

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

**Colleges by Name (M-S)**

**September 2024**

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Institution: McLennan Community College  
Date Submitted: 08/09/24  
Pages: 11



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

<sup>ES</sup> *[Signature]* 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.

<sup>ES</sup> *[Signature]* 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).

<sup>ES</sup> *[Signature]* 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.

[ES] JEM 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.

[ES] JEM 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).

[ES] JEM 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).

[ES] JEM certify, in accordance with Tex. Educ. Code § 51.3525(e), that no state appropriations to this institution for Fiscal Year 2024 have been spent prior to submission of this certification report to the Legislature and the Texas Higher Education Coordinating Board.

[ES] JEM 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.

[ES] JEM 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 McLennan Community College has conducted the following:

- Closed the Office of Diversity, Equity and Inclusion. Employees were reassigned to work with Student Accommodations, Student Conduct, and Title IX compliance. *(See Supporting Document #1 – Organizational Chart Updates)*
- Revised Institutional Policies titled “Equal Education Opportunity” and “Equal Employment Opportunity” to outline what is and is not allowable and to provide information on 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). *(See Supporting Document #2 – Revisions to Equal Education Opportunity Policy and Supporting Document #3 – Revisions to Equal Employment Opportunity Policy)*
- Removed Institutional Policy titled “Diversity Statement” from policy manual, institutional website, and references to the policy or statement on the institutional website.
- Revised institutional policies to remove references to the Office of Diversity, Equity and Inclusion or employees/titles within the Office of Diversity, Equity and Inclusion
- Revised institutional webpages to remove current references to the Office of Diversity, Equity and Inclusion or employees/titles within the Office of Diversity, Equity and Inclusion
- Inactivated the employee Professional Development Certification titled “Diversity, Equity & Inclusion” and removed all employees with the certification declared from the program.
- Inactivated and stopped offering all Professional Development courses related to the “Diversity, Equity & Inclusion” Professional Development Certification.
- Discontinued the series titled “DEI-alogues” and consulting campus departments on topics related to Diversity, Equity and Inclusion.
- Revising and updating scholarship agreements with private donors to ensure compliance. Scholarships agreements that are still being revised, have not and will not be awarded until agreements are in compliance with Tex. Educ. Code § 51.3525.

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.

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Signature of Institution President: Johnette McKoun Date: 4-30-2024

Signature of Board Chair: Earl W. Stumpp Date: 4-30-2024

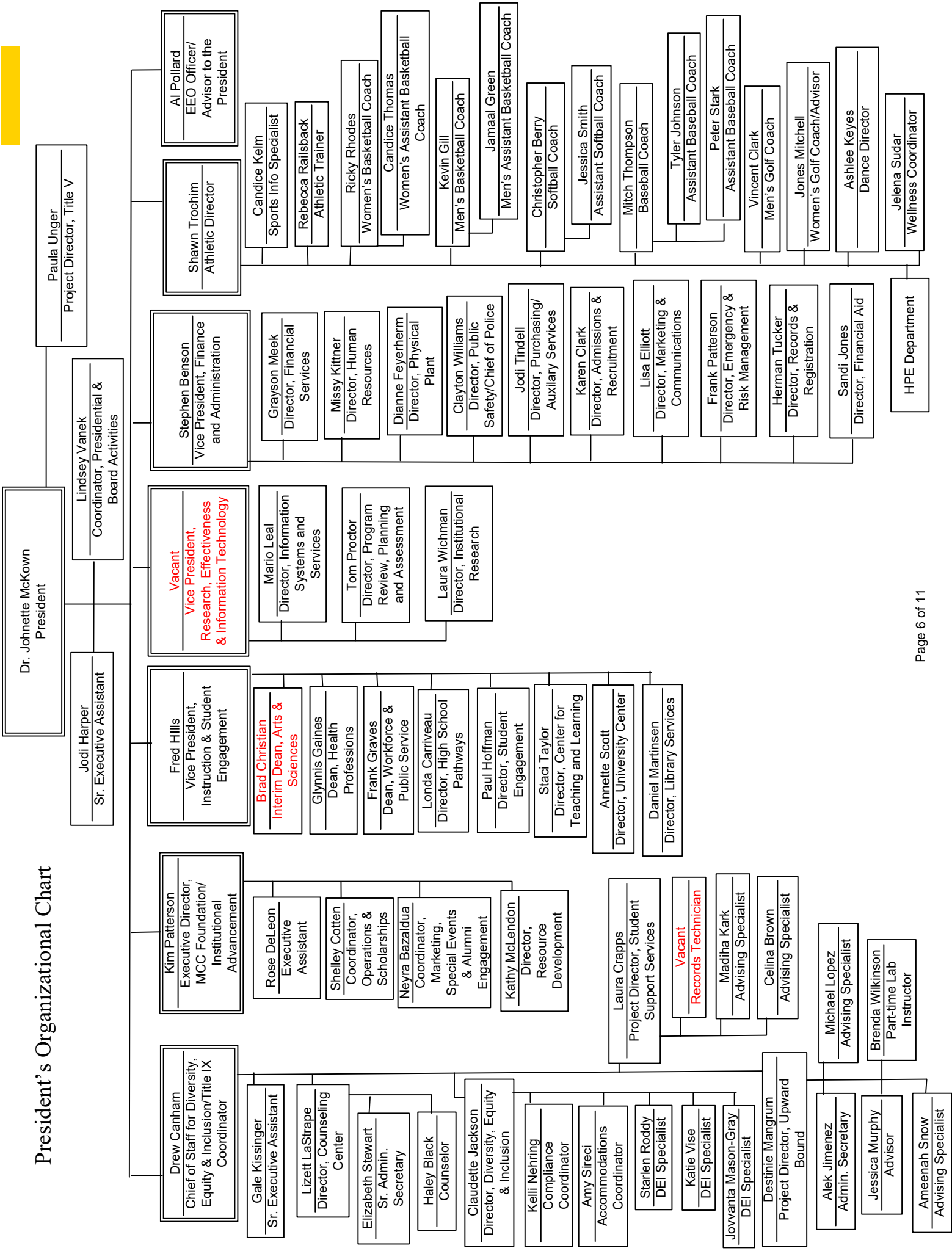
Date submitted to THECB: 5-8-2024

Date submitted to the Legislature: \_\_\_\_\_

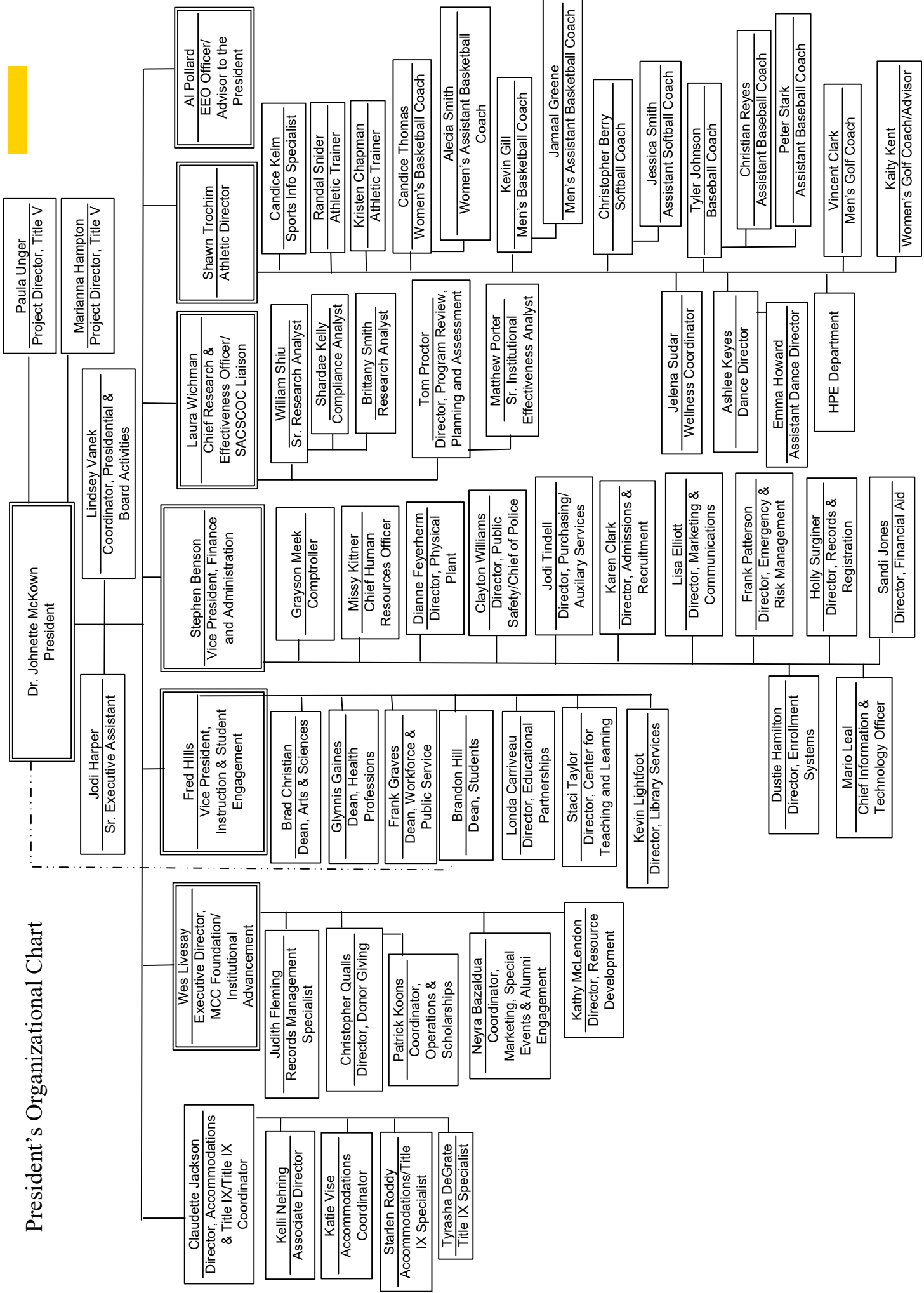
### Supporting Document #1 – Organizational Chart Updates

- Page 6 shows the organizational chart as of October 31, 2021 with the presence of a Diversity, Equity & Inclusion division and staff.
- Page 7 shows the organizational chart as of September 1, 2023, with the removal and reassignment of the Diversity, Equity & Inclusion division and staff

# President's Organizational Chart



# President's Organizational Chart



Supporting Document #2 – Revisions to Equal Education Opportunity Policy

- Page 9 shows the policy revisions in red to the Equal Education Opportunity Policy

# McLennan Community College

## POLICIES AND PROCEDURES

Reference:	G-IX	Effective Date	<a href="#">11/25/2014</a> <b>04/30/2024</b>
Subject:	Equal Educational Opportunity Policy		
Source:	Board of Trustees		
Approval Authority:	Board of Trustees	Approval Date	<a href="#">11/25/2014</a> <b>04/30/2024</b>
<b>Approved by Leadership Team: Benson: Hills: McKown:</b>			
History:	Previously effective 11/25/2014, replaced policy dated 11/26/2001		
Remarks:	<a href="#">2021 Policy Review — no update needed.</a>		

McLennan Community College hereby reaffirms its policy of providing equal educational opportunity for all qualified students and will not tolerate any discrimination or harassment based upon any protected class.

**Inquiries regarding discrimination should be directed to the Title IX Coordinator or the Section 504/ADA Title II Coordinator. Grievances related to discrimination claims shall be administered using the Discrimination, Harassment, and Retaliation Resolution Process (F-V-s).**

**Texas Education Code §51.3525, prohibits Texas community colleges from engaging in or allowing certain initiatives related to diversity, equity, and inclusion, with limited exceptions. In accordance with Texas Education Code §51.3525, all full-time and part-time employees (exempt and non-exempt), full-time and part-time faculty (regardless of tenure classification or status), and all contractors of the institution shall comply with the requirements set out in Texas Education Code §51.3525. Suspected violations of TEC §51.3525 should be reported to the EEO Officer or Office of Human Resources. Violation of this policy may result in disciplinary action, including, but not limited to, termination of employment.**

Supporting Document #3 – Revisions to Equal Employment Opportunity Policy

- Page 11 shows the policy revisions in red to the Equal Employment Opportunity Policy

# McLennan Community College

## POLICIES AND PROCEDURES

Reference:	F-V-f	Effective Date	<del>01/01/2021</del> <b>04/30/2024</b>
Subject:	Equal Employment Opportunity Policy		
Source:	Board of Trustees		
Approval Authority:	Board of Trustees	Approval Date	<del>01/01/2021</del> <b>04/30/2024</b>
<b>Approved by Leadership Team: Benson: Hills: McKown:</b>			
History:	Previously effective <del>01/01/2021</del> <del>05/28/2018</del> , replaced policy dated <b>05/28/2018</b> , 11/26/2001		
Remarks:			

McLennan Community College is dedicated to providing equal opportunities to all individuals and does not discriminate against any individual regardless of race, color, religion, national or ethnic origin, gender, disability, age, veteran status, genetic information, sexual orientation, gender identity, pregnancy, or other legally protected category in its educational programs, activities, or employment as required by Title VI and Title VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title IX of the Educational Amendments Act of 1972, and the Age Discrimination Act of 1978.

McLennan Community College also shall comply with existing federal and state laws and regulations, including the Civil Rights Act of 1964 (PL. 88-352) and Executive Order 11246 (Revised Order #4), where applicable, with respect to the admission and education of students, with respect to the availability of students loans, grants, scholarships, and job opportunities, with respect to the employment and promotion of teaching and non-teaching personnel, and with respect to the student and faculty activities conducted on premises owned or occupied by the College.

Inquiries regarding discrimination should be directed to the Title IX Coordinator or the Section 504/ADA Title II Coordinator. Grievances related to discrimination claims shall be administered using the Discrimination, **Harassment, and Retaliation** Resolution Process (F-V-s).

**Texas Education Code §51.3525, prohibits Texas community colleges from engaging in or allowing certain initiatives related to diversity, equity, and inclusion, with limited exceptions. In accordance with Texas Education Code §51.3525, all full-time and part-time employees (exempt and non-exempt), full-time and part-time faculty (regardless of tenure classification or status), and all contractors of the institution shall comply with the requirements set out in Texas Education Code §51.3525. Suspected violations of TEC §51.3525 should be reported to the EEO Officer or Office of Human Resources. Violation of this policy may result in disciplinary action, including, but not limited to, termination of employment.**

Institution: Midland College  
Date Submitted: 08/28/24  
Pages: 23

**ELECTRONIC SIGNATURE ACKNOWLEDGEMENT AND CONSENT FORM**

I, Damon Kennedy, 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.

Damon Kennedy  
Signature

23 Aug 2024  
Date

Please check one:

- President
- Board Chair



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# Midland College

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Office of the President

I certify, under penalty of perjury and the loss of funding to Midland College, that Midland 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.

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3600 N. Garfield • Midland, Texas 79705-6399 • (432) 685-4520 • Fax (432) 685-4522 • [www.midland.edu](http://www.midland.edu)



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# Midland College

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[ X ] 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.

[ X ] 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).

[ X ] 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).

[ X ] I certify, in accordance with Tex. Educ. Code § 51.3525(e), that no state appropriations to this institution for 2023-2024 have been spent prior to submission of this certification report to the Legislature and the Texas Higher Education Coordinating Board.

[ X ] 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.

[ X ] 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 Midland College has conducted the following:

- Remove Core Values that included Diversity from Website

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# Midland College

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- Remove statement of Commitment to Diversity and Inclusion from faculty position postings
- Remove statement of Commitment to Diversity and Inclusion from staff position postings
- Added Diversity, Equity, and Inclusion Initiative sections to CFE Legal and Local Policies
- Disbandment of the Equity Committee
- Removal of required equity training for interview committee members, which was created by Dr. Brenton Cross and Dr. Sondra Richards, representatives of the now disbanded equity committee

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:

Date submitted to THECB: 8/23/24

Date submitted to the Legislature: 8/23/24

## **ATTACHMENTS**



APPLY NOW

TRANSCRIPTS



ACADEMICS

ENROLLMENT & AID

CAMPUS LIFE

SERVICES & RESOURCES

ABOUT

Home > About > Guidance & Vision > Mission Statement

MISSION STATEMENT

PRESIDENT'S MESSAGE

BOARD OF TRUSTEES

STRATEGIC PLANNING

ORGANIZATIONAL CHART (PDF)

# MISSION STATEMENT

Midland College serves West Texas through exemplary teaching and dedicated public service.

We prepare and inspire diverse students to *start, strive and succeed*. We strengthen community through educational leadership and collaboration.

Midland College provides quality programs and courses, relevant workforce development and continuing education, valuable personal enrichment and cultural experiences, and community and student-centered services.

## Core Values

Upon establishment, Midland College embraced the core values of Faith, Knowledge, Truth, Understanding, and Wisdom as evidenced by the College seal. To these, the following have been added:

- Quality - learning experiences to help students achieve their personal and professional goals
- Diversity - commitment to the dignity and worth of all individuals
- Continuous enrichment - academic, professional, and personal growth of students and employees
- Effective learning - preparation of students for roles as citizens in a rapidly changing global economy
- Academic freedom - safe environment where competing beliefs and ideas can be openly discussed and debated
- Stewardship - efficient, effective, and ethical use of public and private resources
- Collaboration - introspection and communication predicated upon a foundation of mutual trust and support
- Accountability - using a student focused, outcomes based approach to demonstrate the quality of a program (or college) to key stakeholders



3600 N. Garfield  
Midland, TX 79705  
(432) 685-4500

CAMPUS MAP EMPLOYMENT OPPORTUNITIES CONTACT SITEMAP





## MISSION STATEMENT

- MISSION STATEMENT
- BOARD OF TRUSTEES
- STRATEGIC PLANNING
- ORGANIZATIONAL CHART (PDF)

Midland College exists with One Purpose: to provide students with the skills to thrive in our world. We provide and inspire students to think, act, and lead with integrity, responsibility, and courage. We provide and inspire students to think, act, and lead with integrity, responsibility, and courage. We provide and inspire students to think, act, and lead with integrity, responsibility, and courage.

## Apply to MC Now

Learn about the exciting Midland College and see how we can help you reach your goals. Our admissions team is ready to help you get started. [Apply Now](#)

[New to Apply](#)

**From:** "B2B" <support@powerschool.com>  
**To:** [Natasha Morgan](#)  
**Subject:** [EXT][Case Number: 07219542] Remove - Our Commitment to Diversity and Inclusion on Faculty position type [ref:\_00D007ril\_5001S11znmw:ref ]  
**Date:** Monday, July 3, 2023 1:37:53 PM

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CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe!

Hi Natasha,

Here is the case created for our chat this evening.

Since we were able to confirm that the changes made were successful, I will go ahead and close this case!

You will be receiving a survey link to provide feedback once I close the case. It would be very kind of you, if you could spare a few minutes to share your experience with this case.

Have a great rest of your day!

Thank you,

Zakir Hussein  
Associate technical support engineer I  
PeopleAdmin, a PowerSchool Company  
[askpa@peopleadmin.com](mailto:askpa@peopleadmin.com)  
<https://help.powerschool.com>

---Original Case Description---

Remove - Our Commitment to Diversity and Inclusion on Faculty position type  
ref:\_00D007ril\_5001S11znmw:ref

**From:** "B2B" <support@powerschool.com>  
**To:** [Natasha Morgan](#)  
**Subject:** [EXT][Case Number: 07219533] Remove - Our Commitment to Diversity and Inclusion on Staff position type [ref:\_00D007ril.\_5001S1IznIU:ref ]  
**Date:** Monday, July 3, 2023 9:48:52 AM

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CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe!

---

Hi Natasha,

The requested change request is complete.

Please check and let me know if you have any questions, or need further assistance with this issue.

Thank you.

Zakir Hussein  
Associate technical support engineer I  
PeopleAdmin, a PowerSchool Company  
[askpa@peopleadmin.com](mailto:askpa@peopleadmin.com)  
<https://help.powerschool.com>

---Original Case Description---

Remove - Our Commitment to Diversity and Inclusion on Staff position type  
ref:\_00D007ril.\_5001S1IznIU:ref

**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)*

<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>

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>

Midland College  
165501

PURCHASING AND ACQUISITION  
VENDOR RELATIONS

CFE  
(LEGAL)

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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/>

Midland College  
165501

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]

The screenshot shows a web browser window with a 'Server not found' error message overlaid on a page. The error message states: 'Server not found. Firefox can't find the server at www.youtube.com.' Below the error message, there is a list of suggestions: 'Check the address or typing error(s) in it.' The background page is titled 'EQUITY COMMITTEE' and contains text under the heading 'Diversity & Inclusion Commitment'. The text discusses the organization's commitment to diversity and inclusion, mentioning various groups and the importance of creating an inclusive environment. The page also includes a 'DIVERSITY BELONGING' section and a 'DIVERSITY' section. The browser's address bar shows 'http://www.youtube.com/'.

