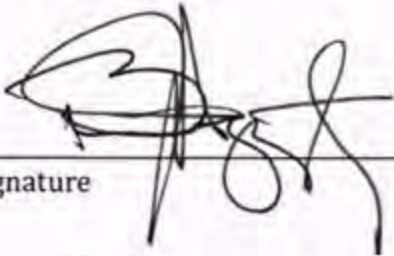
Please check one:

- President
- Board Chair

Institution: El Paso County Community College District  
Date Submitted: 08/29/24  
Pages: 5

**ELECTRONIC SIGNATURE ACKNOWLEDGEMENT AND CONSENT FORM**

I, Brian J. Haggerty, agree and understand that by signing the Electronic Signature Acknowledgment and Consent Form, that all electronic signatures are the legal equivalent of my manual/handwritten signature and I consent to be legally bound to this agreement. I further agree my signature on this document is as valid as if I signed the document in writing. This is to be used in conjunction with the use of the electronic signature for the submission of the SB17 Annual Certification required by 51.3525(e) that I elected to have signed electronically. Under penalty of perjury, I herewith affirm that my electronic signature was signed by myself with full knowledge and consent and am legally bound to these terms and conditions.



Signature

8/7/2024

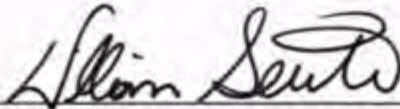
Date

Please check one:

- President
- Board Chair

**ELECTRONIC SIGNATURE ACKNOWLEDGEMENT AND CONSENT FORM**

I, William Serrata, agree and understand that by signing the Electronic Signature Acknowledgment and Consent Form, that all electronic signatures are the legal equivalent of my manual/handwritten signature and I consent to be legally bound to this agreement. I further agree my signature on this document is as valid as if I signed the document in writing. This is to be used in conjunction with the use of the electronic signature for the submission of the SB17 Annual Certification required by 51.3525(e) that I elected to have signed electronically. Under penalty of perjury, I herewith affirm that my electronic signature was signed by myself with full knowledge and consent and am legally bound to these terms and conditions.



Signature

8/7/2024

Date

Please check one:

- President
- Board Chair



## Summary of Institutional Actions to Comply with Tex. Educ. Code § 51.3525

### Budget

The College has permanently dissolved its Diversity Budget.

### DEI Office

The College has permanently closed its Office of Diversity, Equity and Inclusion (DEI) and no employees are performing DEI functions at any location of the College.

### DEI References

The College has deleted DEI references from its Position Descriptions and its Website. The College also has amended or removed various other College documents and communications to comply with S17, including the following, as indicated:

- Strategic Plan, which is published in various locations and online, was amended;
- The Equity Statement, which was published throughout all campuses and online, was eliminated; and
- Guidance to Vendors, Contractors, and Offerors, was amended, as discussed below.

### Policies

The College's Board of Trustees contracts with the Texas Association of School Boards (TASB) to prepare its Legal and Local Policies, accessible online at:

[El Paso County Community College District Board Policy Manual - Policy Online \(tasb.org\)](https://pol.tasb.org/PolicyOnline/PolicyDetails?key=435&code=BG#legalTabContent)

The following *Legal* Policies, which address the legal requirements of SB17, are available online, as follows:

BG (Legal)

<https://pol.tasb.org/PolicyOnline/PolicyDetails?key=435&code=BG#legalTabContent>

BI (Legal)

<https://pol.tasb.org/PolicyOnline/PolicyDetails?key=435&code=BI#legalTabContent>

CFE (Legal)

<https://pol.tasb.org/PolicyOnline/PolicyDetails?key=435&code=CFE#legalTabContent>

DAA (Legal)

<https://pol.tasb.org/PolicyOnline/PolicyDetails?key=435&code=DAA#legalTabContent>



DH (Legal)

<https://pol.tasb.org/PolicyOnline/PolicyDetails?key=435&code=DH#legalTabContent>

FA (Legal)

<https://pol.tasb.org/PolicyOnline/PolicyDetails?key=435&code=FA#legalTabContent>

The TASB *Local* Policies, which correlate with most of the above Legal Policies as to the requirements of SB17, have been prepared by TASB and adopted by the College's Board of Trustees.

## **Procedures**

The College has revised the following procedures (and accompanying forms) to ensure compliance with SB17.