Web browser window showing a page with sections: IDENTITY, EXCLUSION, SOLIDARITY, Focus Areas, STUDENT QUALITY OF LIFE. Includes a search bar and navigation links.





### APPLY TO BECOME A STUDENT EQUITY ADVOCATE

Helping students understand and navigate the equity process.

#### REQUIREMENTS

- Must be a current student at a college or university
- Must be a member of the National Student Equity Advocate Association (NSEAA)
- Must be a member of the National Student Equity Advocate Association (NSEAA)

#### BENEFITS

- Receive a \$1,000 stipend for your work
- Receive a \$1,000 stipend for your work
- Receive a \$1,000 stipend for your work

#### APPLICATION INFORMATION

For more information, please contact us at [Email]

#### INTERESTED IN JOINING?

Complete the Student Equity Advocate Application Form

#### #WeAreMC Campaign

Join the #WeAreMC campaign and help us make a difference in the world.

Get Involved!

# Training for Interview Committee Members @ Midland College

Custom



START COURSE

## Course Sections

0 / 11 Complete



### Introduction

About 2 Minutes Required



### Implicit Bias | Preface: Biases and Heuristics

About 6 Minutes Required



### Implicit Bias | Lesson 1: Schemas

About 4 Minutes Required



### Implicit Bias | Lesson 2: Attitudes and Stereotypes

About 5 Minutes Required



### Implicit Bias | Lesson 3: Real World Consequences

About 4 Minutes Required



### Implicit Bias | Lesson 4: Explicit v. Implicit Bias

About 3 Minutes Required

## Course Details



Typical Base Course Duration  
**45 Minutes**



Category  
[Policy](#)

## Course Coordinator



Have a question? Please contact your  
course coordinator,  
**your Vector LMS, Higher Education  
Edition coordinator**



**Implicit Bias | Lesson 4: Explicit v. Implicit Bias**

About 2 Minutes Required




**Implicit Bias | Lesson 5: The IAT**

About 6 Minutes Required



**Implicit Bias | Lesson 6: Countermeasures**

About 6 Minutes Required



**Optional: Complete an Implicit Association Test (IAT)**

About 2 Minutes Required



**Additional Resources**

About 2 Minutes Required



**Course Reflection**

About 5 Minutes Required

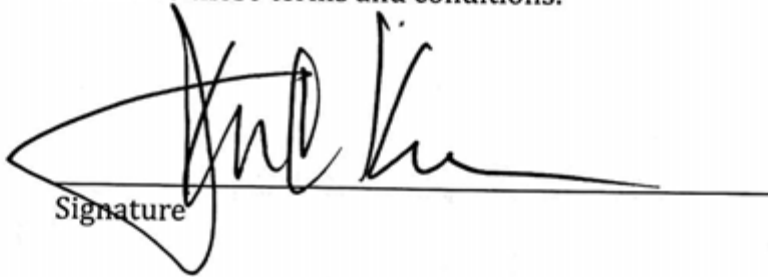
**Authors**



**Staff**  
AUTHOR

ELECTRONIC SIGNATURE ACKNOWLEDGEMENT AND CONSENT FORM

I, Steven C. Kisev, 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

8.23-2024  
Date

Please check one:

- President  
 Board Chair

Institution: Navarro College  
Date Submitted: 08/21/24  
Pages: 3



OFFICE OF THE DISTRICT PRESIDENT

**NAVARRO COLLEGE**

3200 W. 7<sup>TH</sup> AVENUE • CORSICANA, TEXAS 75110 • 903.875.7306

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

[X] 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.

[X] 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).

[X] 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.

[X] 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.

[X] 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).

[X] 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).

[X] I certify, in accordance with Tex. Educ. Code § 51.3525(e), that no state appropriations to this institution for 2024 have been spent prior to submission of this certification report to the Legislature and the Texas Higher Education Coordinating Board.

[X] 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.

[X] 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 Navarro College has conducted an audit of expenses, policies, procedures, and activities to ensure compliance.

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: Hein D. Fegan  
Date: 6-20-24

Signature of Board Chair: Flin  
Date: 6-20-24

Date submitted to THECB: 08/21/24

Date submitted to the Legislature: 08/21/24

Institution: North Central Texas College  
Date Submitted: 09/03/24  
Pages: 3

**ELECTRONIC SIGNATURE ACKNOWLEDGEMENT AND CONSENT FORM**

I, G. Brent Warrick, 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

9/1/24

Date

Please check one:

- President  
 Board Chair

# Chancellors' Report

To say that the last month has been a whirlwind would be an understatement. So I have quite a few things to report to you this evening.

First, we owe a tremendous amount of gratitude to the staff that have been participating in making this years 100<sup>th</sup> birthday a grand year. So many have been involved, but special thanks are due to Sandy Otto for heading these events and especially for the event on Saturday May 12 in Muenster. This was a great celebration and we are thankful to our partners in Cooke County for making this happen. Thanks to:

- Heritage Park and Melinda Klement
- Muenster Jaycees
- Muenster Volunteer Fire Department
- Muenster ISD Agriculture Students
- Muenster Chamber of Commerce
- Weber Ranch Distillery
- Roger Dieter Cakes
- Dieter Bros. Barbeque
- Goodies on Board

Also, to our maintenance team, our athletes, Sharon Murphree, Ermi Kemp, Casey Cove for all their extra help.

Also, a major success was the graduation ceremony on May 4. With over 500 walking graduates and nearly 4,000 in attendance this was a great event. Thanks to Ashely Fleeks, the NCTC Winds, NCTC choir under direction of Dr. Singletary and Prof. Studdard. All the staff that worked the event, thanks so much for making this a meaningful time for students and families.

Now to the more complicated news. I need to verbally inform the board of some things so you are aware.

Governor Abbot on May 8 directed all Colleges and Universities to ignore President Biden's "Unlawful Title IX Rewrite." This would be only the new portions of the law. These letters where written to Board and Chairman, not to the administration. I have included this letter in your packet this evening.

I have also included in your additional materials the current Interim Charges from the Texas Senate and House that directly effect NCTC.

As you will see there are several House Items related to monitoring of previous legislation HB8 being one of the most important. I am happy to announce that primary numbers are showing an additional \$965,000 for NCTC. These are projections, but given our past completions we are confident we will meet them.

Also included is the Senate Interim Charges. These are a little more concerning as we are still attempting to understand the intentionality of some of the charges to include the review and analysis of the structures and governance in higher education, focusing on the role of Faculty Senate. Also, to monitor the Ban on DEI policies. I remind the Board we are in full compliance with all the DEI restrictions implemented in the last session. Also in your packet is the letter from Chair Brandon Creighton requiring compliance and reporting by NCTC regarding SB17.

Later this evening you will hear from me more about campus free speech and the work being ordered for Universities and College and our compliance with said restrictions.

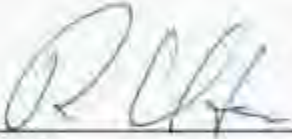
We are also a little concerned about the charge that asks for additional property tax reform and what that could mean for community colleges.

I am very very happy to notify the Board that under the direction of Dean Nue and Division Chair Lewis, that Board of Commissioners of The Accreditation Commission for Education in Nursing granted Continuing Accreditation to the associate nursing program and scheduled the next evaluation visit for Fall 2031. Congratulations.

Institution: Northeast Texas Community College  
Date Submitted: 08/29/24  
Pages: 14

**ELECTRONIC SIGNATURE ACKNOWLEDGEMENT AND CONSENT FORM**

I,     Ron Clinton    , 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

8/6/2024  
Date

Please check one:

- President
- Board Chair



## **SB17 Annual Certification**

**Northeast Texas Community College  
P.O. Box 1307  
Mount Pleasant, TX 75456-1307  
903-434-8100**

# Northeast Texas Community College

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AGENDA: Regular Meeting of the Board of Trustees  
**Tuesday, August 27, 2024 – 5:35 PM**  
Humanities Building Community Room, 2886 FM 1735, Mount Pleasant, TX 75455

MEMBERS: Russell East; Chad Elledge; Sondra Fowler; Chuck Johns; Robin Sharp;  
Stephanie Thurman, Kerry Wootten

## ORDER OF PROCEDURE

- I. **Call to Order / Forum for Public Comment**
- II. **Roll Call**
- III. **Certification of Posting the Notice of the Meeting**
- IV. **President's Report**
  - A. College News
  - B. Calendar of Events
  - C. Recent Donations to College Foundation
- V. **Items of Information**
  - A. Personnel Action Under President's Authority
- VI. **Subjects to be Discussed or Considered or Upon Which Any Formal Action May be Taken**
  - A. Consider Approval of Consent Agenda
    1. Consider Approval of Minutes of Previous Meetings
    2. Consider Monthly Finance Report
    3. Consider Approval of Bid for Student Blanket Liability Insurance
    4. Consider Approval of Directors & Officers Liability Insurance for NTCC Foundation
    5. Consider Approval of Investment Policy
  - B. Consider Approval of the 2024-2025 Operating Budget - Dr. Clinton
  - C. Consider Adoption of the 2024-2025 Tax Rate - Dr. Clinton
  - D. Consider Resolution for Camp County Property Suit No. TS-20-00647 - Dr. Clinton
  - E. Consider Approval of Easement Agreement for Transmission Lines with Prairie Branch Solar LLC - Dr. Clinton
  - F. Consider Changes to Local Policy DL (Employee Performance) to Comply with Education Code 51.3525 - Dr. Clinton
  - G. Consider Releasing College Navigator from Employment Contract - Ms. Irvin
  - H. Consider Releasing Director of Computer & Enterprise Services from Employment Contract - Dr. Rose
  - I. Consider Releasing Director of Student Development & Inclusion from Employment Contract - Ms. Irvin
  - J. Consider Employment of Assistant Baseball Coach/Assistant Housing Director - Dr. McCullough
  - K. Consider Employment of Assistant Soccer Coach/Assistant Housing Director - Dr. McCullough
  - L. Consider Employment of Assistant Soccer Coach/Assistant Housing Director - Dr. McCullough

- M. Consider Employment of Director of EMS - Dr. Ingram
  - N. Consider Employment of Faculty Member in Funeral Service - Dr. Ingram
  - O. Consider Employment of Faculty Member in Nursing - Dr. Ingram
  - P. Consider Employment of Faculty Member in Nursing - Dr. Ingram
- VII. **Executive Session**
- A. Personnel - Texas Govt. Code Sections 551.074
  - B. Purchase, exchange, lease, or value of real property - Texas Government Code Section 551.072
  - C. Private consultation with board's attorney - Texas Govt. Code Section 551.071
  - D. Prospective Gifts or Donations - Texas Govt. Code Section 551.073
- VIII. **Adjournment**

**If during the course of the meeting, discussion of any item on the agenda should be held in a closed meeting, the Board will conduct a closed meeting in accordance with the Texas Open Meetings Act, in accordance with Texas Government Code Sections 551.071-551.084. Before any closed meeting is convened, the president officer will publicly identify the section or sections of the Act authorizing the closed meeting. All final votes, actions, or decisions will be taken in open meeting.**

EMPLOYEE PERFORMANCE

DL  
(LOCAL)

**Job Descriptions**

The duties and responsibilities of each position within the College District shall be written in job descriptions, which the immediate supervisor of each position shall be responsible for maintaining, updating, and providing to each employee the supervisor hires for the particular position. The Executive Director of Human Resources shall maintain copies of all job descriptions and shall act in an advisory capacity as to the content of the job descriptions.

**Progressive Discipline**

The College District shall encourage progressive discipline to address most employment difficulties. The following steps are not prescriptive but rather serve to illustrate examples of common employment difficulties and consequences. Nothing in this policy shall modify an at-will employment relationship or create any rights to tenure.

The following steps may be followed progressively, depending on the severity of the offense and/or the detrimental impact of the offense on the College District.

If reassignment or relocation of an employee is being recommended for reasons related to discipline, the Executive Director of Human Resources shall be consulted prior to any action. The College President, in consultation with the human resources department, reserves the ability to suspend an employee at any time, pending an investigation of allegations of work-related misconduct, or when in the best interest of the College District.

Disciplinary Violations

Unacceptable behaviors include, but shall not be limited to, non-performance, inappropriate conduct, unacceptable attendance, and violation of Board policy. The impact, severity, and intent of the actions, as well as any past disciplinary actions, shall be considered in determining the appropriate level of consequence for a disciplinary violation.

*Classification 1*

Classification 1 includes:

- Tardiness or absenteeism;
- Abuse of or excessive number of personal calls;
- Uncooperative behavior;
- Loitering or loafing during work hours;
- Failure to follow departmental procedures or directions;
- Reckless or careless behavior;
- Failure to meet performance expectations;

EMPLOYEE PERFORMANCE

DL  
(LOCAL)

- Unauthorized operation of tools, machinery, or equipment; and
- Selling property, soliciting, collecting, or accepting contributions on College District property or on College District time without specific authorization from the administration.

*Classification 2*

Classification 2 includes:

- Making false, vicious, or malicious statements concerning another;
- Failure to follow specified job instructions;
- Use of profane, obscene, vile, abusive, or degrading language, gestures, or images;
- Excessive personal use of College District computer equipment; and
- Failing to maintain effective professional working relationships.

- 

*Classification 3*

Classification 3 includes:

- Removal of College District records or property without appropriate approval;
- Unauthorized release of confidential records or information;
- Misuse of College District property; and
- Insubordination.

*Classification 4*

Classification 4 includes:

- Absence from work without notification;
- Unauthorized use of College District equipment, time, or resources for personal gain or profit;
- Sexual harassment or sexual misconduct;
- Willful abuse of or deliberate damage to College District property or to another employee's property;
- Inappropriate disclosure of confidential or privileged information;
- Assault;

EMPLOYEE PERFORMANCE

DL  
(LOCAL)

- Selling, delivering, or giving to another person, or possessing, using, or being under the influence of marijuana or other controlled substance, another dangerous drug, or an inhalant not being used as directed by the person's physician;
- Selling, delivering, possessing, using, or being under the influence of intoxicants while in the scope of employment;
- Willfully or negligently committing or omitting an act or refusing or failing to follow a policy or official directive;
- Engaging in behavior that endangers the life, health, and safety of any person;
- Theft;
- Academic dishonesty;
- Forging or falsifying an official college record;
- Possession of a firearm, other than at the firing range or in a parked and locked vehicle in a parking lot or structure, or possession of an illegal knife, club, or other prohibited weapon;
- Providing false or misleading information in College District employment applications;
- Committing a violation of DH(LOCAL) or DH(EXHIBIT); and
- Engaging in conduct incorporating the elements of an offense under Texas Penal Code Title 8, Offenses Against Public Administration.

Administrative  
Action Steps

An employee who demonstrates unacceptable performance or behavior that has been identified in this policy shall be subject to discipline, up to and including dismissal. The impact, severity, and intent of the actions, as well as any past disciplinary actions, shall be considered in determining the appropriate level of discipline. Disciplinary consequences shall frequently fall within the following steps.

1. Counseling, verbal or written – This level of discipline may respond to behavior that causes a minor disruption to the morale, educational mission, or operations of the College District.
2. Written reprimand – This level of discipline may respond to behavior that the employee has not corrected or has repeated, or if the employee's behavior otherwise is a moderate disruption to the morale, educational mission, or operations of the College District.

EMPLOYEE PERFORMANCE

DL  
(LOCAL)

3. Final written warning – This level of discipline may respond to behavior that the employee has not corrected or to repeated unacceptable behavior, or if the employee's behavior otherwise is a serious disruption to the morale, educational mission, or operations of the College District.
4. Termination – This level of discipline may respond to behavior that the employee has not corrected or to repeated unacceptable behavior, or if the employee's behavior otherwise is a severe disruption to the morale, educational mission, or operations of the College District.

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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 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.

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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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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, Charles W Johns, 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.

Charles W Johns  
Signature

Aug 6 2024  
Date

Please check one:

- President
- Board Chair

Institution: Odessa College  
Date Submitted: 08/30/24  
Pages: 10

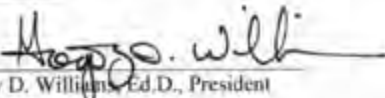
**NOTICE OF BOARD WORK SESSION MEETING**  
**Odessa College Board of Trustees**  
**Monday, February 26, 2024, 8:15 AM**  
**Wood Math and Science Building Rm 119**  
**201 W UNIVERSITY**  
**ODESSA, TX 79764**

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1. **Call to Order** - Mr. Gary Johnson
2. **Pledge of Allegiance: United States & Texas** - Mr. Gary Johnson
3. **Action Items:**
  - A. **Committee Reports**
    1. **Property Committee** - Ms. Montie Garner
      - a. Furniture Purchase for the new HSB Building
    2. **Finance Committee** - Mr. Gary Johnson
      - a. Chapter 312 Tax Abatement Agreement with Ector County-Matheson Tri-Gas' proposed Air Separation Unit (ASU) plant
      - b. Tuition and Fees
      - c. Room and Board Proposal
      - d. Funds Allocation for Wrangler Promise Program
    3. **Personnel Policy Committee**- Mr. Bruce Shearer
      - a. Board Policy Update 46
  - B. **Monthly Financial Statements & Budget Amendments** - Ms. Brandy Ham
  - C. **City of Odessa's Tax Incentive Committee Representative**
  - D. **Executive Session: Discussion of Personnel Matter Pursuant to Texas Government Code Section 551.074 of the Texas Open Meetings Act of the Government Code.**
4. **Discussion of Infrastructure Needs**
5. **Adjournment** - Mr. Gary Johnson

If, during the course of the meeting, discussion of any item on the agenda should be held in a closed meeting, the board will conduct a closed meeting in accordance with the Texas Open Meetings Act, Government Code, Chapter 551, Subchapters D and E or Texas Government Code section 418.183(f). Before any closed meeting is convened, the presiding officer will publicly identify the section or sections of the Act authorizing the closed meeting. All final votes, actions, or decisions will be taken in open meeting.

The notice for this meeting was posted in compliance with the Texas Open Meeting Act on \_\_\_\_\_, at \_\_\_\_\_

  
\_\_\_\_\_  
Gregory D. Williams, Ed.D., President

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]

**ELECTRONIC SIGNATURE ACKNOWLEDGEMENT AND CONSENT FORM**

I, Gregory D. Williams, 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.

Gregory D. Williams  
Signature

8/28/2024  
Date

Please check one:

- President  
 Board Chair

**ELECTRONIC SIGNATURE ACKNOWLEDGEMENT AND CONSENT FORM**

I, Gary Johnson, 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.

Gary S Johnson  
Signature

8/28/24  
Date

Please check one:

- President
- Board Chair

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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.

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.

---

**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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Any changes in the College District's organizational structure above the departmental level must be submitted by the College President to the Board for approval.

The College President is authorized to make any changes at the departmental level.

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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.

---

**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:

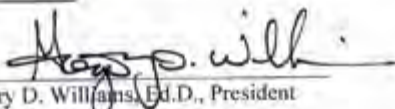
1. Academic course instruction;
2. Scholarly research or a creative work by College District employees or students;
3. An activity of a student organization registered with or recognized by the College District;
4. Guest speakers or performers on short-term engagements;
5. A policy, practice, procedure, 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.