DC-5, Candidate Evaluations: Administrative Staff and Professional Support Positions:

<https://www.epcc.edu/Administration/InstitutionalEffectiveness/PoliciesandProcedures/DC-5.pdf>

DC-8, Candidate Evaluation: Full-Time Faculty Positions and Guidelines for Interviewing Applicants:

<https://www.epcc.edu/Administration/InstitutionalEffectiveness/PoliciesandProcedures/DC-8.pdf>

DDA-1, Tenure Review and Recommendations:

<https://www.epcc.edu/Administration/InstitutionalEffectiveness/PoliciesandProcedures/DDA-1.pdf>

DMC-1, Reduction in Force of Full-Time Credit Faculty:

<https://www.epcc.edu/Administration/InstitutionalEffectiveness/PoliciesandProcedures/DMC-1.pdf>

DLA-2, Performance Evaluation: Non-Faculty Employees:

<https://www.epcc.edu/Administration/InstitutionalEffectiveness/PoliciesandProcedures/DLA-2.pdf>

DLA-3, Full-Time Faculty Evaluation:

<https://www.epcc.edu/Administration/InstitutionalEffectiveness/PoliciesandProcedures/DLA-3.pdf>

DLA-4, Adjunct (Part-Time) Faculty Evaluation:

<https://www.epcc.edu/Administration/InstitutionalEffectiveness/PoliciesandProcedures/DLA-4.pdf>



DLA-5, Employee Performance Procedure:

<https://www.epcc.edu/Administration/InstitutionalEffectiveness/PoliciesandProcedures/DLA-5.pdf>

CFE-1, Employee and Vendor Compliance with DEI Prohibitions:

<https://www.epcc.edu/Administration/InstitutionalEffectiveness/PoliciesandProcedures/CFE-1.pdf>

### **Purchasing and Contracts**

The College has completed the following written notices, which delineate the requirement to comply with SB17 and outlines that any vendor or contractor who engages in conduct that violates SB17 is subject to termination of their purchase order or contract:

- PUR052, Paragraph 28: General Conditions and Purchase Order Terms and Conditions: [PUR052\\_Terms\\_And\\_Conditions.pdf \(epcc.edu\)](#)
- PUR068, Paragraph 44: General Conditions, Architects and Engineers; [PUR068\\_General\\_Conditions\\_Architects\\_Engineers.pdf \(epcc.edu\)](#)
- PUR048, Paragraph 44: General Conditions, All Others: [PUR048\\_General\\_Conditions.pdf \(epcc.edu\)](#)

### **Internal Audit Process for DEI Compliance**

On July 24, 2024, the College's Board of Trustees voted to approve the retention of Weaver and Tidwell, LLP, as an external auditor to conduct yearly audits, to ensure the College's compliance with Tex. Educ. Code § 51.3525 and prepare the yearly compliance report to the Texas Higher Education Coordinating Board and the Texas Legislature. The July 24, 2024 Regular Board of Trustees Meeting Minutes were approved by the Board on August 28, 2024 and are accessible online. Please refer to Section 4.7 on page 38 of the below link:

[08-28-24\\_Agenda\\_Regular.pdf \(epcc.edu\)](#)

Institution: Frank Phillips College  
Date Submitted: 09/03/24  
Pages: 3



**Frank Phillips College**  
*Office of the President*

P.O. Box 5118  
Borger, TX 79008

806-457-4200  
[www.fpctx.edu](http://www.fpctx.edu)

I certify, under penalty of perjury and the loss of funding to Frank Phillips College, that Frank Phillips College has complied with the requirements in Tex. Educ. Code § 51.3525:

I certify, in accordance with Tex. Educ. Code § 51.3525(b)(1)(A), this institution does not, except as required by federal law, have any office, division or unit with the established purpose of:

- influencing hiring or employment practices at the institution with respect to race, sex, color, or ethnicity, other than through the use of color-blind and sex-neutral hiring processes in accordance with any applicable state and federal antidiscrimination laws;
- promoting differential treatment of or providing special benefits to individuals on the basis of race, color, or ethnicity;
- promoting policies or procedures designed or implemented in reference to race, color, or ethnicity, other than policies or procedures approved in writing by this institution's general counsel and the Texas Higher Education Coordinating Board for the sole purpose of ensuring compliance with any applicable court order or state or federal law; or
- conducting trainings, programs, or activities designed or implemented in reference to race, color, ethnicity, gender identity, or sexual orientation, other than trainings, programs, or activities developed by an attorney and approved in writing by this institution's general counsel and the Texas Higher Education Coordinating Board for the sole purpose of ensuring compliance with any applicable court order or state or federal law.