**NOTICE OF REGULAR MEETING**  
**Odessa College Board of Trustees**  
**Tuesday, February 27, 2024, 6:30 PM**  
**Saulsbury Campus Center, Zant Community Room**  
**201 W UNIVERSITY**  
**ODESSA, TX 79764**

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1. **Call to Order** - Mr. Gary Johnson
2. **Pledge of Allegiance: United States & Texas** - Mr. Gary Johnson
3. **Introduce Women's and Men's Golf Teams**- Mr. Wayne Baker
4. **Introduce New Employees** - Ms. Ashlynn Houston
5. **Open to Public Comment**
6. **Approval of Minutes of Regular Meeting of January 30, 2024** - Mr. Gary Johnson
7. **Action Items:**
  - A. **Committee Reports**
    1. **Property Committee** - Ms. Montie Garner
      - a. Furniture Purchase for the new HSB Building
    2. **Finance Committee** - Mr. Gary Johnson
      - a. Chapter 312 Tax Abatement Agreement with Ector County-Matheson Tri-Gas' proposed Air Separation Unit (ASU) plant
      - b. Tuition and Fees
      - c. Room and Board Proposal
      - d. Funds Allocation for Wrangler Promise Program
    3. **Personnel Policy Committee**- Mr. Bruce Shearer
      - a. Board Policy Update 46
  - B. **Monthly Financial Statements & Budget Amendments** - Ms. Brandy Ham
  - C. **City of Odessa's Tax Incentive Committee Representative**
8. **Informational Items:**
  - A. **Education Report** - Mr. Syed Naqvi
  - B. **Institutional Effectiveness Report** - Mr. Brian Jones
  - C. **Vision 2030+ Update** - Mr. Ken Zartner
  - D. **President's Report** - Dr. Gregory Williams
9. **Adjournment** - Mr. Gary Johnson

If, during the course of the meeting, discussion of any item on the agenda should be held in a closed meeting, the board will conduct a closed meeting in accordance with the Texas Open Meetings Act, Government Code, Chapter 551, Subchapters D and E or Texas Government Code section 418.183(f). Before any closed meeting is convened, the presiding officer will publicly identify the section or sections of the Act authorizing the closed meeting. All final votes, actions, or decisions will be taken in open meeting.  
The notice for this meeting was posted in compliance with the Texas Open Meeting Act on \_\_\_\_\_, at \_\_\_\_\_.

  
\_\_\_\_\_  
Gregory D. Williams, Ed.D., President

Institution: Panola College  
Date Submitted: 08/02/24  
Pages: 2

**ELECTRONIC SIGNATURE ACKNOWLEDGEMENT AND CONSENT FORM**

I, Jessica Pace, 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.

Jessica Pace  
Signature

8-2-24  
Date

Please check one:

- President  
 Board Chair

**ELECTRONIC SIGNATURE ACKNOWLEDGEMENT AND CONSENT FORM**

I, William Goolsby, 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

8.2.24  
\_\_\_\_\_  
Date

Please check one:

- President  
 Board Chair

Institution: Paris Junior College  
Date Submitted: 08/14/24  
Pages: 29

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**Note:** This policy addresses complaints of discrimination, harassment, and retaliation based on race, color, national origin, religion, age, or disability targeting employees. For legally referenced material relating to this subject matter, see DAA(LEGAL). For discrimination, harassment, and retaliation of students based on race, color, national origin, religion, age, or disability, see FFDB.

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**Statement of  
Nondiscrimination**

The College District prohibits discrimination, including harassment, against any employee on the basis of race, color, national origin, religion, age, disability, or any other basis prohibited by law. Retaliation against anyone involved in the complaint process is a violation of College District policy.

**Discrimination**

Discrimination against an employee is defined as conduct directed at an employee on the basis of race, color, national origin, religion, age, disability, or any other basis prohibited by law, that adversely affects the employee's employment.

**Harassment**

Prohibited harassment of an employee is defined as physical, verbal, or nonverbal conduct based on an employee's race, color, religion, national origin, age, disability, or any other basis prohibited by law, when the conduct is so severe, persistent, or pervasive that the conduct:

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

**Examples**

Examples of prohibited harassment may include offensive or derogatory language directed at another person's religious beliefs or practices, accent, skin color, or need for workplace accommodation; threatening or intimidating conduct; offensive jokes, name-calling, slurs, or rumors; physical aggression or assault; display of graffiti or printed material promoting racial, ethnic, or other stereotypes; or other types of aggressive conduct such as theft or damage to property.

**Retaliation**

The College District prohibits retaliation against an employee who makes a claim alleging to have experienced discrimination or harassment, or another employee who, in good faith, makes a report, serves as a witness, or otherwise participates in an investigation.

FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION  
OTHER PROTECTED CHARACTERISTICS

DIAB  
(LOCAL)

	<p>An employee who intentionally makes a false claim, offers false statements, or refuses to cooperate with a College District investigation regarding harassment or discrimination is subject to appropriate discipline.</p>
<b>Examples</b>	<p>Examples of retaliation may include termination, refusal to hire, demotion, and denial of promotion. Retaliation may also include threats, unjustified negative evaluations, unjustified negative references, or increased surveillance.</p>
<b>Prohibited Conduct</b>	<p>In this policy, the term “prohibited conduct” includes discrimination, harassment, and retaliation as defined by this policy, even if the behavior does not rise to the level of unlawful conduct.</p>
<b>Reporting Procedures</b>	<p>An employee who believes that he or she has experienced prohibited conduct or believes that another employee has experienced prohibited conduct should immediately report the alleged acts. The employee may report the alleged acts to his or her immediate supervisor.</p> <p>Alternatively, the employee may report the alleged acts to one of the College District officials below.</p> <p>For the purposes of this policy, College District officials are the ADA/Section 504 coordinator and the College President.</p>
<b>Definition of College District Officials</b>	<p>The College District designates the following person to coordinate its efforts to comply with Title II of the Americans with Disabilities Act of 1990, as amended, which incorporates and expands upon the requirements of Section 504 of the Rehabilitation Act of 1973, as amended:</p>
ADA / Section 504 Coordinator	<p>Name: Melanie Hatcher</p> <p>Position: Director of Human Resources</p> <p>Address: 2400 Clarksville St., Paris, TX 75460-6298</p> <p>Telephone: (903) 782-0483</p>
<b>Other Anti-discrimination Laws</b>	<p>The College President or designee shall serve as coordinator for purposes of College District compliance with all other antidiscrimination laws.</p>
<b>Alternative Reporting Procedures</b>	<p>An employee shall not be required to report prohibited conduct to the person alleged to have committed it. Reports concerning prohibited conduct, including reports against the ADA/Section 504 coordinator, may be directed to the College President or designee.</p>

FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION  
OTHER PROTECTED CHARACTERISTICS

DIAB  
(LOCAL)

A report against the College President may be made directly to the Board. If a report is made directly to the Board, the Board shall appoint an appropriate person to conduct an investigation.

**Timely Reporting**

Reports of prohibited conduct shall be made as soon as possible after the alleged act or knowledge of the alleged act. A failure to promptly report may impair the College District's ability to investigate and address the prohibited conduct.

**Notice of Report**

Any College District supervisor who receives a report of prohibited conduct shall immediately notify the appropriate College District official listed above and take any other steps required by this policy.

**Investigation of the Report**

The College District may request, but shall not insist upon, a written report. If a report is made orally, the College District official shall reduce the report to written form.

Upon receipt or notice of a report, the College District official shall determine whether the allegations, if proven, would constitute prohibited conduct as defined by this policy. If so, the College District official shall immediately authorize or undertake an investigation, regardless of whether a criminal or regulatory investigation regarding the same or similar allegations is pending.

If the College District official determines that the allegations, if proven, would not constitute prohibited conduct as defined by this policy but may constitute a violation of other College District rules or regulations, the College District official shall refer the complaint for consideration under the appropriate policy.

If appropriate, the College District shall promptly take interim action calculated to prevent prohibited conduct during the course of an investigation.

The investigation may be conducted by the College District official or a designee or by a third party designated by the College District, such as an attorney. When appropriate, the supervisor shall be involved in or informed of the investigation.

The investigation may consist of personal interviews with the person making the report, the person against whom the report is filed, and others with knowledge of the circumstances surrounding the allegations. The investigation may also include analysis of other information or documents related to the allegations.

**Concluding the Investigation**

Absent extenuating circumstances, the investigation should be completed within ten College District business days from the date of the report; however, the investigator shall take additional time if necessary to complete a thorough investigation.

FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION  
OTHER PROTECTED CHARACTERISTICS

DIAB  
(LOCAL)

The investigator shall prepare a written report of the investigation. The report shall be filed with the College District official overseeing the investigation.

**College District  
Action**

If the results of an investigation indicate that prohibited conduct occurred, the College District shall promptly respond by taking appropriate disciplinary or corrective action reasonably calculated to address the conduct.

The College District may take action based on the results of an investigation, even if the conduct did not rise to the level of prohibited or unlawful conduct.

**Confidentiality**

To the greatest extent possible, the College District shall respect the privacy of the complainant, persons against whom a report is filed, and witnesses. Limited disclosures may be necessary in order to conduct a thorough investigation and comply with applicable law.

**Appeal**

A party who is dissatisfied with the outcome of the investigation may appeal through the applicable grievance policy beginning at the appropriate level. [See DGBA(LOCAL) for employees, FLD(LOCAL) for students, and GB(LOCAL) for community members]

The party may have a right to file a complaint with appropriate state or federal agencies.

**Records Retention**

Retention of records shall be in accordance with the College District's records retention procedures. [See CIA]

**Access to Policy,  
Procedures, and  
Related Materials**

Information regarding this policy and any accompanying procedures, as well as relevant educational and resource materials concerning the topics discussed in this policy, shall be distributed annually to College District employees and students in compliance with law and in a manner calculated to provide easy access and wide distribution, such as through electronic distribution and inclusion in the employee and student handbooks and other major College District publications. Information regarding the policy, procedures, and related materials shall also be prominently published on the College District's website, taking into account applicable legal requirements. Copies of the policy and procedures shall be readily available at the College District's administrative offices and shall be distributed to an employee who makes a report.

EMPLOYMENT OBJECTIVES  
OBJECTIVE CRITERIA FOR PERSONNEL DECISIONS

DAB  
(LOCAL)

Employment or promotion qualifications of a candidate shall be determined by job-related standards based on educational preparation, training, experience, and/or personal characteristics necessary to perform the work of the position as described in the position description published by the institution.

Capable lower-level employees shall be eligible for promotion to positions of greater responsibility as the employee develops and matures in work performance.

[See DC(LOCAL)]

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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

EMPLOYMENT OBJECTIVES  
EQUAL EMPLOYMENT OPPORTUNITY

DAA  
(LEGAL)

	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

EMPLOYMENT OBJECTIVES  
EQUAL EMPLOYMENT OPPORTUNITY

DAA  
(LEGAL)

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

EMPLOYMENT OBJECTIVES  
EQUAL EMPLOYMENT OPPORTUNITY

DAA  
(LEGAL)

3. Otherwise adversely affects an individual's employment opportunities.

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

Quid Pro Quo

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

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

29 C.F.R. 1604.11(a)

Same-Sex Sexual Harassment

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

Sexual Harassment Policy

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

Corrective Action

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

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

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

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

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

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

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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

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)*

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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)*

EMPLOYMENT OBJECTIVES  
EQUAL EMPLOYMENT OPPORTUNITY

DAA  
(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

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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, Stephen Benson, 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.

Stephen M Benson  
Signature

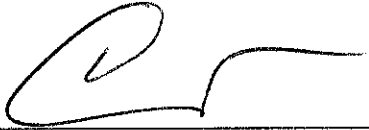
8/14/24  
Date

Please check one:

- President  
 Board Chair

**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

Institution: Ranger College  
Date Submitted: 09/04/24  
Pages: 1

**ELECTRONIC SIGNATURE ACKNOWLEDGEMENT AND CONSENT FORM**

I, DERRICK WORRELS, 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

9/4/2024

\_\_\_\_\_  
Date

Please check one:

- President
- Board Chair

Institution: San Jacinto College  
Date Submitted: 08/15/24  
Pages: 23

**ELECTRONIC SIGNATURE ACKNOWLEDGEMENT AND CONSENT FORM**

I, Brenda Hellyer, 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.

Brenda Hellyer  
Signature

8/12/2024  
Date

Please check one:

- President  
 Board Chair

ELECTRONIC SIGNATURE ACKNOWLEDGEMENT AND CONSENT FORM

I, Marie Flickinger, 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.

Marie Flickinger  
Signature

8/12/24  
Date

Please check one:

- President  
 Board Chair



Office of the Chancellor

I certify, under penalty of perjury and the loss of funding to San Jacinto College, that San Jacinto 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.

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 promoting differential treatment of or providing special benefits to individuals on the basis of race, color, or ethnicity.

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 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

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 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).

[X] 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.

[X] 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.

[X] 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).

[X] 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).

[X] I certify, in accordance with Tex. Educ. Code § 51.3525(e), that no state appropriations to this institution for FY25 have been spent prior to submission of this certification report for FY24 to the Legislature and the Texas Higher Education Coordinating Board.

[X] 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.

[X] I understand the Coordinating Board will forward all complaints regarding an institution's violation of Tex. Educ. Code § 51.3525 to the State Auditor's Office for review.

To ensure full compliance with Tex. Educ. Code § 51.3525, in the past fiscal year San Jacinto College has conducted the following:

- Reviewed all programs and activities, offices, personnel, and training for potential non-compliance with Texas Education Code § 51.3525 and discontinued those found to be not in compliance. These efforts included, but are not limited to, dissolving a Diversity, Equity, and Inclusion (DEI) office, disbanding the Council on DEI, eliminating the position of the Assistant Vice Chancellor of DEI, and revising Human Resources forms.
- Updated relevant policies and procedures. A list with active links has been provided as supporting documentation. The same links are listed below:
  - Termination or Demotion of Contractual Employees
    - [Policy IV .4002.B](#)

- [Procedure IV.4002.B.a](#)
  - Termination or Demotion of Non-Contractual Employees
    - [Policy IV.4002.C](#)
    - [Procedure IV.4002.C.a](#)
  - Employee Performance Counseling and Corrective Action
    - [Policy IV.4002.E](#)
    - [Procedure IV.4002.E.a](#)
  - Purchasing
    - [Policy III.3007.A](#)
  - Equal Employment Opportunity
    - [Procedure 1](#)
- Updated the Board’s Strategic Plan, which was approved by the Board on December 4, 2023, to ensure compliance with Texas Education Code § 51.3525.
- Provided information to College employees regarding the requirements of Texas Education Code § 51.3525, including developing an online training for all employees and creating a frequently asked questions (FAQ) document in collaboration with legal counsel. A copy of the FAQ has been provided as supporting documentation.
- Established internal processes and controls to monitor ongoing compliance in all areas of operation.

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 College Chancellor:

Brenda Hellyer  
Brenda Hellyer, Ed.D.

8/12/2024  
Date

Signature of Board Chair:

Marie Flickinger  
Marie Flickinger

8/12/24  
Date

August 15, 2024  
Date submitted to THECB

**San Jacinto College**  
**List of Policies Updated to Comply with Texas Education Code § 51.3525**

Please see list and active hyperlinks below for the relevant policies and procedures that have been updated to comply with Texas Education Code § 51.3525:

- Termination or Demotion of Contractual Employees
  - [Policy IV.4002.B](#)
  - [Procedure IV.4002.B.a](#)
- Termination or Demotion of Non-Contractual Employees
  - [Policy IV.4002.C](#)
  - [Procedure IV.4002.C.a](#)
- Employee Performance Counseling and Corrective Action
  - [Policy IV.4002.E](#)
  - [Procedure IV.4002.E.a](#)
- Purchasing
  - [Policy III.3007.A](#)
- Equal Employment Opportunity
  - [Procedure 1](#)



## Guidance on Legal Restrictions Affecting Diversity, Equity, and Inclusion Activities

### INTRODUCTION

In May 2023, the Texas Legislature passed Senate Bill 17 which restricts diversity, equity, and inclusion activities in higher education. The effective date of Senate Bill 17 is January 1, 2024. The new law is codified at Section 51.3525 of the Texas Education Code.

Broadly speaking, the law prohibits certain diversity, equity, and inclusion (DEI) activities relating to race, sex, color, ethnicity, sexual orientation, and gender identity. Although many of the law's restrictions pertain to employment, the law also affects students, contractors, and others who participate in college activities and programs.

Employees who engage in prohibited activities are subject to discipline or termination, and institutions risk the loss of state funding if they fail to comply with the prohibitions.

The law contains several important exceptions, including exceptions for academic course instruction and student organizations. In addition, the law does not affect college obligations under federal law. Further, San Jacinto College remains firmly committed to principles of equal opportunity for all employees and students. *See SJC Policy IV-B-1-a, Equal Opportunity Institution.*

Because Section 51.3525 is a new law, institutions are continuing to study its potential impact on programs and activities. This document provides general guidance regarding implementation of the law. It is not possible to cover all potential questions in this document. For questions not addressed in this guidance, please contact the administrators listed in Section 7 of this document.

## 1.1 What are the main prohibitions of Senate Bill 17?

The governing board of an institution of higher education must ensure that the institution does not do any of the following except as required by federal law:

- **The College may not establish or maintain a DEI office or hire an employee or contractor to perform DEI duties.** A DEI “office” includes any office, department, task force, or unit.
- **The College may not compel, require, induce, or solicit a DEI statement from any person or give preferential treatment to a person that provides a DEI statement.** The statute does not define the phrase “DEI statement,” but common dictionary definitions of “statement” include both oral and written expressions or declarations. A DEI statement is essentially a pledge or commitment to support DEI initiatives based on race, color, ethnicity, gender identity, or sexual orientation. If the institution does not require or solicit a DEI statement but an individual voluntarily provides one, the institution cannot treat that individual more favorably than an individual who did not provide a similar statement. A “DEI statement” is different from a non-discrimination statement, which is a statement of the College’s federal and state law obligations.
- **The College may not give preference on the basis of race, sex, color, ethnicity, or national origin to any employee, applicant, or any person participating in a college “function.”** The law does not define college “function,” but the ordinary and common meaning of the term “function” suggests that it applies to all facets of college operations.
- **The College cannot make DEI training a condition of enrollment or a condition of participating in a college function unless required by federal law or approved in accordance with the process outlined in Senate Bill 17.** A DEI training encompasses a training, program, or activity “designed or implemented” in reference to race, color, ethnicity, gender identity, or sexual orientation. The prohibition applies even if the activity is not labeled a training program, such as a mandatory staff meeting where DEI instruction is provided. The law permits trainings that are (i) developed by an attorney and (ii) approved in writing by the college’s legal counsel and the Texas Higher Education Coordinating Board solely to ensure compliance with a court order or state or federal law.

## 1.2 What is “DEI”?

“DEI” is an abbreviation for *diversity, equity, and inclusion*. “DEI” is an umbrella term that generally refers to college activities that promote diversity, equity, and inclusion with respect to certain demographic identities.

Nothing in the statute diminishes an institution's obligations to comply with federal anti-discrimination laws or federal affirmative action obligations. In addition, nothing in the statute precludes an institution from engaging in activities that promote a campus climate that is welcoming and fosters a feeling of belonging.

Section 51.3525 defines "DEI office" as an office, division, or unit established for the purpose of:

- Influencing hiring or employment practices with respect to race, sex, color, or ethnicity. Hiring processes must be "color-blind and sex-neutral" and comply with state and federal anti-discrimination laws.
- Promoting or providing "differential treatment" or "special benefits" to people on the basis of their race, color, or ethnicity.
- Promoting policies or procedures designed or implemented in reference to race, color, or ethnicity other than those approved by the college's legal counsel and the Coordinating Board to comply with a court order or state or federal law.
- Conducting trainings, programs, or activities designed or implemented in reference to race, color, ethnicity, gender identity, or sexual orientation unless the training was developed by an attorney and approved by the college's legal counsel and Coordinating Board to comply with a court order or state or federal law.

### **1.3 What are "differential treatment" and "special benefits" under the law?**

Section 51.3525 does not define these terms. Under long-standing principles developed under discrimination law, differential treatment occurs when *similarly situated persons* are treated differently – more favorably or less favorably – because of their identification with a particular classification, such as their race. A "special benefit" is a privilege, opportunity, or term of employment that is granted to a particular person or group because of their identification with a particular classification.

Section 51.3525 is not implicated when a person receives a benefit that is generally available to others on an equal basis. For example, if a college allows employees to reserve a conference room for an after-work gathering, employees may continue to receive this benefit. Denying this benefit to some employees based on their race, ethnicity, or other protected classification could constitute unlawful discrimination.

### **1.4 Section 51.3525 prohibits DEI activities "except as required by federal law." What federal laws apply?**

Numerous federal laws govern the operation of the College, including the United States Constitution, federal statutes, federal regulations, and rulings from federal courts. When a state law conflicts with a federal law, federal law will take precedence over the conflicting state law. A complete list of relevant federal laws is beyond the scope of this guidance. A partial list includes the following:

- *First Amendment to the U.S. Constitution* – Provides for freedom of speech in most contexts. Prohibits discrimination against employees, students, and others based on their viewpoint or their association with other individuals.
- *Fourteenth Amendment to the U.S. Constitution* – Requires equal protection of the law by governmental entities, including public colleges. Individuals must be treated equally under the law. Decisions based on race are subject to strict scrutiny.
- *Title VII of the Civil Rights Act* – Prohibits employment discrimination and harassment on the basis of race, color, national origin, religion, sex, sexual orientation, gender identity, and pregnancy.
- *Title VI of the Civil Rights Act* – Prohibits discrimination and harassment against students and others on the basis of their race, color, or national origin.
- *Title IX of the Education Amendments of 1972* – Prohibits discrimination and harassment against students and others on the basis of sex, pregnancy, childbirth, and related conditions. Regulations from the U.S. Department of Education further state that Title IX prohibits discrimination on the basis of sexual orientation and gender identity; however, as of August 1, 2024, these regulations have been challenged in court.