I certify, in accordance with Tex. Educ. Code § 51.3525(b)(1)(B), this institution has not, except as required by federal law, hired or assigned an employee of the institution, or contracted with a third party to perform the duties of a diversity, equity, and inclusion office as defined in Tex. Educ. Code § 51.3525(a).

I certify, in accordance with Tex. Educ. Code § 51.3525(b)(1)(C), this institution does not, except as required by federal law, compel, require, induce, or solicit any person to provide a diversity, equity, and inclusion statement or give preferential consideration to any person based on the provision of a diversity, equity, and inclusion statement.

I certify, in accordance with Tex. Educ. Code § 51.3525(b)(1)(D), this institution does not, except as required by federal law, give preference on the basis of race, sex, color, ethnicity, or national origin to an applicant for employment, an employee, or a participant in any function of the institution.

I certify, in accordance with Tex. Educ. Code § 51.3525(b)(1)(E), this institution does not, except as required by federal law, require any person, as a condition of enrolling at the institution or performing any institution function, to participate in diversity, equity, and inclusion training, which includes a training, program, or activity designed or implemented in reference to race, color, ethnicity, gender identity, or sexual orientation, unless the training meets the exception in Tex. Educ. Code § 51.3525(b)(1)(E)(ii).

I certify, in accordance with Tex. Educ. Code § 51.3525(b)(2), that this institution has adopted policies and procedures for appropriately disciplining, including by termination, an employee or contractor of the institution who engages in conduct in violation of Tex. Educ. Code § 51.3525(b)(1)(A)-(E).

I certify, in accordance with Tex. Educ. Code § 51.3525(e), that no state appropriations to this institution for FY23-24 and/or FY24-25 have been spent prior to submission of this certification report to the Legislature and the Texas Higher Education Coordinating Board.

I understand the State Auditor's Office will conduct a compliance audit for this institution and if violations of Tex. Educ. Code § 51.3525 are found, this institution must cure the violation within 180 days or become ineligible to receive formula funding increases, institutional enhancements, or exceptional items during the state fiscal biennium immediately following the state fiscal biennium in which the determination is made.

I understand all complaints regarding any violations made by this institution will be sent to the State Auditor's Office for review.

To ensure full compliance with Tex. Educ. Code § 51.3525, in the past fiscal year Frank Phillips College has conducted the following: a full review of all college policies and procedures to ensure compliance with the code.

Failure to return a certification form to the Texas Higher Education Coordinating Board by September 1, 2024, will be considered an act of non-compliance with the law and can subject the above referenced institution to all penalties allowed by law.

Signature of Institution President:

Date:



Signature of Board Chair:

Date:

Marlene McKinney

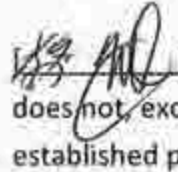
June 17, 2024

Date submitted to THECB:

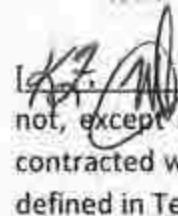
Date submitted to the Legislature:

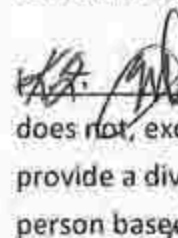
Institution: Galveston College  
Date Submitted: 08/05/24  
Pages: 10

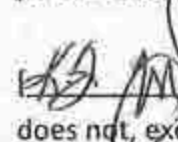
I certify, under penalty of perjury and the loss of funding to Galveston College, that Galveston College has complied with the requirements in Tex. Educ. Code § 51.3525:

 I certify, in accordance with Tex. Educ. Code § 51.3525(b)(1)(A), this institution does not, except as required by federal law, have any office, division or unit with the established purpose of:

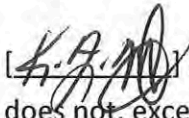
- influencing hiring or employment practices at the institution with respect to race, sex, color, or ethnicity, other than through the use of color-blind and sex-neutral hiring processes in accordance with any applicable state and federal antidiscrimination laws;
- promoting differential treatment of or providing special benefits to individuals on the basis of race, color, or ethnicity;
- promoting policies or procedures designed or implemented in reference to race, color, or ethnicity, other than policies or procedures approved in writing by this institution's general counsel and the Texas Higher Education Coordinating Board for the sole purpose of ensuring compliance with any applicable court order or state or federal law; or
- conducting trainings, programs, or activities designed or implemented in reference to race, color, ethnicity, gender identity, or sexual orientation, other than trainings, programs, or activities developed by an attorney and approved in writing by this institution's general counsel and the Texas Higher Education Coordinating Board for the sole purpose of ensuring compliance with any applicable court order or state or federal law.


 I certify, in accordance with Tex. Educ. Code § 51.3525(b)(1)(B), this institution has not, except as required by federal law, hired or assigned an employee of the institution, or contracted with a third party to perform the duties of a diversity, equity, and inclusion office as defined in Tex. Educ. Code § 51.3525(a).


 I certify, in accordance with Tex. Educ. Code § 51.3525(b)(1)(C), this institution does not, except as required by federal law, compel, require, induce, or solicit any person to provide a diversity, equity, and inclusion statement or give preferential consideration to any person based on the provision of a diversity, equity, and inclusion statement.


 I certify, in accordance with Tex. Educ. Code § 51.3525(b)(1)(D), this institution does not, except as required by federal law, give preference on the basis of race, sex, color,


ethnicity, or national origin to an applicant for employment, an employee, or a participant in any function of the institution.

 I certify, in accordance with Tex. Educ. Code § 51.3525(b)(1)(E), this institution does not, except as required by federal law, require any person, as a condition of enrolling at the institution or performing any institution function, to participate in diversity, equity, and inclusion training, which includes a training, program, or activity designed or implemented in reference to race, color, ethnicity, gender identity, or sexual orientation, unless the training meets the exception in Tex. Educ. Code § 51.3525(b)(1)(E)(ii).

 I certify, in accordance with Tex. Educ. Code § 51.3525(b)(2), that this institution has adopted policies and procedures for appropriately disciplining, including by termination, an employee or contractor of the institution who engages in conduct in violation of Tex. Educ. Code § 51.3525(b)(1)(A)-(E).

 I certify, in accordance with Tex. Educ. Code § 51.3525(e), that no state appropriations to this institution for 2025 have been spent prior to submission of this certification report to the Legislature and the Texas Higher Education Coordinating Board.

 I understand the State Auditor's Office will conduct a compliance audit for this institution and if violations of Tex. Educ. Code § 51.3525 are found, this institution must cure the violation within 180 days or become ineligible to receive formula funding increases, institutional enhancements, or exceptional items during the state fiscal biennium immediately following the state fiscal biennium in which the determination is made.

 I understand all complaints regarding any violations made by this institution will be sent to the State Auditor's Office for review.

To ensure full compliance with Tex. Educ. Code § 51.3525, in the past fiscal year Galveston College has adopted:

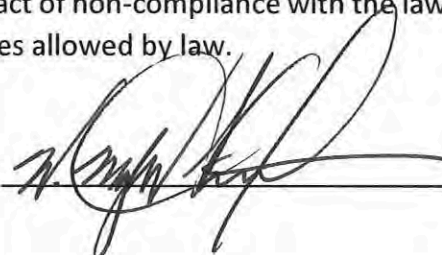
- Local Policy BG: prohibiting the establishment of, or maintenance of a diversity, equity, and inclusion office, or officers
- Local Policy CFE: prohibiting diversity, equity, and inclusion initiatives related to purchasing and inappropriate vendor relations
- Local Policy DAA: prohibiting diversity, equity, and inclusion initiatives related to employment
- Local Policy FAA: prohibiting diversity, equity, and inclusion initiatives related to admissions, and conditions of enrollment

- Please note that prior to adoption of Tex. Educ. Code § 51.3525, Galveston did not have a diversity, equity, and inclusion office, or officers, and has since adopted the policies outlined above.

(supporting documentation is attached).

Failure to return a certification form to the Texas Higher Education Coordinating Board by September 1, 2024, will be considered an act of non-compliance with the law and can subject the above referenced institution to all penalties allowed by law.

Signature of Galveston College President: \_\_\_\_\_



Date: 5/9/2024

Signature of Galveston College Board Chair: \_\_\_\_\_



Date: 5/8/2024

Date submitted to THECB: 6/3/2024

Date submitted to the Legislature: \_\_\_\_\_

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**Note:** For related information on diversity, equity, and inclusion initiatives, see CFE for contractor discipline, DAA for employees, DH for employee discipline, and FAA for students.

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**Diversity, Equity, and Inclusion Office**

Except as required by federal law, the College District shall not:

1. Establish or maintain a diversity, equity, and inclusion office; or
2. Hire or assign an employee or contract with a third party to perform the duties of a diversity, equity, and inclusion office.