### **1.5 Does Section 51.3525 prohibit an employee from engaging in DEI activities on their own time?**

No. Section 51.3525 is concerned with work-related activities and use of work-related resources. The law does not restrict faculty members and other employees who choose to participate in DEI activities on their own time, such as attending an advocacy event or publishing an article.

Public employees have a First Amendment right to freedom of expression that protects an individual's speech as a private citizen on matters of public concern. As a general matter, an institution may not discipline employees for their private off-duty speech unless the speech substantially disrupts college operations or impairs the efficiency of college operations.

### **1.6 Does Section 51.3525 prohibit an employee from accessing and utilizing professional development materials, including DEI-related materials, from the College's on-line learning management system?**

Generally, no. As discussed below (Section 6.2), the College acquires library and professional development resources (or makes them available on-line) to serve each discipline taught on campus and to meet the professional development needs of faculty in discharging their teaching responsibilities. The library of professional developmental materials covers a multitude of topics. In light of their academic responsibilities, faculty may continue to access all resources available in the on-line professional development library.

## 2

## THE LAW IDENTIFIES SEVERAL EXCEPTIONS. WHAT ARE THEY?

The law contains several exceptions. When an exception applies, employees may engage in DEI activities without violating Section 51.3525.

### 2.1 Academic Course Instruction

The law does not restrict “academic course instruction.” Institutions and faculty retain the freedom to decide how to teach the required curriculum in the classroom, clinical programs, seminars, and other instructional settings. Classroom discussions, assignments, and readings may address race, sex, national origin, gender identity, and sexual orientation without violating Section 51.3525. Although Section 51.3525 does not apply, under College policy, information presented during academic course instruction must relate to the subject being taught, and faculty must maintain respect for students and for students as learners.<sup>1</sup> Faculty must strive to be accurate, exercise appropriate restraint, and show respect for others expressing different opinions.

#### 2.1.1 May faculty invite a guest speaker to a class to discuss a DEI-related topic?

Yes, when related to the subject matter of the course.

#### 2.1.2 May a faculty member award extra credit points to students if they attend a DEI-related activity?

Yes, if related to the subject matter of the course and if the activity is the type for which extra credit typically is available.

#### 2.1.3 May students challenge material assigned by faculty in a course?

Because Section 51.3525 exempts academic course instruction, this particular law provides no basis for students to challenge a faculty member’s academic decisions, including the assignment of reading materials. Generally speaking, the College’s academic freedom policy recognizes the right of faculty to select reading material germane to the course being taught. The College, however, does maintain complaint procedures that permit students to file a complaint alleging discrimination or harassment on the basis of race, color, national origin, sex, sexual orientation, gender identity, pregnancy, disability, religion, and veteran’s status. If a faculty member subjects students to discrimination or harassment because of their race, sexual orientation, or other protected status, a student may file a complaint which will be reviewed to ensure compliance with federal law.<sup>2</sup>

### 2.2 Scholarly Research and Creative Works

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<sup>1</sup> SJC Procedure V-5003.A.a, *Academic Freedom*.

<sup>2</sup> See generally U.S. Dep’t of Education, Office for Civil Rights, RACE AND SCHOOL PROGRAMMING (August 2023), available at <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-20230824.pdf>.

Section 51.3525 does not restrict scholarly research or creative works. The law does not define these terms. However, consistent with the common usage of these terms, the exception for scholarly research reasonably encompasses the following:

- Research conducted by faculty and by students assisting faculty within the faculty's field/discipline.
- Grant applications to support scholarly research.
- Faculty publications summarizing the faculty member's research.
- Public presentation of scholarly research.

The exception for creative works includes academic work product (such as a book), a musical composition or theater production, a painting, and publications or proposals reflecting ideas, analysis, or interpretation.

## **2.3 Student Organizations**

The law excludes activities of registered or recognized student organizations. The law does not define "activity," but the ordinary and common meaning of the term "activity" indicates all activities and functions organized by a student group, such as meetings, fundraising, and special programs.

Section 51.3525 does not prohibit identity-based affinity organizations for students, such as a group focused on Hispanic students or LGBTQ issues. Student organizations may sponsor programs with DEI content.

Under College policy, the membership of all registered student organizations must be open to all students.

### **2.3.1 May the College provide funding to an identity-based student organization?**

Yes, so long as the student organization is being treated as any other registered student organization. The College must provide resources, benefits, and support to registered student organizations in a non-discriminatory manner. An identity-based affinity group is entitled to the same benefits as groups that are not based on identity. Providing support on a neutral basis does not constitute a special benefit.

Failing to provide benefits and support to similarly situated organizations could constitute unlawful discrimination in violation of federal law. It also may violate Section 51.9315 of the Texas Education Code, which prohibits an institution from taking action against, or denying a generally available benefit to, a student organization based on the organization's academic, political, religious, ideological, or philosophical views or the group's expressive activities.

Section 51.9315(a) defines a "benefit" to a student organization to include (i) use of college facilities, (ii) use of channels of communications controlled by the college (*e.g.*, a

bulletin board), and (iii) access to funding sources made generally available to student organizations.

Academic departments may not co-sponsor identity-based programs with student organizations when the program promotes or provides differential treatment or special benefits based on race, color, or ethnicity. Departments also may not sponsor a program or activity “designed or implemented” in reference to race, color, ethnicity, gender identity, or sexual orientation. Individual employees on their own time in their personal capacity may speak at an event sponsored by a student organization.

### **2.3.2 May a College employee serve as an advisor to a registered student organization?**

Yes, so long as the student organization is treated as any other student organization. When an institution’s policies require that all registered student organizations have an advisor, then the institution must apply its policies consistently to all registered student organizations. As stated above (Section 2.3.1), providing support on a neutral basis does not constitute a special benefit.

### **2.3.3 May an academic department such as the history department co-sponsor a women’s history speaker during Women’s History Month?**

Yes. Section 51.3525 does not prohibit educational programs that focus on sex. In addition, the guest speaker exception would permit the history department to invite a guest speaker to give a presentation during Women’s History Month. The guest speaker exception is discussed in Section 2.4 below. The program must be open to all persons regardless of gender.

## **2.4 Guest Speakers and Performers on a Short-Term Engagement**

The DEI restrictions in Section 51.3525 do not apply to guest speakers or performers on a short-term engagement. Guest speakers and performers on short-term engagement may speak on campus subject to the College’s regular policies and procedures. For example, the law is not violated if a guest commencement speaker discusses a DEI-related topic or if a guest speaker speaks to a class at the invitation of a faculty member. A guest speaker in a class also would be covered by the academic instruction exception. Employees of the College are not “guest speakers” under the law.

## **2.5 Data Collection**

Section 51.3525 does not apply to data collection, such as collecting demographic data showing retention and drop-out rates among certain populations. Data collection also may be covered by other exceptions, including exceptions for scholarly research and student recruitment. In addition, Section 51.3525(j) specifically requires institutions and the Texas Higher Education Coordinating Board to conduct a study of the impact of the new law. The study must examine data showing rates of student applications, acceptance, matriculation, retention, graduation, and grade point average, disaggregated by race, sex, and ethnicity. Institutions must collect this data and transmit to the Coordinating Board.

## 2.6 Student Recruitment and Admissions

Section 51.3525 does not apply to student recruitment and admissions such as outreach activities. This exception also reasonably encompasses training of employees who are involved in recruiting and admissions, such as training recruiters on cultural competencies that will assist them in performing their duties. The content of such training programs must be reviewed by the relevant College leaders to ensure compliance with Section 51.3525 and avoid inadvertently violating the prohibition on mandatory DEI training.

In addition, although Section 51.3525 does not restrict student recruitment and admissions, certain federal laws do affect these activities and may restrict recruiting activities that are open only to students of a particular race, national origin, or other protected class. Therefore, it remains essential to seek guidance from College leaders when designing, implementing, or funding recruiting activities that are aimed at a population based on race, national origin, sex, or other protected class.

## 2.7 Policies and Programs to Enhance Student Achievement

Section 51.3525 does not prohibit policies and programs to enhance student achievement and post-graduate outcomes that are designed and implemented without regard to race, sex, color, or ethnicity. Nothing in the statute prohibits a retention program aimed at low-income students who are the first in their family to attend college. Nor does it prohibit training employees on how to recognize or assist students who are low-income or are at risk of dropping out. Programs and activities that assist students in securing internships and career opportunities are permissible. Programs and activities must be implemented on a non-discriminatory basis.

### 3

## GRANTS AND ACCREDITATION

Section 51.3525 states that it does not limit or prohibit institutions or their employees, in the context of applying for grants or responding to accreditation organizations, from making statements that highlight the institution's work in supporting first-generation students, low-income students, or underserved student populations. Section 51.3525 also does not prohibit an institution from certifying compliance with state and federal anti-discrimination laws.

Under the language described above, Section 51.3525 would not prohibit the College from responding to a grant application by providing factual information such as statistical demographic data describing underserved student populations. Nor does this provision apply to grant proposals directly related to scholarly research, which is a separate exception under the law (see Section 2.2 above).

### 3.1 May the College apply for a grant that requires performance of DEI-related work?

When preparing an application for a grant, personnel must evaluate the purpose and requirements of each grant and determine whether the College is able to fulfill the requirements of the grant consistent with the College's obligations under Section 51.3525. For example, if a grant proposal directly relates to an exception, such as student recruitment, then the DEI restrictions would not apply.

The College may continue to apply for a variety of grants. However, College leaders must evaluate the purpose and requirements of each grant. The content of a grant application could be affected Section 51.3525. Grant applications should focus on how the College is able to fulfill the requirements of the grant, consistent with its obligations under Section 51.3525.

### 3.2 May the College continue to participate in a grant – awarded prior to the effective date of Senate Bill 17 – that requires the performance of DEI-related work?

Section 51.3525 generally does not impair or change pre-existing grants and contracts; however, all existing grants should be reviewed by the relevant College leaders to ensure compliance with the law. Under Texas law, a statute is presumed to be prospective unless expressly made retroactive.<sup>3</sup> Because the effective date of Senate Bill 17 is January 1, 2024, and because the bill contains no retroactivity language, it presumptively does not impair or affect pre-existing contracts, including grants in progress. TEXAS CONST., § 16, Art. III.

At this time, no court has ruled one way or the other whether an institution may continue to participate in a pre-existing, DEI-related grant after January 1, 2024. For this reason, institutions must proceed cautiously. College leaders should carefully evaluate the facts and circumstances surrounding each specific grant, including (i) whether the terms of the grant require activities that would violate Section 51.3525 and (ii) whether the grant activities fall under an exception, such as the exception for student recruitment.

If the grant is a federal grant, then the Education Department General Administrative Regulations (EDGAR) also must be considered.<sup>4</sup> Federal regulations state that grants must be administered “in full accordance with the U.S. Constitution, Federal Law, and public policy requirements: Including, but not limited to, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination.”<sup>5</sup> As discussed above (Section 1.4), Senate Bill 17 prohibits DEI activities “*except as required by federal law.*” Based on the federal law exception, complying with an on-going federal grant presumptively does not violate Senate Bill 17.

Due to the unavailability of court guidance on this question, grant administrators should consult with College leaders and legal counsel on whether continued participation in

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<sup>3</sup> TEXAS GOV'T CODE, § 311.022.

<sup>4</sup> The EDGAR regulations are available at <https://www2.ed.gov/policy/fund/reg/edgarReg/edgar.html>.

<sup>5</sup> 2 C.F.R. § 200.300, Appendix II; 34 C.F.R. § 75.500(a) & (b).

a grant is permissible and whether other alternatives would be possible, such as asking the grantor about modification of the grant terms or phasing out the grant.

### **3.3 What does “underserved” population mean in Senate Bill 17?**

The statute does not define “underserved” or associated terms such as “low income” or “first generation.” In related contexts, the term “underserved” has been used to describe historical data and trends across communities and populations and how these populations access resources. “Underserved” generally refers to challenges and barriers that impact access to resources, college readiness, and retention. Barriers can be financial, educational, geographic, or related to inadequate housing, transportation, or lack of language proficiency.

### **3.4 Because the College’s student population is 65% Hispanic, may Hispanic students be considered an underserved student population?**

As discussed above (Section 3.3), the statute does not define “underserved.” Although Hispanic students are not underrepresented at SJC, current enrollment figures and whether a population is underserved are different concepts. To evaluate whether Hispanics are underserved as a population in the community, the College must consider different data points, including current and past rates of enrollment, retention, credentials awarded, and community demographics.

## **4**

## **EMPLOYMENT PRACTICES**

### **4.1 May the College engage in activities to seek a diverse pool of candidates for a job opening?**

Under federal law, the College must make employment decisions without regard to race, sex, color, national origin, sexual orientation, gender identity, disability, religion, or other protected classifications. Senate Bill 17 states that hiring processes must be “color-blind and sex-neutral” and must comply with state and federal anti-discrimination laws. However, neither federal law nor Section 51.3525 prohibits a college from seeking to recruit a diverse pool of candidates by widely disseminating job vacancy notices and engaging in outreach efforts. The College may send notices to a wide variety of publications, Internet job sites, job fairs, and other institutions.

### **4.2 Does the law prohibit a job posting that requires foreign language proficiency or that requires experience working with low-income students and underserved student populations?**

A job posting may reference language ability or experience working with certain populations if the experience is job-related.

#### **4.3 May interview committees ask candidates about their experience working with low-income students, first-generation students, and students from underserved populations?**

An interview committee may ask job-related questions, including questions about the candidate's experience working with low-income students, first-generation students, and students from underserved populations. Questions should be phrased broadly, such as asking about the candidate's experience working with students from different backgrounds. However, if the questions are not related to the position for which the candidate is applying, these types of questions should not be asked.

#### **4.4 May the College provide training to interview committees and other decision-makers?**

Section 51.3525 requires that hiring processes and employment practices be "color-blind and sex-neutral" and comply with state and federal anti-discrimination laws. Numerous state and federal law address discrimination, including Title VII (see Section 1.4), the Americans with Disabilities Act, the Age Discrimination in Employment Act, and the Texas Labor Code. To ensure that interview committees and other decision-makers comply with these laws, it is necessary to provide training consistent with Section 51.3525. See also Section 5.5 below.

#### **4.5 Under what circumstances may our department consider race, sex, or national origin as a "plus factor" in the hiring process?**

Section 51.3525 specifically prohibits giving preference to any applicant based on race, sex, color, or national origin.

#### **4.6 What happens if an employment candidate voluntarily submits a written DEI statement or conveys support for DEI during a job interview?**

If a candidate provides an unsolicited DEI statement, the committee or decision-maker may not give preferential treatment to the candidate because of the candidate's support of DEI. Nor may the committee or decision-maker treat the DEI statement as a negative factor.

#### **4.7 Does Section 51.3525 require the College to terminate an employee who inadvertently violates the law?**

Section 51.3525 requires that the college adopt policies and procedures that provide for discipline and termination of employees and contractors who violate the law. In the event of a suspected violation, the College will consider the facts and circumstances in deciding whether discipline or dismissal are appropriate. Facts and circumstances would include whether the violation was inadvertent or intentional and whether there were repeated violations.

#### **4.8 How will the College handle complaints about harassment and discrimination that are based on race, color, ethnicity, and sex?**

The College will continue to handle employee complaints in accordance with College policies and procedures. These policies and procedures implement federal law, including Title VII, Title IX, and Title VI. The College is obligated to evaluate reported violations and to take reasonable corrective action if a violation is found. Complying with federal law is an exception to Section 51.3525. The statute does not prohibit investigations undertaken to comply with federal law.

#### **4.9 Can the College require an employee to perform tasks related to a DEI-related activity, such as requiring a staff member to help coordinate the visit of a guest speaker who will speak on a DEI-related topic?**

Yes. The law states that the College may not hire someone for the *purpose* of performing DEI activities (e.g., promoting or providing differential treatment or special benefits to people on the basis of their race, color, or ethnicity). This prohibition is not violated by assigning an employee a task within the scope of their regular duties. If an employee is responsible for managing audio-visual equipment, the employee can perform this task for any activity at the College, including one with permissible DEI content, such as a presentation by a guest speaker.

## **5**

### **TRAININGS, CONFERENCES, AND HERITAGE ACTIVITIES**

#### **5.1 Does Section 51.3525 prohibit cultural awareness and historical programs such as Black History Month or Hispanic Heritage Month?**

The U.S. Congress and Texas Legislature have a long history of recognizing, commemorating, and celebrating American history. A consensus of institutions has concluded that the law does not prohibit an institution of higher education from participating in official state and federal holidays or recognizing historical events that are culturally significant to the community. And since the effective date of Senate Bill 17, no court or the Texas Attorney General has opined that such activities are prohibited. Such activities, including those sponsored by an academic department, should be designed and implemented with this historical and educational purpose in mind. For example, a panel of faculty presenting historical information would be permissible. No program or activity may promote or provide differential treatment or special benefits based on race, color, or ethnicity. No program may exclude persons based on race, color, ethnicity, or any other covered identity. Activities must be open to all individuals who wish to attend, and attendance may not be compelled.

Student organizations also may sponsor events relating to Black History Month and similar holidays or celebrations, including events that promote DEI. Student organizations are exempt from the DEI restrictions in Section 51.3525.

An academic department may co-sponsor a Black History Month activity with a student organization if the activity is designed and implemented as an educational and

historical activity. If the activity promotes or provides differential treatment or special benefits based on race, color, or ethnicity, then an academic department may not co-sponsor the activity with the student organization.

Finally, educational events may feature a guest speaker. Guest speakers are exempt from the DEI-prohibition in Section 51.3525.

## **5.2 If an employee is found responsible for engaging in racial discrimination or harassment, may the College require that the employee attend training on these subjects?**

Yes. If the College determines that an employee's conduct has violated a federal law such as Title VII or Title VI, the College must take reasonable corrective action, which in many instances will include completion of a training program to assist the individual in understanding and complying with the College's policies and complying with these legal requirements.

## **5.3 If an employee is found responsible for engaging in discrimination or harassment on the basis of a person's sexual orientation, may the College require the employee or student to attend training?**

Yes. The College must comply with federal law, which is an exception to the restrictions in Section 51.3525. Title VII prohibits discrimination on the basis of sex, which encompasses sexual orientation and gender identity.<sup>6</sup> Similarly, regulations from the U.S. Department of Education state that the prohibition on sex discrimination in Title IX includes sexual orientation and gender identity. Under Title IX, institutions must apply harassment grievance procedures without regard to a person's sex, sexual orientation, or gender identity.<sup>7</sup> If the College determines that an employee's conduct has violated applicable law, the College must take reasonable corrective action, which could include assignment of training to assist the individual in understanding and complying with the College's policies.

As of August 2024, there is litigation regarding new Title IX regulations relating to sexual orientation and gender identity. Employees with questions about the status or impact of this litigation should reach out to the administrators identified in Section 7.0 below.

## **5.4 Section 51.3525 states that an institution cannot require DEI training in reference to race, color, ethnicity, gender identity, or sexual orientation except under certain circumstances. Under what circumstances can mandatory training address these subjects?**

Section 51.3525 states that training may be required when the program is developed by an attorney and approved by the institution's legal counsel and the Texas Higher

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<sup>6</sup> *Bostock v. Clayton County, Ga.*, 590 U.S. 644 (2020); *Tarrant County College District v. Sims*, 621 S.W.3d 323, 328-329 (Tex. App. – Fort Worth 2021, no pet.).

<sup>7</sup> See 85 Fed. Reg. 30026, 30064, 30177-78 (May 20, 2020).

Education Coordinating Board for the sole purpose of ensuring compliance with any applicable court order or state or federal law.

### **5.5 Does the prohibition on DEI trainings apply to training programs on Title IX or annual equal employment opportunity trainings?**

The prohibition on DEI trainings in Section 51.3525 does not restrict basic equal employment opportunity training and Title VII and Title IX compliance training that is designed and implemented to educate employees on prohibited acts and reporting procedures relating to discrimination.<sup>8</sup>

### **5.6 May the College pay the expenses for an employee to attend a conference or scholarship luncheon sponsored by an identity-based organization such as an association of Hispanic educators?**

Generally, yes. The prohibitions in Section 51.3525 are not violated by a policy or procedure that allows employees to participate in off-campus conferences, such as a professional development conference, and to receive reimbursement in accordance with a neutral and non-discriminatory policy regarding professional development and academic conferences. Approval should be based on neutral criteria that do not consider DEI as a factor, and the evaluation should consider the primary purpose of the activity. Attendance at such conferences must be voluntary, and employees who elect to attend such conferences may not be treated more favorably or less favorably than faculty who do not elect to attend such conferences.

### **5.7 May the College have sports teams separated by sex or host a program that is focused on women, such as a program on women in science?**

Programs and activities designed for women or men that are otherwise lawfully implemented remain permissible. Such programs must comply with existing state and federal discrimination laws. An example of a permissible program is men's and women's athletics. Other types of activities, such as a program discussing women in STEM, must allow participation by both men and women as attendees and speakers.

### **5.8 May the College sponsor or host an activity that is focused on race or ethnicity, such as an activity focused on Black engineers?**

Activities and programs specifically designed or implemented in reference to race, color, ethnicity, sexual orientation, or gender identity generally are not allowed unless they

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<sup>8</sup> See generally TEXAS LABOR CODE § 21.010 (mandatory training on employment discrimination policies); 40 TEXAS ADMIN. CODE § 819.24 (subjects of mandatory training, including identification of protected classes under federal law); TEXAS EDUC. CODE § 51.282 (requiring a comprehensive prevention and outreach program on sexual harassment, sexual assault, dating violence, and stalking); 34 C.F.R. § 106.45 (2020) (describing Title IX grievance process); EEOC, “Enforcement Guidance on Harassment in the Workplace” (April 29, 2024), [www.eeoc.gov/laws/guidance/enforcement-guidance-harassment-workplace](https://www.eeoc.gov/laws/guidance/enforcement-guidance-harassment-workplace) (describing effective training under Title VII).

fit within an exception in the law. The substance of the program – and not the title of the program – is paramount. Whether a program violates Section 51.3525 will depend on the facts and circumstances relating to the program. The College will need to evaluate whether the proposed program provides preferential treatment or a special benefit or detriment based on race, color, ethnicity, sexual orientation, or gender identity, including whether the program excludes individuals based on a protected classification.

### **5.9 May the College allow an external organization to rent a campus auditorium to hold a DEI-related conference?**

When an institution has policies and procedures that permit rental of college facilities by community or external organizations, the institution does not violate Section 51.3525 by renting a facility in accordance with those policies and procedures. If the institution denies a rental application based on the organization’s DEI viewpoint or the identity of its members, such exclusion could violate the First Amendment. However, if such an event is held, the institution should exercise caution and avoid action that could give the appearance of college sponsorship. In addition, employees may choose to attend the activity but must do so on their own time.

### **5.10 May a supervisor or leader use the “guest speaker” exception to provide a mandatory DEI training?**

No. The College may not engage or invite a contractor for the purpose of providing mandatory DEI training.

### **5.11 May the College pay dues to various chambers of commerce and community organizations tied to a specific demographic group? May employees serve on the boards of these organizations?**

Participation may be allowed provided the College is allowed to select its own participants (using neutral criteria) and provided there is no requirement for the College or its participants to submit a DEI statement. Additional factors to consider are (i) the nature/mission of the organization, (ii) whether the organization excludes individuals or members based on race, color, or ethnicity, (iii) the reasons for the College’s participation, (iv) the role of the College if it becomes a member and the public purpose to be served, and (v) whether all College employees are eligible to participate or attend regardless of their race, color, or ethnicity. In addition to complying with Senate Bill 17, the College must ensure that the expenditure of public funds serves a public purpose and that the College will receive a return benefit for its expenditure as required by other Texas law.

Employees may continue to serve as board members of external organizations on their own time. Whether the employee may participate on College time and whether the College may pay the employee’s expenses will depend on the facts and circumstances. College leaders must evaluate whether the employee’s participation constitutes an impermissible special benefit or preferential treatment under Section 51.3525. See also Section 5.6 above.



## MISCELLANEOUS

### **6.1 May a faculty member write a letter of recommendation for a student who is applying for a scholarship, internship, or job with a DEI-related organization?**

Yes, so long as the faculty member does not deny requests from students who are applying to non-DEI-related organizations.

### **6.2 May the College purchase textbooks, literature, and/or professional development materials for check-out at the library even if they contain DEI content?**

San Jacinto College is committed to maintaining an educational community founded on the free and open exchange of ideas. *See* SJC Policy V.5003.A, *Academic Freedom*. Faculty and students may pursue scholarly inquiry without undue restriction and explore the marketplace of ideas. This includes library acquisitions that address different perspectives on an issue. The College's library collection policy governs the procedures to develop, with faculty assistance, a collection that serves each discipline taught on the campuses and meets the need of students in their academic studies. *See* SJC Policy III.3002.A and Procedure III.3002.A.a, *Library Collection Development*.

So long as the College does not prefer collections based on race, sex, color, ethnicity, and national origin or acquire materials for the purpose of providing prohibited DEI training, the College may continue to acquire a wide variety of materials in service of its educational mission. Some materials also may fall within exceptions to Section 51.3525, including the academic course instruction exception (*e.g.*, library materials to be used by students for class assignments). In addition, in light of their academic responsibilities, faculty may continue to access all resources available in the on-line professional development library to develop their knowledge and skills. The library of professional development materials necessarily covers multiple topics, including modules with DEI content.

### **6.3 May the College post DEI activities on the College website, social media sites, bulletin boards, and calendars?**

Yes, in most circumstances. For example, if an activity falls within a Senate Bill 17 exception, such as a guest lecture or student recruitment activity, then the College may reference the activity on its calendar. If the College allows employees and students to have access to college communication sites to promote organizational activities, access must be provided in a neutral and non-discriminatory basis. For example, if the College regularly features links to student organizations or maintains a calendar of student organization activities, it may post a student organization's DEI activities in addition to non-DEI activities. Denying student access based on viewpoint, race, or other protected class could

violate federal law and Section 51.9315(a) of the Texas Education Code. As discussed above (Section 2.3.1), all registered student organizations are entitled to equal benefits.

#### **6.4 Does Section 51.3525 prohibit an employee or student from specifying their preferred pronouns or preferred name on a name tag or email address?**

Section 51.3525 neither prohibits nor requires an employee or student to specify their preferred pronouns or preferred name.

#### **6.5 May the College administer scholarships that are restricted to individuals of a particular race, ethnicity, national origin, or other protected class?**

Administering a scholarship that excludes applicants or recipients based on their race, color, ethnicity, or national origin likely will violate Section 51.3525 and also federal law. *See generally* 34 C.F.R. § 100.3(b)(1) and 100.3(b)(2). Scholarships with these types of restrictions should be reviewed by legal counsel to ensure compliance with all applicable laws.

## **7**

## **Campus Resources for Further Information**

Employees and students with questions about this guidance or Section 51.3525 of the Texas Education Code may contact the following individuals:

Allatia Harris  
VICE CHANCELLOR, STRATEGIC INITIATIVES  
Email: [Allatia.Harris@sjcd.edu](mailto:Allatia.Harris@sjcd.edu)  
Phone: 281-459-7140

Sandra Ramirez  
VICE CHANCELLOR, HUMAN RESOURCES  
Address: 4624 Fairmont Parkway Pasadena, Texas 77504  
Email: [Sandra.Ramirez@sjcd.edu](mailto:Sandra.Ramirez@sjcd.edu)  
Phone: 281-991-2648

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Institution: South Plains College  
Date Submitted: 07/02/24  
Pages: 3



## SOUTH PLAINS COLLEGE

I certify, under penalty of perjury and the loss of funding to South Plains College, that South Plains 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 2023-2024 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 South Plains College has conducted the following: An institution-wide evaluation was conducted to ensure that no actions, policies, or practices were in place that violated Tex. Educ. Code § 51.3525. Student training was revised to exclude any type of diversity, equity, and inclusion training. South Plains College has not created any offices that relate to diversity, equity, or inclusion activities at any of our campuses. South Plains College administration is regularly evaluating all operation activities to ensure that SPC is in full compliance with § 51.3525.

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:



Robin Satterwhite, Ed.D.

Date:

7/1/24

Signature of Board Chair:



Mike Box

Date:

7/1/24

Date submitted to THECB:

\_\_\_\_\_

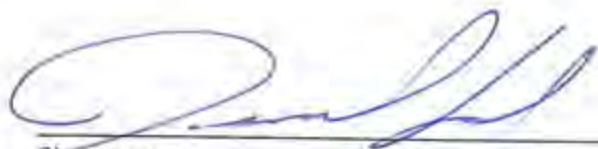
Date submitted to the Legislature:

\_\_\_\_\_

Institution: South Texas College  
Date Submitted: 08/12/24  
Pages: 43

**ELECTRONIC SIGNATURE ACKNOWLEDGEMENT AND CONSENT FORM**

I, Dr. Ricardo J. 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

August 12, 2024

Date

Please check one:

President

Board Chair

**ELECTRONIC SIGNATURE ACKNOWLEDGEMENT AND CONSENT FORM**

I, Dr. Alejo Salinas Jr., 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.

Alejo Salinas Jr.  
Signature

August 12, 2024  
Date

Please check one:

- President  
 Board Chair

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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

ADMINISTRATIVE ORGANIZATION

BG  
(LOCAL)

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]

EMPLOYMENT OBJECTIVES  
EQUAL EMPLOYMENT OPPORTUNITY

DAA  
(LOCAL)

**Equal Employment  
Opportunity  
Statement**

The College District does not discriminate or tolerate discrimination against any employee, applicant for employment, student, or applicant for admission on the basis of race, color, national origin, ethnicity, religion, age, sex, sexual orientation, gender, gender identity, gender expression, pregnancy, parental status, disabilities, genetic information, veteran status, or any other protected category under applicable local, state, or federal law. Conduct that excludes participation, denies benefits, or subjects others to discrimination is prohibited. The College District complies with all applicable policies and state and federal legislation in order to combat discrimination.

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

EMPLOYMENT OBJECTIVES  
EQUAL EMPLOYMENT OPPORTUNITY

DAA  
(LOCAL)

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;
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.

**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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## PROCEDURE

### **Third-Party Contractor Relations: Compliance with and Enforcement of Texas Education Code Sec. 51.3525 (SB 17) -- *Responsibility of Governing Boards Regarding Diversity, Equity, and Inclusion Initiatives***

#### **Purpose**

This procedure sets forth the process by which the Board of Trustees shall meet its obligations to ensure that third-party contractors to South Texas College (STC) comply with SB 17 and to sanction any contractors who fail to comply.

#### **Background**

SB 17 provides, in pertinent part in Subdivision 1, that the STC Board shall ensure that each unit of STC does not, except as required by federal law, i) contract with a third party to perform the duties of a diversity, equity, and inclusion office<sup>i</sup>; ii) 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; iii) 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 STC function; or iv) require, as a condition of enrolling at STC or performing any STC function, any person to participate in diversity, equity, and inclusion training<sup>ii</sup>.

In addition, SB 17 states that the STC Board shall adopt policies and procedures for appropriately disciplining, including by termination, an STC contractor who engages in conduct in violation of Subdivision 1. In accordance with SB 17, the Board has adopted Policy CFE.

#### **Procedures**

1. All contracts and agreements with third parties shall include an acknowledgment by the contractor that the contractor is aware of the requirements of SB 17, that the contractor is in compliance and shall remain in compliance with SB 17 during the term of the contract, and that the contract may be terminated by STC without liability if the contractor is found to be in violation of SB 17.
2. STC's standard terms and conditions contained in the Purchase Order shall include the acknowledgment set forth in Procedure 1.
3. All contracts which must be signed by STC must include, when submitted for execution by any STC officer, a verification that the contractor has made the acknowledgment set forth in Procedure 1.
4. When negotiating contracts and defining the scope and nature of the services to be provided by a contractor, the STC officer who is responsible for the contract shall ensure that the scope and nature of the services as defined in the contract comply with SB 17

and shall reasonably monitor the services actually provided by the contractor to verify compliance with SB 17.

5. If a contractor is determined to be or suspected of being in violation of SB 17, the contractor shall be contacted by the Contracts & Regulatory Resources Officer, who shall explain the nature of the violation as well as, if applicable, remedial actions the contractor must take to become compliant. If the noncompliance can be remedied and the contractor agrees to implement remedial actions, the contractor shall be given a reasonable period of time, not to exceed ninety (90) days from the date of notification, to become compliant.
6. If the contractor refuses or fails to remedy the noncompliance within the allowed time frame, the Contracts & Regulatory Resources Officer shall terminate the contract in accordance with its terms and notify the contractor of the termination.
7. If the contractor believes that it is not in violation of SB 17 or otherwise disagrees with any decision made by the Contracts & Regulatory Resources Officer or by any other STC employee, the contractor may appeal the decision to the Vice President of Finance & Administrative Services who shall promptly evaluate the appeal and make a final determination. The appeal must be made in writing and submitted within fifteen (15) days of the contractor's receipt of the notification described in section 5 above. The Vice President of Finance & Administrative Services may seek advice from legal counsel before rendering a decision. The contractor shall be promptly notified of the decision. The termination of the contract shall be stayed pending any appeal.

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<sup>i</sup> Under SB 17, "diversity, equity, and inclusion office" means an office, division, or other unit of STC established for the purpose of: a) influencing hiring or employment practices at STC 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; b) promoting differential treatment of or providing special benefits to individuals on the basis of race, color, or ethnicity; c) promoting policies or procedures designed or implemented in reference to race, color, or ethnicity, other than policies or procedures approved in writing by STC'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 d) 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 STC'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.

<sup>ii</sup>Such training includes a training, program, or activity designed or implemented in reference to race, color, ethnicity, gender identity, or sexual orientation but does not include a training, program, or activity developed by an attorney and approved in writing by STC'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.

## South Texas College: Vendor Acknowledgement

South Texas College (“STC”) has entered into an agreement with \_\_\_\_\_ (“Vendor”) for the purchase of goods and/or services as more specifically described in Vendor’s \_\_\_\_\_ (“Agreement”). Notwithstanding any language contained in the Agreement including, without limitation, any provision stating that the Agreement constitutes the complete agreement between the parties, Vendor agrees and acknowledges as follows:

1. Vendor is aware that STC is an agency of the State of Texas (a public institution of higher education created under the laws of the State) and, as a result, there may be constitutional and statutory limitations on STC’s authority to enter into certain terms and conditions which may be part of the Terms including, without limitation, terms and conditions relating to any agreement to: a) indemnify Vendor; b) assume or accept liability for acts or omissions of third parties; c) pay any damages except to the extent allowed by Texas law; d) resolve disputes through arbitration or mediation; e) submit to the personal jurisdiction of a state other than Texas; f) alter established legal processes including waivers of jury trials and changes in limitation periods; and g) grant control of litigation or settlement to another party (collectively the “Limitations”). Vendor agrees that those terms and conditions in the Terms relating to the Limitations, if any, will be binding on STC only to the extent authorized or permitted by the laws of the State of Texas. Vendor further agrees that nothing contained in the Terms is intended or shall be construed as a waiver of any privileges, defenses or immunities conferred upon or otherwise available to STC under Texas law.

2. To the extent Texas Govt. Code Chapter 2260 is applicable and is not preempted by other applicable law, the dispute resolution process provided for in Chapter 2260, and the related rules adopted by the Texas Attorney General, must be used by STC and Vendor to attempt to resolve any claim for breach of contract made by Vendor that cannot be resolved in the ordinary course of business. STC’s Vice President for Finance & Administrative Services will examine Vendor’s claim and any counterclaim and negotiate with Vendor in an effort to resolve such claims.

3. If Vendor is a taxable entity subject to the Texas Franchise Tax (Texas Tax Code Chapter 171), Vendor certifies that Vendor is not currently delinquent in the payment of any taxes due under Chapter 171 or that Vendor is not subject to those taxes.

4. STC strictly adheres to all statutes, court decisions and opinions of the Texas Attorney General with respect to disclosure of public information under the Texas Public Information Act (“TPIA”). Unless otherwise informed by Vendor in writing, STC shall consider all information, documentation and any other materials requested to be submitted in connection with the Agreement to be of a nonconfidential and non-proprietary nature and therefore subject to public disclosure under the TPIA.

5. Pursuant to *Texas Local Govt. Code*, Chapter 176, STC is a “local governmental entity” as that term is defined in Chapter 176 and all vendors who contract or seek to contract with a local governmental entity such as STC may be required to complete a conflict-of-interest questionnaire (“CIQ”) if such vendor has a relationship with an officer of the local governmental entity who is considered a “local government officer” as defined by Chapter 176 or with a family member of such officer. If completion of a CIQ is required as of the effective date or at any time during the term of the Agreement, Vendor shall file the CIQ with STC’s Vice President of Finance & Administrative Services, with a copy to STC’s Director of Purchasing.

At <https://www.ethics.state.tx.us/data/forms/conflict/CIQ.pdf>, the Vendor can find the official CIQ form along with a list of STC officers who are defined by Chapter 176 as “local government officers.”

6. Pursuant to *Texas Education Code* §44.034, STC, as a public junior college, is considered a “school district” as that term is defined in §44.034 and a person or business entity, **excluding** publicly-traded companies and certain vendors of library goods and services, that does business with a school district such as STC, must notify the school district if such person, or an owner or operator of such business entity, has ever been convicted of a felony, and must include in the notification a general description of the conduct which resulted in the felony conviction.

At <https://finance.southtexascollege.edu/purchasing/purchase/files/Form-Criminal-History.pdf>, Vendor can find a Criminal History Disclosure Form (“CHDF”) which shall be used for this purpose. If Vendor is required to submit a CHDF pursuant to §44.034 as of the effective date or at any time during the term of the Agreement, Vendor shall send the CHDF to STC’s Vice President of Finance & Administrative Services, with a copy to STC’s Director of Purchasing.

7. Texas Education Code Section 51.3525 (*Responsibility of Governing Boards Regarding Diversity, Equity, and Inclusion Initiatives*) prohibits STC, whether acting through employees or third-party contractors, from engaging in certain activities as set forth in Subsection (b), Subdivision (1) and to adopt policies and procedures for appropriately disciplining, including by termination, any STC contractor who engages in conduct in violation of Subdivision (1). Vendor represents that the Agreement, including any services provided thereunder by Vendor, shall not violate Texas Education Code Section 51.3525 and acknowledges that if the Agreement is in violation of Section 51.3525, STC has the right to terminate the Agreement without liability in accordance with STC policies and procedures.

**To the extent that the language in this Acknowledgement is in conflict with any language in the Agreement, the language in this Acknowledgement will control.**

**Acknowledged and Agreed To:**

**Vendor:** { \_\_\_\_\_ }

\_\_\_\_\_  
Name: { \_\_\_\_\_ }

Title: { \_\_\_\_\_ }

Date: \_\_\_\_\_

South Texas College  
Annual SB 17 Certification of Compliance  
Department/Division Acknowledgement

Division: Office of the President

Vice President/President: Dr. Ricardo J. Solis

I, the undersigned, certify that I have completed the Annual SB 17 Certification of Compliance and all departments under the direction of the named division, meet compliance with Senate Bill 17 (Texas Education Code 51.3525), and the related rules, regulations, policies, and procedures defined therein.

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.

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 promoting differential treatment of or providing special benefits to individuals on the basis of race, color, or ethnicity.

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 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

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 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).

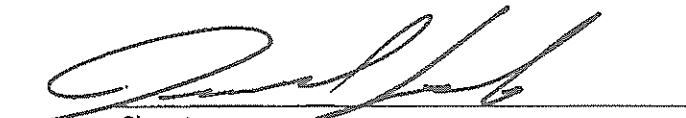
I certify, in accordance with Tex. Educ. Code § 51.3525(e), that no state appropriations to this institution for the current state fiscal year have been spent prior to submission of this certification report to the Legislature and the Texas Higher Education Coordinating Board.

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, or exceptional items during the state fiscal biennium immediately following the state fiscal biennium in which the determination is made.

I understand the Coordinating Board will forward all complaints regarding an institution's violation of Tex. Educ. Code § 51.3525 to the State Auditor's Office for review.