"Diversity, equity, and inclusion office" means an office, division, or other unit of the College District established for the purpose of:

1. Influencing hiring or employment practices at the College District with respect to race, sex, color, or ethnicity, other than through the use of color-blind and sex-neutral hiring processes in accordance with any applicable state and federal antidiscrimination laws;
2. Promoting differential treatment of or providing special benefits to individuals on the basis of race, color, or ethnicity;
3. Promoting policies or procedures designed or implemented in reference to race, color, or ethnicity, other than policies or procedures approved in writing by the College District's general counsel and the Coordinating Board for the sole purpose of ensuring compliance with any applicable court order or state or federal law; or
4. Conducting trainings, programs, or activities designed or implemented in reference to race, color, ethnicity, gender identity, or sexual orientation, other than trainings, programs, or activities developed by an attorney and approved in writing by the College District's general counsel and the Coordinating Board for the sole purpose of ensuring compliance with any applicable court order or state or federal law.

**Exceptions**

Nothing in this section may be construed to limit or prohibit the College District or a College District employee from, for purposes of applying for a grant or complying with the terms of accreditation by an accrediting agency, submitting to the grantor or accrediting agency a statement that:

1. Highlights the College District's work in supporting first-generation college students, low-income students, or underserved student populations; or

PURCHASING AND ACQUISITION  
VENDOR RELATIONS

CFE  
(LOCAL)

**Diversity, Equity,  
and Inclusion  
Initiatives**

The President or designee shall develop procedures addressing the discipline, up to and including termination, of a College District contractor who violates Education Code 51.3525(b)(1). [See BG, DAA, and FA]

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

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**Diversity, Equity,  
and Inclusion  
Initiatives**

Except as required by federal law, the College District shall not:

1. Compel, require, induce, or solicit any person to provide a diversity, equity, and inclusion statement or give preferential consideration to any person based on the provision of a diversity, equity, and inclusion statement;
2. Give preference on the basis of race, sex, color, ethnicity, or national origin to a participant in any College District function; or
3. Require as a condition of enrolling at the College District or performing any College District function any person to participate in diversity, equity, and inclusion training that references race, color, ethnicity, gender identity, or sexual orientation, unless it was developed by an attorney and approved in writing by the College District's general counsel and the Coordinating Board for the sole purpose of ensuring compliance with any applicable court order or state or federal law.

**Exceptions**

Nothing in this section may be construed to limit or prohibit the College District or a College District employee from, for purposes of applying for a grant or complying with the terms of accreditation by an accrediting agency, submitting to the grantor or accrediting agency a statement that:

1. Highlights the College District's work in supporting first-generation college students, low-income students, or underserved student populations; or
2. Certifies compliance with state and federal antidiscrimination laws.

The prohibitions do not apply to:

1. Submitting a statement as part of a grant application or to comply with the terms of accreditation that highlights the College District's work in supporting first-generation college students, low-income students, or underserved student populations, or that certifies compliance with state and federal antidiscrimination laws;
2. Academic course instruction;
3. Scholarly research or a creative work by College District employees or students;

**Diversity, Equity,  
and Inclusion  
Initiatives**

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**Note:** For complaints of discrimination, harassment, and retaliation on the basis of a protected characteristic, see FFDA and FFDB.

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Except as required by federal law, the College District shall not:

1. Compel, require, induce, or solicit any person to provide a diversity, equity, and inclusion statement or give preferential consideration to any person based on the provision of a diversity, equity, and inclusion statement;
2. Give preference on the basis of race, sex, color, ethnicity, or national origin to a participant in any College District function, or
3. Require as a condition of enrolling at the College District or performing any College District function any person to participate in diversity, equity, and inclusion training that references race, color, ethnicity, gender identity, or sexual orientation, unless it was developed by an attorney and approved in writing by the College District's general counsel and the Coordinating Board for the sole purpose of ensuring compliance with any applicable court order or state or federal law.

**Exceptions**

The prohibitions do not apply to:

1. Academic course instruction;
2. Scholarly research or a creative work by College District employees or students;
3. An activity of a student organization registered with or recognized by the College District;
4. Guest speakers or performers on short-term engagements;
5. A policy, practice, procedure, program, or activity to enhance student academic achievement or postgraduate outcomes that is designed and implemented without regard to race, sex, color, or ethnicity;
6. Data collection; or
7. Student recruitment or admissions.

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**Note:** For related information on diversity, equity, and inclusion initiatives, see BG for diversity, equity, and inclusion offices, CFE for contractor discipline, DAA for employees, and DH for employee discipline.