Dr. Ricardo J. Solis

Printed Name

  
Signature

JUL 09 2024

Date

**South Texas College  
Department/Division SB 17 Checklist**

No.	SB 17 Checklist	(Yes/No/NA)	If no, indicate the corrective action plan that has been taken.
1	The college/department does not have an established diversity, equity, and inclusion office, division, or unit.	Yes	
2	The college/department does not hire or assign employees of the college, or contract with a third party, to perform the duties of a diversity, equity, and inclusion office.	Yes	
3	The college/department does not 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.	Yes	
4	The college/department does 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.	Yes	
5	The college/department does not require as a condition of enrolling at the college or performing any college function any person 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.	Yes	
6	The college/department has adopted policies and procedures for appropriately disciplining, including by termination, an employee or contractor of the college who engages in conduct in violation of SB 17.	Yes	
7	The college/department will submit to the legislature and Texas Higher Education Coordinating Board a report certifying the college board's compliance with the bill's provisions.	Yes	

No.	SB 17 Checklist	(Yes/No/NA)	If no, indicate the corrective action plan that has been taken.
8	The governing board or board's designee will testify, if requested, before the standing legislative committee at a public hearing of the committee regarding the board's compliance.	Yes	
9	The college/department does not maintain accounts or budget codes that include titles, locations/departments, and sub-accounts/sub-departments that fund DEI initiatives.	Yes	
10	The college/department has updated job postings, job descriptions, performance evaluation tools, materials, etc. as applicable, to ensure compliance.	Yes	
11	The college/department does not maintain active committees in violation of SB 17.	Yes	
12	The college/department does not maintain websites and social media platforms in violation of SB 17.	Yes	
13	The college/department does not award or administer grants in violation of SB 17.	Yes	
14	The college/department does not promote or administer scholarships in violation of SB 17.	Yes	
15	The college/department does not promote policies or procedures designed or implemented in reference to race, color, or ethnicity other than policies or procedures approved in writing by the college's legal counsel and THECB for the sole purpose of ensuring compliance with any applicable court order or state or federal law.	Yes	
16	The college/department does not promote differential treatment or provide special benefits to individuals on the basis of race, color, or ethnicity.	Yes	
17	Student organizations intended to support students on a covered identity group or that promote DEI are provided the same benefits as other student organizations.	Yes	

Vice President/President Signature:



Date: 8/7/24

South Texas College

Annual SB 17 Certification of Compliance

Department/Division Acknowledgement

Division: Information Services, Planning, Performance, & Strategic Initiatives

Vice President/President: Interim VP Jesús H. Campos

I, the undersigned, certify that I have completed the Annual SB 17 Certification of Compliance and all departments under the direction of the named division, meet compliance with Senate Bill 17 (Texas Education Code 51.3525), and the related rules, regulations, policies, and procedures defined therein.

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.

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 promoting differential treatment of or providing special benefits to individuals on the basis of race, color, or ethnicity.

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 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

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 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 Fiscal Year 2025 have been spent prior to submission of this certification report for Fiscal Year 2024 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 the Coordinating Board will forward all complaints regarding an institution's violation of Tex. Educ. Code § 51.3525 to the State Auditor's Office for review.

  
Signature

July 11, 2024  
Date

**South Texas College  
Department/Division SB 17 Checklist**

No.	SB 17 Checklist	(Yes/No/NA)	If no, indicate the corrective action plan that has been taken.
1	The college/department does not have an established diversity, equity, and inclusion office, division, or unit.	Yes	
2	The college/department does not hire or assign employees of the college, or contract with a third party, to perform the duties of a diversity, equity, and inclusion office.	Yes	
3	The college/department does not 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.	Yes	
4	The college/department does 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.	Yes	
5	The college/department does not require as a condition of enrolling at the college or performing any college function any person 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.	Yes	
6	The college/department has adopted policies and procedures for appropriately disciplining, including by termination, an employee or contractor of the college who engages in conduct in violation of SB 17.	N/A	
7	The college/department will submit to the legislature and Texas Higher Education Coordinating Board a report certifying the college board's compliance with the bill's provisions.	N/A	
No.	SB 17 Checklist	(Yes/No/NA)	If no, indicate the corrective action plan that has been taken.

8	The governing board or board's designee will testify, if requested, before the standing legislative committee at a public hearing of the committee regarding the board's compliance.	N/A	
9	The college/department does not maintain accounts or budget codes that include titles, locations/departments, and sub-accounts/sub-departments that fund DEI initiatives.	Yes	
10	The college/department has updated job postings, job descriptions, performance evaluation tools, materials, etc. as applicable, to ensure compliance.	Yes	
11	The college/department does not maintain active committees in violation of SB 17.	Yes	
12	The college/department does not maintain websites and social media platforms in violation of SB 17.	Yes	
13	The college/department does not award or administer grants in violation of SB 17.	Yes	
14	The college/department does not promote or administer scholarships in violation of SB 17.	Yes	
15	The college/department does not promote policies or procedures designed or implemented in reference to race, color, or ethnicity other than policies or procedures approved in writing by the college's legal counsel and THECB for the sole purpose of ensuring compliance with any applicable court order or state or federal law.	Yes	
16	The college/department does not promote differential treatment or provide special benefits to individuals on the basis of race, color, or ethnicity.	Yes	
17	Student organizations intended to support students on a covered identity group or that promote DEI are provided the same benefits as other student organizations.	Yes	

Interim  
**Vice President/President Signature:**  
of ISPP&SI

Date: July 11, 2024



South Texas College

Annual SB 17 Certification of Compliance

Department/Division Acknowledgement

Division:

Institutional Advancement & External Affairs

Vice President/President:

Dr. Dorothy H. Booback

I, the undersigned, certify that I have completed the Annual SB 17 Certification of Compliance and all departments under the direction of the named division, meet compliance with Senate Bill 17 (Texas Education Code 51.3525), and the related rules, regulations, policies, and procedures defined therein.

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.

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 promoting differential treatment of or providing special benefits to individuals on the basis of race, color, or ethnicity.

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 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

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 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.

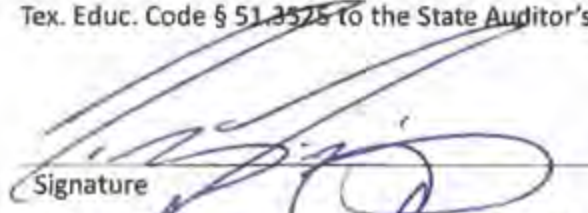
I certify, in accordance with Tex. Educ. Code § 51.3525(b)(1)(E), this institution does not, except as required by federal law, require any person, as a condition of enrolling at the institution or performing any institution function, to participate in diversity, equity, and inclusion training, which 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 Fiscal Year 2025 have been spent prior to submission of this certification report for Fiscal Year 2024 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 the Coordinating Board will forward all complaints regarding an institution's violation of Tex. Educ. Code § 51.3525 to the State Auditor's Office for review.

  
Signature  
DR. ARMANDO H. HERNANDEZ

  
Date


**South Texas College  
Department/Division SB 17 Checklist**

No.	SB 17 Checklist	(Yes/No/NA)	If no, indicate the corrective action plan that has been taken.
1	The college/department does not have an established diversity, equity, and inclusion office, division, or unit.	Yes	
2	The college/department does not hire or assign employees of the college, or contract with a third party, to perform the duties of a diversity, equity, and inclusion office.	Yes	
3	The college/department does not 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.	Yes	
4	The college/department does 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.	Yes	
5	The college/department does not require as a condition of enrolling at the college or performing any college function any person 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.	Yes	
6	The college/department has adopted policies and procedures for appropriately disciplining, including by termination, an employee or contractor of the college who engages in conduct in violation of SB 17.	Yes	
7	The college/department will submit to the legislature and Texas Higher Education Coordinating Board a report certifying the college board's compliance with the bill's provisions.	Yes	
No.	SB 17 Checklist	(Yes/No/NA)	If no, indicate the corrective action plan that has been taken.

8	The governing board or board's designee will testify, if requested, before the standing legislative committee at a public hearing of the committee regarding the board's compliance.	Yes	
9	The college/department does not maintain accounts or budget codes that include titles, locations/departments, and sub-accounts/sub-departments that fund DEI initiatives.	Yes	
10	The college/department has updated job postings, job descriptions, performance evaluation tools, materials, etc. as applicable, to ensure compliance.	Yes	
11	The college/department does not maintain active committees in violation of SB 17.	Yes	
12	The college/department does not maintain websites and social media platforms in violation of SB 17.	Yes	
13	The college/department does not award or administer grants in violation of SB 17.	Yes	
14	The college/department does not promote or administer scholarships in violation of SB 17.	Yes	
15	The college/department does not promote policies or procedures designed or implemented in reference to race, color, or ethnicity other than policies or procedures approved in writing by the college's legal counsel and THECB for the sole purpose of ensuring compliance with any applicable court order or state or federal law.	Yes	
16	The college/department does not promote differential treatment or provide special benefits to individuals on the basis of race, color, or ethnicity.	Yes	
17	Student organizations intended to support students on a covered identity group or that promote DEI are provided the same benefits as other student organizations.	Yes	

Vice President/President Signature:

Date: 08/07/24

  
 DR. PROVEN A. MOORHOUSE  
 VP IAEA

South Texas College

Annual SB 17 Certification of Compliance

Department/Division Acknowledgement

Division:

Finance & Administrative Services

Vice President/President:

Maria G. Dalfaz

I, the undersigned, certify that I have completed the Annual SB 17 Certification of Compliance and all departments under the direction of the named division, meet compliance with Senate Bill 17 (Texas Education Code 51.3525), and the related rules, regulations, policies, and procedures defined therein.

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.

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 promoting differential treatment of or providing special benefits to individuals on the basis of race, color, or ethnicity.

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 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

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 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 Fiscal Year 2025 have been spent prior to submission of this certification report for Fiscal Year 2024 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 the Coordinating Board will forward all complaints regarding an institution's violation of Tex. Educ. Code § 51.3525 to the State Auditor's Office for review.



Signature

7/22/24

Date

**South Texas College  
Department/Division SB 17 Checklist**

No.	SB 17 Checklist	(Yes/No/NA)	If no, indicate the corrective action plan that has been taken.
1	The college/department does not have an established diversity, equity, and inclusion office, division, or unit.	Yes	
2	The college/department does not hire or assign employees of the college, or contract with a third party, to perform the duties of a diversity, equity, and inclusion office.	Yes	
3	The college/department does not 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.	Yes	
4	The college/department does 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.	Yes	
5	The college/department does not require as a condition of enrolling at the college or performing any college function any person 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.	Yes	
6	The college/department has adopted policies and procedures for appropriately disciplining, including by termination, an employee or contractor of the college who engages in conduct in violation of SB 17.	Yes	
7	The college/department will submit to the legislature and Texas Higher Education Coordinating Board a report certifying the college board's compliance with the bill's provisions.	Yes	
No.	SB 17 Checklist	(Yes/No/NA)	If no, indicate the corrective action plan that has been taken.

8	The governing board or board's designee will testify, if requested, before the standing legislative committee at a public hearing of the committee regarding the board's compliance.	N/A	
9	The college/department does not maintain accounts or budget codes that include titles, locations/departments, and sub-accounts/sub-departments that fund DEI initiatives.	Yes	
10	The college/department has updated job postings, job descriptions, performance evaluation tools, materials, etc. as applicable, to ensure compliance.	Yes	
11	The college/department does not maintain active committees in violation of SB 17.	Yes	
12	The college/department does not maintain websites and social media platforms in violation of SB 17.	Yes	
13	The college/department does not award or administer grants in violation of SB 17.	Yes	
14	The college/department does not promote or administer scholarships in violation of SB 17.	Yes	
15	The college/department does not promote policies or procedures designed or implemented in reference to race, color, or ethnicity other than policies or procedures approved in writing by the college's legal counsel and THECB for the sole purpose of ensuring compliance with any applicable court order or state or federal law.	Yes	
16	The college/department does not promote differential treatment or provide special benefits to individuals on the basis of race, color, or ethnicity.	Yes	
17	Student organizations intended to support students on a covered identity group or that promote DEI are provided the same benefits as other student organizations.	Yes	

Vice President/President Signature:

Maria B. Deltz

Date:

7/22/24

South Texas College

Annual SB 17 Certification of Compliance

Department/Division Acknowledgement

Division: Academic Affairs and Economic Development

Vice President/President: Dr. Anahid Petrosian

I, the undersigned, certify that I have completed the Annual SB 17 Certification of Compliance and all departments under the direction of the named division, meet compliance with Senate Bill 17 (Texas Education Code 51.3525), and the related rules, regulations, policies, and procedures defined therein.

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.

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 promoting differential treatment of or providing special benefits to individuals on the basis of race, color, or ethnicity.

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 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

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 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 Fiscal Year 2025 have been spent prior to submission of this certification report for Fiscal Year 2024 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 the Coordinating Board will forward all complaints regarding an institution's violation of Tex. Educ. Code § 51.3525 to the State Auditor's Office for review.

  
\_\_\_\_\_  
Signature

8/12/2024  
\_\_\_\_\_  
Date

**South Texas College  
Department/Division SB 17 Checklist**

No.	SB 17 Checklist	(Yes/No/NA)	If no, indicate the corrective action plan that has been taken.
1	The college/department does not have an established diversity, equity, and inclusion office, division, or unit.	Yes	
2	The college/department does not hire or assign employees of the college, or contract with a third party, to perform the duties of a diversity, equity, and inclusion office.	Yes	
3	The college/department does not 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.	Yes	
4	The college/department does 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.	Yes	
5	The college/department does not require as a condition of enrolling at the college or performing any college function any person 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.	Yes	
6	The college/department has adopted policies and procedures for appropriately disciplining, including by termination, an employee or contractor of the college who engages in conduct in violation of SB 17.	Yes	
7	The college/department will submit to the legislature and Texas Higher Education Coordinating Board a report certifying the college board's compliance with the bill's provisions.	Yes	
No.	SB 17 Checklist	(Yes/No/NA)	If no, indicate the corrective action plan that has been taken.

8	The governing board or board's designee will testify, if requested, before the standing legislative committee at a public hearing of the committee regarding the board's compliance.	NA	
9	The college/department does not maintain accounts or budget codes that include titles, locations/departments, and sub-accounts/sub-departments that fund DEI initiatives.	Yes	
10	The college/department has updated job postings, job descriptions, performance evaluation tools, materials, etc. as applicable, to ensure compliance.	Yes	
11	The college/department does not maintain active committees in violation of SB 17.	Yes	
12	The college/department does not maintain websites and social media platforms in violation of SB 17.	Yes	
13	The college/department does not award or administer grants in violation of SB 17.	Yes	
14	The college/department does not promote or administer scholarships in violation of SB 17.	NA	
15	The college/department does not promote policies or procedures designed or implemented in reference to race, color, or ethnicity other than policies or procedures approved in writing by the college's legal counsel and THECB for the sole purpose of ensuring compliance with any applicable court order or state or federal law.	Yes	
16	The college/department does not promote differential treatment or provide special benefits to individuals on the basis of race, color, or ethnicity.	Yes	
17	Student organizations intended to support students on a covered identity group or that promote DEI are provided the same benefits as other student organizations.	NA	

Vice President/President Signature:



Date: 9/14/2024

South Texas College  
Annual SB 17 Certification of Compliance  
Department/Division Acknowledgement

Division: Student Affairs and Enrollment Management

Vice President/President: Dr. Matthew S Hebbard

I, the undersigned, certify that I have completed the Annual SB 17 Certification of Compliance and all departments under the direction of the named division, meet compliance with Senate Bill 17 (Texas Education Code 51.3525), and the related rules, regulations, policies, and procedures defined therein.

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.

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 promoting differential treatment of or providing special benefits to individuals on the basis of race, color, or ethnicity.

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 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

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 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 Fiscal Year 2025 have been spent prior to submission of this certification report for Fiscal Year 2024 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 the Coordinating Board will forward all complaints regarding an institution's violation of Tex. Educ. Code § 51.3525 to the State Auditor's Office for review.

  
\_\_\_\_\_  
Signature


8/12/2024  
\_\_\_\_\_  
Date

**South Texas College  
Department/Division SB 17 Checklist**

No.	SB 17 Checklist	(Yes/No/NA)	If no, indicate the corrective action plan that has been taken.
1	The college/department does not have an established diversity, equity, and inclusion office, division, or unit.	Yes	
2	The college/department does not hire or assign employees of the college, or contract with a third party, to perform the duties of a diversity, equity, and inclusion office.	Yes	
3	The college/department does not 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.	Yes	
4	The college/department does 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.	Yes	
5	The college/department does not require as a condition of enrolling at the college or performing any college function any person 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.	Yes	
6	The college/department has adopted policies and procedures for appropriately disciplining, including by termination, an employee or contractor of the college who engages in conduct in violation of SB 17.	Yes	
7	The college/department will submit to the legislature and Texas Higher Education Coordinating Board a report certifying the college board's compliance with the bill's provisions.	NA	
No.	SB 17 Checklist	(Yes/No/NA)	If no, indicate the corrective action plan that has been taken.

8	The governing board or board's designee will testify, if requested, before the standing legislative committee at a public hearing of the committee regarding the board's compliance.	NA	
9	The college/department does not maintain accounts or budget codes that include titles, locations/departments, and sub-accounts/sub-departments that fund DEI initiatives.	Yes	
10	The college/department has updated job postings, job descriptions, performance evaluation tools, materials, etc. as applicable, to ensure compliance.	Yes	
11	The college/department does not maintain active committees in violation of SB 17.	Yes	
12	The college/department does not maintain websites and social media platforms in violation of SB 17.	Yes	
13	The college/department does not award or administer grants in violation of SB 17.	Yes	
14	The college/department does not promote or administer scholarships in violation of SB 17.	Yes	
15	The college/department does not promote policies or procedures designed or implemented in reference to race, color, or ethnicity other than policies or procedures approved in writing by the college's legal counsel and THECB for the sole purpose of ensuring compliance with any applicable court order or state or federal law.	Yes	
16	The college/department does not promote differential treatment or provide special benefits to individuals on the basis of race, color, or ethnicity.	Yes	
17	Student organizations intended to support students on a covered identity group or that promote DEI are provided the same benefits as other student organizations.	Yes	

Vice President/President Signature:

 \_\_\_\_\_

Date: 8/12/24



# **SENATE BILL 17:**

## **CERTIFYING COMPLIANCE PROCEDURES**



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## PURPOSE

The 88<sup>th</sup> Texas Legislature passed Senate Bill 17 (SB 17), and Sec. 51.3525 of the Texas Education Code, during its regular session relating to diversity, equity, and inclusion initiatives at public institutions of higher education. SB 17 requires community colleges to submit to the legislature and The Higher Education Coordinating Board (THECB) a report certifying compliance with the provisions during the preceding fiscal year prior to spending appropriated funds during the new fiscal year. This document aims to establish procedures for certifying compliance with SB 17.

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## SCOPE

The scope is limited to the completion of the report certifying compliance with SB 17 pursuant to Texas Education Code Sec. 51.3525 (b)(1)-(2), (e).

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## ROLES AND RESPONSIBILITIES

The roles and responsibilities for the completion of certifying the SB 17 report are as follows:

- **Board Chair:** is responsible for submitting annual certification report certifying the governing board's compliance with SB 17 to the THECB. Per information reflected on THECB website, certification and documentation submitted to THECB will also be shared with the Texas Legislature.
- **College President:** is responsible for verifying annual compliance with SB 17 and submitting the required annual certification report to the Texas Higher Education Coordinating Board (THECB). Per information reflected on THECB website, certification and documentation submitted to THECB will also be shared with the Texas Legislature.
- **College Vice Presidents/Administrators/Departments:** assess internal operations and activities, implement and document corrective actions to adhere to SB 17, as necessary, and certify annual compliance with SB 17.
- **SB 17 Form Submitter:** is responsible for submitting the annual SB 17 certification report, including, but not limited to, maintaining confirmation from THECB on submission.
- **Business Process and Accountability (BPA):** in coordination with legal counsel, perform periodic reviews of operations and activities to evaluate the college's compliance with SB 17. Obtain annual certification of compliance reports from college divisions/departments on SB 17.

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## ANNUAL CERTIFICATION PROCEDURE

In accordance with SB 17, "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 THECB a report certifying the board's compliance with this section during the preceding state fiscal year."

The College President and Board Chair shall submit a certification of compliance on SB 17 every year prior to spending appropriation funding via the THECB Institutional Certification and Compliance website. The time frame to submit the annual report certifying compliance is August 1 – August 31.

In addition, on an annual basis, in an ongoing effort to adhere to the provisions set forth in SB 17, vice presidents/president and college department leadership shall submit to the BPA documentation certifying compliance with SB 17, no later than August 1st of each year.

The annual SB 17 certification procedure is as follows:

### **Monitor Compliance**

- 1.1. College departments are required to routinely monitor current and new programs, activities, training, procedures, and policies for compliance with SB 17.
- 1.2. College departments must immediately take corrective action to address areas of noncompliance and communicate noncompliance with the division vice president/president.

### **Division/Department Certify Compliance**

- 1.3. On an annual basis, BPA provides SB 17 documentation to division vice presidents/president to certify compliance with SB 17.
- 1.4. Division vice presidents/president, in coordination with college departments, shall confirm compliance with SB 17 and submit the certification documentation to the BPA.

### **Review of Certification Documentation**

- 1.5. BPA will review the documentation provided by the vice presidents/president and will seek clarification from departments as necessary.
- 1.6. BPA will provide the College President with the divisional vice presidents' certification documentation no later than August 15th of each year. The College President may assess or request clarification on the certification documentation.

### **Submission of the Annual Certification Report**

- 1.7. On an annual basis, from August 1 – August 31, BPA will coordinate with the Office of the President and Board Chair on the date to submit the annual report certifying compliance with SB 17.
- 1.8. BPA will schedule a meeting, in-person or virtual, with the College President and Board Chair.
- 1.9. A meeting packet containing divisional vice president certification documentation on SB 17 will be provided to the College President and Board Chair.
- 1.10. The form submitter will access the THECB Institutional Certification and Compliance website portal and guide the College President and Board Chair through each certification item within THECB Certification and Compliance Smartsheet report.
- 1.11. Following the review of each certification line item on the THECB Certification and Compliance Smartsheet report, the College President and the Board Chair shall certify the SB 17 annual certification form through THECB.
- 1.12. Per information reflected on the THECB website upon submission, the institutional contact and form submitter will receive confirmation of the submission via email address. The Office of the President and BPA will maintain a copy of the annual confirmation report certifying compliance with SB 17.

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## INTERNAL AND EXTERNAL REFERENCES

The following are additional references pertaining to SB 17.

- [Senate Bill 17 \(88th Legislature\)](#)
- [Texas Education Code Sec. 51.3525 Responsibility of Governing Boards Regarding Diversity, Equity, and Inclusion Initiatives](#)
- [TASB FAQs: Implementing Senate Bill 17 at Your Community College: Diversity, Equity, and Inclusion](#)

## Resolution for the Board of Trustees

### Resolution No. 2024-016

#### **A RESOLUTION OF THE BOARD OF TRUSTEES OF SOUTH TEXAS COLLEGE CERTIFYING COMPLIANCE WITH SENATE BILL 17 (SB17) FOR THE FISCAL YEAR 2024**

WHEREAS, Senate Bill 17 (SB17), enacted by the 88th Texas Legislature, mandates that public institutions of higher education ensure compliance with specific provisions regarding diversity, equity, and inclusion (DEI); and

WHEREAS, South Texas College is committed to adhering to the legislative requirements set forth by SB17 to ensure transparency and accountability in all institutional operations;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF SOUTH TEXAS COLLEGE:

1. **Compliance with DEI Office and Activities:**
  - o South Texas College does not establish or maintain a DEI office.
  - o No employee has been hired or assigned, and no third party has been contracted, to perform the duties of a DEI office.
2. **Compliance with DEI Statements and Preferences:**
  - o South Texas College does not compel, require, induce, or solicit any individual to provide a DEI statement.
  - o No preferential consideration is given based on the provision of a DEI statement.
  - o No preference is given on the basis of race, sex, color, ethnicity, or national origin in employment or participation in any function of the institution.
3. **Compliance with DEI Training:**
  - o South Texas College does not require, as a condition of enrollment or participation in any institutional function, any person to participate in DEI training, except for training developed by an attorney and approved in writing by the institution's general counsel and the Texas Higher Education Coordinating Board (THECB) for compliance with applicable court orders or state/federal laws.
4. **Adoption of Policies and Procedures:**
  - o South Texas College has adopted appropriate policies and procedures for disciplining, including termination, of any employee or contractor who engages in conduct in violation of SB17.
5. **Annual Certification Report:**
  - o South Texas College hereby certifies its compliance with the provisions of SB17 for the fiscal year 2024.
  - o This resolution, along with the certification report, will be submitted to THECB and the Texas Legislature as required.
6. **Authorization for Further Actions:**
  - o The Board of Trustees authorizes the President and any other appropriate officers of the College to take any further actions necessary to ensure compliance with

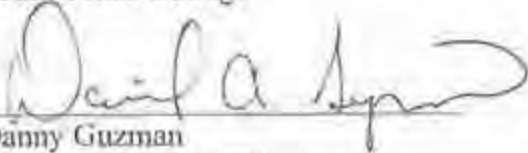
SB17, including participation in state auditor compliance audits and providing additional documentation if required.

Adopted this 16 day of July, 2024, by the Board of Trustees of South Texas College.

**SIGNED:**



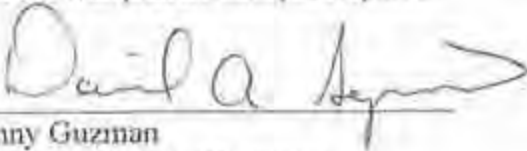
~~Dr. Alejo Salinas, Jr.~~ Paul Rodriguez  
~~Chairman~~, Board of Trustees Vice Chair  
South Texas College



Danny Guzman  
Secretary, Board of Trustees  
South Texas College

**CERTIFICATION:**

I, Danny Guzman, Secretary of the Board of Trustees of South Texas College, do hereby certify that the above and foregoing is a true and correct copy of a resolution duly adopted by the Board of Trustees at a meeting thereof held on the 16 day of July, 2024, at which meeting a quorum was present and participated.



Danny Guzman  
Secretary, Board of Trustees  
South Texas College

Institution: Southwest Texas College  
Date Submitted: 08/16/24  
Pages: 72

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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. Amendments. 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]

*Definition of Sexual Harassment*

Sexual harassment of students is conduct that is so severe, pervasive, and objectively offensive that it can be said to deprive the victim of access to the educational opportunities or benefits provided by the school. Sexual harassment does not include simple acts of teasing and name-calling, however, even when the comments target differences in gender. Davis v. Monroe County Bd. of Educ., 526 U.S. 629 (1999)

*Employee-Student Sexual Harassment*

An official of an educational entity who has authority to address alleged harassment by employees on the entity's behalf shall take corrective measures to address the harassment or abuse. Gebser v. Lago Vista Indep. Sch. Dist., 524 U.S. 274 (1998)

*Student-Student Sexual Harassment*

An educational entity must reasonably respond to known student-on-student harassment where the harasser is under the entity's disciplinary authority. Davis v. Monroe County Bd. of Educ., 526 U.S. 629 (1999)

Clery Act—Campus Sexual Assault Programs

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:

1. A description of the institution's educational programs and campaigns to promote the awareness of dating violence, domestic violence, sexual assault, and stalking, as described below at Programs to Prevent Dating Violence, Domestic Violence, Sexual Assault, and Stalking;
2. Procedures victims should follow if a crime of dating violence, domestic violence, sexual assault, or stalking has occurred, including written information about:
  - a. The importance of preserving evidence that may assist in proving that the alleged criminal offense occurred or may be helpful in obtaining a protection order;
  - b. How and to whom the alleged offense should be reported;
  - c. Options about the involvement of law enforcement and campus authorities, including notification of the victim's option to:
    - (1) Notify proper law enforcement authorities, including on-campus and local police;

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

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

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

*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)
Procedures for Institutional Disciplinary Action	An institution must include in its annual security report a clear statement of policy that addresses the procedures for institutional disciplinary action in cases of alleged dating violence, domestic violence, sexual assault, or stalking, as defined in 34 C.F.R. 668.46(a), and that: <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	<p>"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. <i>34 C.F.R. 668.46(k)(3)(iv)</i></p>
<i>Definitions</i>	
Dating Violence	<p>"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.</p> <p>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.</p> <p><i>34 C.F.R. 668.46(a)</i></p>
Domestic Violence	<p>"Domestic violence" is a felony or misdemeanor crime of violence committed:</p> <ol style="list-style-type: none"><li>1. By a current or former spouse or intimate partner of the victim;</li><li>2. By a person with whom the victim shares a child in common;</li><li>3. By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;</li><li>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</li><li>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.</li></ol> <p>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.</p> <p><i>34 C.F.R. 668.46(a)</i></p>

Programs to Prevent Dating Violence, Domestic Violence, Sexual Assault, and Stalking	<p>"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:</p> <ol style="list-style-type: none"><li>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</li><li>2. Consider environmental risk and protective factors as they occur on the individual, relationship, institutional, community, and societal levels.</li></ol> <p>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).</p> <p><i>34 C.F.R. 668.46(a)</i></p>
Sexual Assault	<p>"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. <i>34 C.F.R. 668.46(a)</i></p>
Stalking	<p>"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.</p> <p>For the purposes of this definition:</p> <ol style="list-style-type: none"><li>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.</li><li>2. Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.</li></ol> <p><i>34 C.F.R. 668.46(a)</i></p>

**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**

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*

ADA

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)

Qualified Individual with a Disability

The term "qualified individual with a disability" means an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by the college district. *42 U.S.C. 12131(2); 28 C.F.R. 35.104*

*Individual with a Disability*

"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. *28 C.F.R. 35.104*

Student with a Disability

A "student with a disability" is one who has a physical or mental impairment that substantially limits one or more of the student's major life activities, has a record of having such an impairment, or is being regarded as having such an impairment.

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

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

A student meets the requirement of being "regarded as" having an impairment if the student establishes that he or she has been subjected to a prohibited action because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity. This provision does not apply to impairments that are transitory or minor. A transitory impairment is one with an actual or expected duration of six months or less.

*29 U.S.C. 705(20)(B); 42 U.S.C. 12102(1), (3)-(4)*

Reasonable Modification

A public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.

A public entity is not required to provide a reasonable modification to an individual who meets the definition of "disability" solely under

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*

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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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**Former Board Member Employment** A public junior college may not employ or contract with an individual who was a member of the board of the junior college before the first anniversary of the date the individual ceased to be a member of the board of trustees. *Education Code 130.089*

**Employee Information** A person or entity, including a college district, that hires or recruits an individual for employment must ensure that the individual properly:

1. Completes section 1—"Employee Information and Verification"—on the Form I-9 at the time of hire and signs the attestation with a handwritten or electronic signature in accordance with 8 C.F.R. 274a.2(h), or if an individual is unable to complete the Form I-9 or needs it translated, someone may assist him or her in accordance with 8 C.F.R. 274a.2(b); and
2. Present to the employer or the recruiter or referrer for a fee documentation as set forth in 8 C.F.R. 274a.2(b)(1)(v) establishing the individual's identity and employment authorization within the time limits set forth in 8 C.F.R. 274a.2(b)(1)(i) through (b)(1)(v).

*8 C.F.R. 274a.2(b)(1)(i)*

**Verification of Employment Eligibility** An employer, the employer's agent, or anyone acting directly or indirectly in the interest thereof must, within three business days of the hire:

**New Hire**

1. Physically examine or otherwise examine pursuant to an alternative procedure authorized by the U.S. Secretary of Homeland Security under 8 C.F.R. 274a.2(b)(1)(ix) the documentation presented by the individual establishing identity and employment authorization as set forth in 8 C.F.R. 274a.2(b)(1)(v) and ensure that the documents presented appear to be genuine and to relate to the individual; and
2. Complete section 2—"Employer Review and Verification"—on the Form I-9 within three business days of the hire and sign the attestation with a handwritten signature or electronic signature in accordance with 8 C.F.R. 274a.2(i).

*8 C.F.R. 274a.2(b)(1)(ii)*

An employer will not be deemed to have hired an individual for employment if the individual is continuing in the individual's employment and has a reasonable expectation of employment at all times as described by 8 C.F.R. 274a.2(b)(1)(viii). *8 C.F.R. 274a.2(b)(1)(viii)*

**Exception**

An employer who hires an individual for employment for a duration of less than three business days must comply with 8 C.F.R.

	<p>274a.2(b)(1)(ii)(A) and (b)(1)(ii)(B) at the time of the hire. An employer may not accept a receipt, as described in 8 C.F.R. 274a.2(b)(1)(vi), in lieu of the required document if the employment is for less than three business days. 8 C.F.R. 274a.2(b)(1)(iii)</p>
Rehire	<p>When an employer hires an individual whom that person or entity has previously employed, if the employer has previously completed the Form I-9 and complied with the verification requirements set forth in 8 C.F.R. 274a.2(b) with regard to the individual, the employer may (in lieu of completing a new Form I-9) inspect the previously completed Form I-9 and, if upon inspection of the Form I-9, the employer determines that the Form I-9 relates to the individual and that the individual is still eligible to work, that previously executed Form I-9 is sufficient if the individual is hired within three years of the date of the initial execution of the Form I-9 and the employer updates the Form I-9 to reflect the date of rehire. 8 C.F.R. 274a.2(c)</p>
Existing Employee	<p>If an individual's employment authorization expires, the employer, recruiter, or referrer for a fee must reverify on the Form I-9 to reflect that the individual is still authorized to work in the United States; otherwise, the individual may no longer be employed, recruited, or referred. Reverification on the Form I-9 must occur not later than the date work authorization expires and must comply with the applicable document presentation and examination procedures in 8 C.F.R. 274a.2(b)(1)(ii)(A) and 8 C.F.R. 274a.2(b)(1)(ix) and form instructions. If an Employment Authorization Document (Form I-766) was presented for completion of the Form I-9 in combination with a Notice of Action (Form I-797C), stating that the original Employment Authorization Document has been automatically extended for up to 180 days, reverification applies upon the expiration of the automatically extended validity period under 8 C.F.R. 274a.13(d) and not upon the expiration date indicated on the face of the individual's Employment Authorization Document.</p> <p>In order to reverify on the Form I-9, the employee or referred individual must present a document that either shows continuing employment eligibility or is a new grant of work authorization. The employer or the recruiter or referrer for a fee must review this document, and if it appears to be genuine and relate to the individual, reverify by noting the document's identification number and expiration date, if any, on the Form I-9 and signing the attestation by a handwritten signature or electronic signature in accordance with 8 C.F.R. 274a.2(i).</p> <p>8 C.F.R. 274a.2(b)(1)(vii)</p>
E-Verify	<p>State agencies and institutions of higher education, including college districts, shall register and participate in the federal electronic</p>

verification of employment authorization program, E-Verify, for all newly hired employees.

The Texas Workforce Commission (TWC) shall provide notice, registration information, and online forms for the E-Verify program to state agencies and may provide technical assistance, upon request.

*Gov't Code 673.002; 40 TAC 843.3*

**New Hire Reporting**

"Newly hired employee" means an employee who has not been previously employed by the employer or was previously employed by the employer but has been separated from that employment for at least 60 consecutive days.

Each Texas employer, including each college district, shall furnish to the State Directory of New Hires (Texas Attorney General's Office) in the state in which a newly hired employee works a report of all new hires that contains the following seven required data elements: the employee name, the employee address, the employee social security number, the employee's date of hire, the employer name, the employer address, and the federal employer identification number (FEIN).

Employers, at their option may also provide the following additional information in the report: the employee's date of birth and the employee's expected salary or wages, and employer payroll addresses for mailing of notice to withhold child support.

All employers shall report new hire information on a Form W-4 or an equivalent form by first class mail, telephonically, or electronically as determined by the employer and in a format acceptable to the Title IV-D agency. The Title IV-D agency reserves the right to decline any type of form that it deems as illegible or inappropriate for new hire report processing and requests employers who elect to submit new hire reports via hard copy to adopt the prescribed Employer New Hire Reporting Form (Form 1856e and 1856s) that can be obtained from the Texas Attorney General's [Child Support Division](#)<sup>1</sup> website under Employer Portal.

*42 U.S.C. 653a(b)-(c); Family Code 234.104; 1 TAC 55.303(a)-(c)*

**Deadline**

Employer new hire reports are due:

1. Not later than 20 calendar days after the date the employer hires the employee; or
2. In the case of an employer transmitting reports electronically, by two monthly transmissions (if necessary) not less than 12 days nor more than 16 days apart.

Employer new hire reports shall be considered timely if postmarked by the due date or, if filed electronically, upon receipt by the agency.

*1 TAC 55.303(d)*

Penalties

An employer that knowingly violates the new hire provisions may be liable for a civil penalty, as set forth at Family Code 234.105. *42 U.S.C. 653a(d); Family Code 234.105*

Social Security Numbers

It shall be unlawful for any federal, state or local government agency, including a college district, to deny to any individual any right, benefit, or privilege provided by law because of such individual's refusal to disclose the individual's social security number. *5 U.S.C. 552a Note; PL 93-579, 7(b), 88 Stat. 1896 (1974)*

Exceptions

The above provision shall not apply with respect to:

1. Any disclosure which is required by federal statute.
2. The disclosure of a social security number to a federal, state, or local agency maintaining a system of records in existence and operating before January 1, 1975, if such disclosure was required under statute or regulation adopted before such date to verify the identity of an individual.

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

It is the policy of the United States that any state (or political subdivision thereof) may, in the administration of any tax, general public assistance, driver's license, or motor vehicle registration law within its jurisdiction, utilize the social security account numbers issued by the Commissioner of Social Security for the purpose of establishing the identification of individuals affected by such law, and may require any individual who is or appears to be so affected to furnish to such state (or political subdivision thereof) or any agency thereof having administrative responsibility for the law involved, the social security account number (or numbers, if the individual has more than one such number) issued to the individual by the Commissioner of Social Security. *42 U.S.C. 405(c)(2)(C)*

Statement of Uses

A federal, state, or local agency which requests an individual to disclose his social security account number shall inform that individual whether that disclosure is mandatory or voluntary, by what statutory or other authority such number is solicited, and what uses will be made of it. *5 U.S.C. 552a Note; PL 93-579, 7(b), 88 Stat. 1896 (1974)*

**Criminal History  
Background Checks**  
Security-Sensitive  
Positions

Each institution of higher education, including each college district, is entitled to obtain from the Department of Public Safety (DPS) criminal history record information maintained by DPS that relates to a person who is an applicant for a security-sensitive position at the institution. The institution may deny employment to an applicant for a security-sensitive position who fails to provide a complete set of fingerprints upon request.

"Security-sensitive position" means an employment position held by an employee who:

1. Handles currency;
2. Has access to a computer terminal;
3. Has access to the personal information or identifying information of another person;
4. Has access to the financial information of the college district or another person;
5. Has access to a master key; or
6. Works in a location designated as a security-sensitive area.

A security-sensitive position shall be so identified in the job description and advertisement for the position.

The criminal history record information may be used only for the purpose of evaluating applicants for employment in security-sensitive positions.

The criminal history record information may not be released or disclosed to any person except on court order or with the consent of the person who is the subject of the criminal history record information.

All criminal history record information shall be destroyed by the chief of police of the institution of higher education as soon as practicable after the individual becomes employed in a security-sensitive position and after the expiration of any probationary term of employment or, if the individual is not hired for a security-sensitive position, after the information is used for its authorized purpose.

*Gov't Code 411.094; Education Code 51.215*

A person, agency, department, political subdivision, or other entity that is authorized by Government Code Chapter 411, Subchapter F or Subchapter E-1, to obtain from DPS criminal history record information maintained by DPS that relates to another person is authorized to:

1. Obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to that person; or
2. Obtain from any other criminal justice agency in this state criminal history record information maintained by that criminal justice agency that relates to that person.

*Gov't Code 411.087(a)*

Participation in the  
Criminal History  
Clearinghouse

The purpose of the criminal history clearinghouse is to:

1. Provide authorized entities with the Texas and FBI fingerprint-based criminal history results.
2. Provide authorized entities with subscription and notification service to disseminate updated criminal history information.

Entities shall only submit requests for criminal history record information on a person who has authorized the access of their information. "Request for criminal history record information" is the processing and entry of a person's complete set of fingerprints in DPS's tenprint database and the comparison of those prints to DPS's latent print database and if authorized the entry into FBI's tenprint and comparison to the FBI's latent print database.

Entities may subscribe to a person in the clearinghouse, if the entity has the authority to view the record. Entities shall unsubscribe from a person when it no longer has authority to view a record.

Entities shall validate their subscriptions in accordance with DPS policies. "Validation" is a process whereby the subscriber reviews a subscription to determine whether they are still authorized to receive criminal history record information on that individual and updates the subscription accordingly. Validations are required on a yearly basis.

Entities shall maintain compliance with the FBI Criminal Justice Information Services Security Policy. Entities shall allow DPS and FBI to conduct audits of their clearinghouse accounts to prevent any unauthorized access, use, or dissemination of the information.

*37 TAC 27.171, .172(4), (8), .174*

Employees Working  
Under Contracts  
with School Districts  
and Charter  
Schools

Education Code 22.0834(a) applies to a person who is not an applicant for or holder of a certificate under Education Code Chapter 21, Subchapter B, and who is offered employment by an entity or a subcontractor of an entity that contracts with a school district, open-enrollment charter school, or shared services arrangement to provide services, if:

1. The employee or applicant has or will have continuing duties related to the contracted services; and
2. The employee or applicant has or will have direct contact with students.