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**ELECTRONIC SIGNATURE ACKNOWLEDGEMENT AND CONSENT FORM**

I, W. Myles Shelton, agree and understand that by signing the Electronic Signature Acknowledgment and Consent Form, that all electronic signatures are the legal equivalent of my manual/handwritten signature and I consent to be legally bound to this agreement. I further agree my signature on this document is as valid as if I signed the document in writing. This is to be used in conjunction with the use of the electronic signature for the submission of the SB17 Annual Certification required by 51.3525(e) that I elected to have signed electronically. Under penalty of perjury, I herewith affirm that my electronic signature was signed by myself with full knowledge and consent and am legally bound to these terms and conditions.

W. Myles Shelton  
Signature

President  
Caldwell College

3/5/2024  
Date

Please check one:

- President
- Board Chair

**ELECTRONIC SIGNATURE ACKNOWLEDGEMENT AND CONSENT FORM**

I, Karen Flowers, agree and understand that by signing the Electronic Signature Acknowledgment and Consent Form, that all electronic signatures are the legal equivalent of my manual/handwritten signature and I consent to be legally bound to this agreement. I further agree my signature on this document is as valid as if I signed the document in writing. This is to be used in conjunction with the use of the electronic signature for the submission of the SB17 Annual Certification required by 51.3525(e) that I elected to have signed electronically. Under penalty of perjury, I herewith affirm that my electronic signature was signed by myself with full knowledge and consent and am legally bound to these terms and conditions.

Karen Flowers  
Karen Flowers (Aug 5, 2024 16:50 CDT)  
Signature

Aug 5, 2024  
Date

Please check one:

- President  
 Board Chair






# electronicsign\_consentform

Final Audit Report

2024-08-05

Created:	2024-08-05
By:	Breanne Lorefice (blorefice@gc.edu)
Status:	Signed
Transaction ID:	CBJCHBCAABAAOo8IKbdwcO2kfqaFI15Y3oR1tDtBi7Dn

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2024-08-05 - 8:46:03 PM GMT
-  Email viewed by Karen Flowers (k.flowers88@gmail.com)  
2024-08-05 - 9:50:20 PM GMT- IP address: 104.28.97.23
-  Document e-signed by Karen Flowers (k.flowers88@gmail.com)  
Signature Date: 2024-08-05 - 9:50:59 PM GMT - Time Source: server- IP address: 76.31.0.223
-  Agreement completed.  
2024-08-05 - 9:50:59 PM GMT

Institution: Grayson College  
Date Submitted: 08/12/24  
Pages: 3

**ELECTRONIC SIGNATURE ACKNOWLEDGEMENT AND CONSENT FORM**

I, Dr. Debbie Plyler, agree and understand that by signing the Electronic Signature Acknowledgment and Consent Form, that all electronic signatures are the legal equivalent of my manual/handwritten signature and I consent to be legally bound to this agreement. I further agree my signature on this document is as valid as if I signed the document in writing. This is to be used in conjunction with the use of the electronic signature for the submission of the SB17 Annual Certification required by 51.3525(e) that I elected to have signed electronically. Under penalty of perjury, I herewith affirm that my electronic signature was signed by myself with full knowledge and consent and am legally bound to these terms and conditions.

Debbie Barnes Plyler  
Signature

8-12-24  
Date

Please check one:

- President
- Board Chair

**ELECTRONIC SIGNATURE ACKNOWLEDGEMENT AND CONSENT FORM**

I, Dr. Jeremy McMillen, agree and understand that by signing the Electronic Signature Acknowledgment and Consent Form, that all electronic signatures are the legal equivalent of my manual/handwritten signature and I consent to be legally bound to this agreement. I further agree my signature on this document is as valid as if I signed the document in writing. This is to be used in conjunction with the use of the electronic signature for the submission of the SB17 Annual Certification required by 51.3525(e) that I elected to have signed electronically. Under penalty of perjury, I herewith affirm that my electronic signature was signed by myself with full knowledge and consent and am legally bound to these terms and conditions.

  
Jeremy McMillen (Aug 9, 2024 10:11 CDT)

Signature

Aug 9, 2024

Date

Please check one:

- President
- Board Chair






# Acknowledgement and Consent Form McMillen

Final Audit Report

2024-08-09

Created:	2024-08-09
By:	Janet Hoover (hooverj@grayson.edu)
Status:	Signed
Transaction ID:	CBJCHBCAABAABwtuPaccBoWKE2981xU4matH0wTFLorE

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