This section does not apply to an employee or applicant of a public works contractor described by Education Code 22.0834(a-1).

Employees to whom Education Code 22.0834(a) applies are subject to the criminal history background check requirements described by Education Code 22.0834.

*Education Code 22.0834 [See GH]*

**Drug and Alcohol  
Clearinghouse Pre-  
Employment Inquiry**

Employers must not employ a driver subject to controlled substances and alcohol testing under 49 C.F.R. Part 382 to perform a safety-sensitive function without first conducting a pre-employment query of the Drug and Alcohol Clearinghouse [see DHA] to obtain information about whether the driver has a verified positive, adulterated, or substituted controlled substances test result; has an alcohol confirmation test with a concentration of 0.04 or higher; has refused to submit to a test in violation of 49 C.F.R. 382.211; or that an employer has reported actual knowledge, as defined at 49 C.F.R. 382.107, that the driver used alcohol on duty in violation of 49 C.F.R. 382.205, used alcohol before duty in violation of 49 C.F.R. 382.207, used alcohol following an accident in violation of 49 C.F.R. 382.209, or used a controlled substance, in violation of 49 C.F.R. 382.213.

The employer must conduct a full query under this section, which releases information in the Clearinghouse to an employer and requires that the individual driver give specific consent.

*49 C.F.R. 382.701(a)*

**Persons Licensed  
Under Occupations  
Code Chapter 1701**

A law enforcement agency shall adopt the model policy established by the Texas Commission on Law Enforcement (TCOLE), described below, or a substantively similar policy. The policy adopted by the law enforcement agency must be submitted to TCOLE, and TCOLE shall maintain a copy of the policy.

TCOLE shall adopt a model policy establishing procedures applicable to a law enforcement agency hiring a license holder. The policy must:

1. Require a law enforcement agency to request and review any information regarding an applicant for employment maintained by TCOLE in the licensing status database established under Occupations Code 1701.168 as part of the preemployment

procedures required under Occupations Code 1701.451(a);  
and

2. Establish a provisional hiring period of at least 45 days for any license holder employed by a law enforcement agency and allow a law enforcement agency to terminate the employment of the license holder if information relating to an investigation of alleged misconduct by the license holder is made available to the agency by TCOLE as part of the preemployment procedures required under Occupations Code 1701.451(a) within the provisional period.

TCOLE shall notify a law enforcement agency seeking to appoint a license holder of a completed investigation report submitted to TCOLE with respect to the license holder not later than the fifth business day after the date TCOLE receives the report.

*Occupations Code 1701.4522(a)-(c), (e)*

Preemployment  
Procedures

Before a law enforcement agency may hire a person licensed under Occupations Code Chapter 1701, the agency must, on a form and in the manner prescribed by TCOLE:

1. Obtain the person's written consent for the agency to review the information required to be reviewed under Occupations Code 1701.451;
2. Request from TCOLE and any other applicable person information required to be reviewed under Section 1701.451; and
3. Submit to TCOLE confirmation that the agency, to the best of the agency's ability before hiring the person:
  - a. Contacted each entity or individual necessary to obtain the information required to be reviewed under this section; and
  - b. Except as provided by Section 1701.451(b), obtained and reviewed as related to the person, as applicable, the information described by Section 1701.451(a)(3)(B).

*Occupations Code 1701.451(a)*

If an entity or individual contacted for information required to be reviewed refused to provide the information or did not respond to the request for information, the confirmation submitted to TCOLE must document the manner of the request and the refusal or lack of response. *Occupations Code 1701.451(b)*

If TCOLE or a law enforcement agency receives from a law enforcement agency a request for information and the person's con-

sent on the forms and in the manner prescribed by TCOLE, TCOLE or the agency shall provide the information to the requesting agency.

The head of a law enforcement agency or the agency head's designee shall review and sign each confirmation form required under Section 1701.451 before submission to TCOLE. The failure of an agency head or the agency head's designee to comply constitutes grounds for suspension of the agency head's license under Occupations Code 1701.501.

The confirmation form submitted to TCOLE is not confidential and is subject to disclosure under Government Code Chapter 552 (Public Information Act).

*Occupations Code 1701.451(c)-(d), (f)*

Before a law enforcement agency or governmental entity hires a person for whom a license is sought, the agency or entity must:

1. Review any information relating to the person available;
  - a. In the licensing status database established under Occupations Code 1701.168;
  - b. In the law enforcement database designated under Occupations Code 1701.169; and
  - c. If applicable, in a file provided to TCOLE under Occupations Code 1701.3035; and
2. File an application with TCOLE as provided by TCOLE rule.

*Occupations Code 1701.303*

*Databases*  
Licensing Status  
Database

TCOLE shall establish a database containing, for each officer licensed under Occupations Code Chapter 1701:

1. The officer's license status, including a record of action taken against the officer by TCOLE; and
2. Personnel files, as described by Occupations Code 1701.4535, provided by each law enforcement agency that employs the officer. [See DBA]

TCOLE shall make available to a law enforcement agency on request any relevant information maintained in the database regarding the officer, including any information relating to the investigation of misconduct by a law enforcement agency under the policy described by Occupations Code 1701.4522 [see DH].

Except as provided by Occupations Code 1701.168(b) and 1701.168(c), information maintained in the licensing status database is confidential and not subject to disclosure under Government Code Chapter 552.

*Occupations Code 1701.168*

Law  
Enforcement  
Database

TCOLE shall designate one or more national law enforcement databases that a law enforcement agency must access to complete the preemployment background check required under Occupations Code 1701.303(a), 1701.3035, and 1701.451(a). *Occupations Code 1701.169*

Notification of Hire  
Officer

A person who appoints an officer licensed by TCOLE shall notify TCOLE not later than the 30th day after the date of the appointment. If the person appoints an individual who previously served as an officer or county jailer and the appointment occurs after the 180th day after the last date of service as an officer or county jailer, the person must have on file for the license holder in a form readily accessible to TCOLE:

1. New criminal history record information;
2. A new declaration of psychological and emotional health and lack of drug dependency or illegal drug use; and
3. New documentation that the license holder has been fingerprinted and subjected to a search of local, state, and national records and fingerprint files to disclose any criminal record of the license holder.

*Occupations Code 1701.303(b)*

Tele-  
communicator

A person who appoints or employs a telecommunicator licensed by TCOLE shall notify TCOLE not later than the 30th day after the date of the appointment or employment. If the person appoints or employs an individual who previously served as a telecommunicator and the appointment or employment occurs after the 180th day after the last date of service as a telecommunicator, the person must have on file in a form readily accessible to TCOLE:

1. New criminal history record information; and
2. New documentation that the license holder has been fingerprinted and subjected to a search of local, state, and national records and fingerprint files to disclose any criminal record of the license holder.

*Occupations Code 1701.303(c)*

**Hiring of Legal  
Permanent Resident  
for TCOLE-Licensed  
Positions**

A political subdivision, including a college district, that appoints or employs a person to hold a position that requires the person to be licensed by TCOLE may appoint or employ a legal permanent resident of the United States to hold the position if the person is an honorably discharged veteran of the armed forces of the United States with at least two years of service before discharge and holds the appropriate license issued by the commission.

A political subdivision may not appoint or employ a person under this provision to hold a supervisory position until the person becomes a U.S. citizen.

*Local Gov't Code 370.007(b)-(c)*

**Retirees**

An institution of higher education, including a college district, may employ a person who has retired under the Teacher Retirement System (Government Code Title 8, Subtitle C) or the optional retirement program (Government Code Chapter 830) if:

1. The governing board of the institution determines that the employment is in the best interests of the institution; and
2. The person has been retired for at least 30 days before the effective date of the employment, except that a person retired under the optional retirement program may be rehired after retirement without a break in service.

The governing board may pay a person employed an amount considered by the governing board to be appropriate, notwithstanding any other provision of law.

*Education Code 51.964*

**Report**

In accordance with the requirements of Government Code 824.6022 and 34 Administrative Code 31.2, an employer shall submit to the Teacher Retirement System (TRS) a monthly certified statement of employment for all retirees employed by the employer during each month of a school year. *Gov't Code 824.6022; 34 TAC 31.2*

**Military Employment  
Preference**

**Eligibility**

The following individuals qualify for a military employment preference:

1. A veteran, including a veteran with a disability;
2. A veteran's surviving spouse who has not remarried;
3. An orphan of a veteran if the veteran was killed while on active duty;
4. The spouse of a member of the U.S. armed forces or Texas National Guard serving on active duty; and

5. The spouse of a veteran if the spouse is the primary source of income for the household and the veteran has a total disability rating based either on having a service-connected disability with a disability rating of at least 70 percent or on individual unemployability.

*Gov't Code 657.002*

Application of the Preference

An individual who qualifies for a military employment preference is entitled to a preference in employment with or appointment to a state agency, including a college district, over other applicants for the same position who do not have a greater qualification.

A state agency shall provide to an individual entitled to a military employment preference for employment or appointment over other applicants for the same position who do not have a greater qualification a military employment preference, in the following order of priority:

1. A veteran with a disability;
2. A veteran;
3. A spouse described by items 4 and 5, above;
4. A veteran's surviving spouse who has not remarried; and
5. An orphan of a veteran if the veteran was killed while on active duty.

If a state agency requires a competitive examination under a merit system or civil service plan for selecting or promoting employees, an individual entitled to a military employment preference who otherwise is qualified for that position and who has received at least the minimum required score for the test is entitled to have a service credit of ten points added to the test score. A veteran with a disability is entitled to have a service credit of five additional points added to the individual's test score.

An individual entitled to a military employment preference is not disqualified from holding a position with a state agency because of age or an established service-connected disability if the age or disability does not make the individual incompetent to perform the duties of the position.

*Gov't Code 657.003*

Veteran Employment Goal

Each state agency shall establish a goal of hiring, in full-time positions at the agency, a number of veterans equal to at least 20 percent of the total number of employees of the state agency. A state

	<p>agency may establish a veteran employment goal that is greater than the required percentage. <i>Gov't Code 657.004</i></p>
Designation of Open Position	<p>A state agency may designate an open position as a military preference position and only accept applications for that position from individuals who are entitled to a military employment preference under Government Code 657.003.</p> <p>Notwithstanding any other law, a state agency may hire or appoint for an open position within the agency an individual entitled to a military employment preference under Section 657.003 without announcing or advertising the position if the agency uses the automated labor exchange system administered by the TWC to identify an individual who qualifies for a military employment preference and determines the individual meets the qualifications required for the position.</p> <p><i>Gov't Code 657.0045</i></p>
Interviews	<p>For each announced open position at a state agency, the state agency shall interview:</p> <ol style="list-style-type: none"><li>1. If the total number of individuals interviewed for the position is six or fewer, at least one individual qualified for a military employment preference under Section 657.003; or</li><li>2. If the total number of individuals interviewed for the position is more than six, a number of individuals qualified for a military employment preference under Section 657.003 equal to at least 20 percent of the total number interviewed.</li></ol> <p>A state agency that does not receive any applications from individuals who qualify for a military employment preference under Section 657.003 is not required to comply.</p> <p><i>Gov't Code 657.0047</i></p>
Employment Investigation	<p>The individual whose duty is to appoint or employ an applicant for a position with a state agency or an officer or the chief administrator of the agency who receives an application for appointment or employment by an individual entitled to a military employment preference, before appointing or employing any individual, shall investigate the qualifications of the applicant for the position. An applicant who is a veteran with a disability shall furnish the official records to the individual whose duty is to fill the position. <i>Gov't Code 657.005</i></p>
Federal Law and Grants	<p>To the extent that this chapter conflicts with federal law or a limitation provided by a federal grant to a state agency, Government Code Chapter 657 shall be construed to operate in harmony with</p>

the federal law or limitation of the federal grant. *Gov't Code 657.006*

Reporting

A state agency shall file quarterly with the comptroller a report that states:

1. The percentage of the total number of employees hired or appointed by the agency during the reporting period who are persons entitled to a preference under Government Code Chapter 657;
2. The percentage of the total number of the agency's employees who are persons entitled to a preference under Chapter 657; and
3. The number of complaints filed with the executive director of the agency under Government Code 657.010 during that quarter and the number of those complaints resolved by the executive director.

The comptroller shall make each quarterly report available to the public on the comptroller's internet website.

*Gov't Code 657.008*

Posting  
Requirements

A public entity or public work shall provide information to the TWC regarding any open position subject to the veterans' preferences as specified in Government Code 657.009.

A public entity or public work shall provide information by one or more of the methods indicated in 40 Administrative Code 843.1(b)(1)-(3) relating to the employer postings of job openings and submit basic information regarding the opening to the TWC as soon as practical, including the following:

1. The name of the public entity;
2. The location where the job is to be performed including city and state;
3. A description of the job opening;
4. The minimum educational and work experience required for the position; and
5. Contact information regarding the opening.

TWC shall make available to the public the information provided by a state agency.

*Gov't Code 657.009(a)-(b); 40 TAC 843.2*

Complaint Procedures	An individual entitled to a military employment preference under Government Code Chapter 657 who is aggrieved by a decision of a state agency to which Chapter 657 applies relating to hiring or appointing the individual, or relating to retaining the individual if the state agency reduces its workforce, may appeal the decision by filing a written complaint with the executive director of the state agency. The executive director of a state agency that receives a written complaint shall respond to the complaint not later than the 15th business day after the date the executive director receives the complaint. The executive director may render a different hiring or appointment decision than the decision that is the subject of the complaint if the executive director determines that the military preference was not applied. <i>Gov't Code 657.010</i>
Definitions	"Veteran" has the meaning assigned by Government Code 2308.251. <i>Gov't Code 657.001(2)</i>  "Veteran with a disability" means a veteran who is classified as disabled by the U.S. Department of Veterans Affairs or its successor or the branch of the service in which the veteran served and whose disability is service connected. <i>Gov't Code 657.001(3)</i>
Employment Preference for Former Foster Children	An individual who was under the permanent managing conservatorship of the Department of Family and Protective Services on the day preceding the individual's 18th birthday is entitled to preference in employment with a state agency, including a college district, over other applicants for the same position who does not have a greater qualification. An individual is entitled to an employment preference under Government Code Chapter 672 only if the individual is 25 years of age or younger. <i>Gov't Code 672.002(a), .005</i>
Exceptions	This section does not apply to the position of private secretary or deputy of an official or department, or to an individual holding a strictly confidential relation to the employing officer. <i>Gov't Code 672.002(b)</i>
Conflict with Federal Law or Grant	To the extent that this preference conflicts with federal law or a limitation provided by a federal grant to a state agency, this section shall be construed to operate in harmony with federal law or limitation of the federal grant. <i>Gov't Code 672.003</i>
Grievance Process	An individual entitled to an employment preference under this section who is aggrieved by a decision of a state agency to which this section applies relating to hiring the individual, or relating to retaining the individual if the state agency reduces its workforce, may appeal the decision by filing a written complaint with the governing body of the state agency. The governing body of a state agency that receives a written complaint shall respond to the complaint not later than the 15th business day after the date the governing body

receives the complaint. The governing body may render a different hiring decision than the decision that is the subject of the complaint if the governing body determines that the employment preference under this section was not applied. *Gov't Code 672.004*

**Campus Programs  
for Minors**

A program operator may not employ an individual in a position involving contact with campers at a campus program for minors unless:

1. The individual submits to the program operator or the campus program for minors has on file documentation that verifies the individual within the preceding two years successfully completed the training and examination program on sexual abuse and child molestation; or
2. The individual successfully completes the campus program for minors' training and the examination program on sexual abuse and child molestation, which must be approved by the department, during the individual's first five days of employment by the campus program for minors, and the campus program issues and files documentation verifying successful completion.

The requirement does not apply to an individual who is a student enrolled at the institution of higher education or a private or independent institution of higher education or at which the campus program is conducted and whose contact with campers is limited to a single class of short duration.

A program operator must:

1. Submit to the Department of State Health Services (DSHS), on the form and within the time prescribed by DSHS, verification that each employee of the campus program for minors has complied with the training and examination requirements and the fee assessed by DSHS; and
2. Retain in the operator's records a copy of the required documentation for each employee until the second anniversary of the examination date.

"Campus program for minors" means a program that:

1. Is operated by or on the campus of an institution of higher education or a private or independent institution of higher education;
2. Offers recreational, athletic, religious, or educational activities for at least 20 campers who are not enrolled at the institution; and attend or temporarily reside at the camp for all or part of at least four days; and

3. Is not a day camp or youth camp as defined by Health and Safety Code 141.002 or a facility or program required to be licensed by the Department of Family and Protective Services.

*Education Code 51.976(a)(2), (b)-(d)*

**Consumer Credit Reports**

Definitions

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

"Consumer report" includes any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer's eligibility for employment purposes.

"Consumer reporting agency" means any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly assembles or evaluates consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.

"Employment purposes," when used in connection with a consumer report, means a report used for the purpose of evaluating a consumer for employment, promotion, reassignment, or retention as an employee.

*15 U.S.C. 1681a(d), (f), (h), (k)*

Obtaining Reports

A person may not procure a consumer report, or cause a consumer report to be procured, for employment purposes with respect to any consumer, unless:

1. A clear and conspicuous disclosure has been made in writing to the consumer at any time before the report is procured or caused to be procured, in a document that consists solely of the disclosure, that a consumer report may be obtained for employment purposes; and
2. The consumer has authorized in writing (which authorization may be made on the document referred to in item 1) the procurement of the report by that person.

*15 U.S.C. 1681b(b)(2)(A)*

*Exception*

If a consumer described in 15 U.S.C. 1681b(2)(C) applies for employment by mail, telephone, computer, or other similar means, at

any time before a consumer report is procured or caused to be procured in connection with that application the person who procures the consumer report on the consumer for employment purposes shall provide to the consumer, by oral, written, or electronic means, notice that a consumer report may be obtained for employment purposes, and a summary of the consumer's rights under 15 U.S.C. 1681m(a)(3); and the consumer shall have consented orally, in writing, or electronically to the procurement of the report by that person. *15 U.S.C. 1681b(b)(2)(B)*

Adverse Action

In using a consumer report for employment purposes, before taking any adverse action based in whole or in part on the report, the person intending to take such adverse action shall provide the consumer to whom the report relates a copy of the report and a description in writing of the person's rights under the Fair Credit Reporting Act, as prescribed by the Federal Trade Commission. *15 U.S.C. 1681b(b)(3)*

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**Note:** The following provisions apply to a college district that uses consumer reports.

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Address  
Discrepancies

"Notice of address discrepancy" means a notice sent to a user by a consumer reporting agency described in 15 U.S.C. 1681a(p) pursuant to 15 U.S.C. 1681c(h)(1) that informs the user of a substantial difference between the address for the consumer that the user provided to request the consumer report and the address(es) in the agency's file for the consumer.

A user, including a college district, must develop and implement reasonable policies and procedures designed to enable the user to form a reasonable belief that a consumer report relates to the consumer about whom it has requested the report, when the user receives a notice of address discrepancy.

A user must develop and implement reasonable policies and procedures for furnishing an address for the consumer that the user has reasonably confirmed is accurate to the consumer reporting agency from whom it received the notice of address discrepancy when the user can form a reasonable belief that the consumer report relates to the consumer about whom the user requested the report, establishes a continuing relationship with the consumer, and regularly and in the ordinary course of business furnishes information to the consumer reporting agency from which the notice of address discrepancy relating to the consumer was obtained.

*16 C.F.R. 641.1(b), (c)(1), (d)(1)*

Disposal of Records Any person, including a college district, who maintains or otherwise possesses consumer information for a business purpose must properly dispose of such information by taking reasonable measures to protect against unauthorized access to or use of the information in connection with its disposal.

"Consumer information" means any record about an individual, whether in paper, electronic, or other form, that is a consumer report or is derived from a consumer report. Consumer information also means a compilation of such records. Consumer information does not include information that does not identify individuals, such as aggregate information or blind data.

"Dispose," "disposing," or "disposal" means discarding or abandoning of consumer information, or the sale, donation, or transfer of any medium, including computer equipment, upon which consumer information is stored.

Reasonable measures to protect against unauthorized access to or use of consumer information in connection with its disposal include the following examples. These examples are illustrative only and are not exclusive or exhaustive methods for complying with the rule in 16 C.F.R. Part 682:

1. Implementing and monitoring compliance with policies and procedures that require the burning, pulverizing, or shredding of papers containing consumer information so the information cannot practicably be read or reconstructed;
2. Implementing and monitoring compliance with policies and procedures that require the destruction or erasure of electronic media containing a consumer report so that the information cannot practicably be read or reconstructed; or
3. After due diligence, entering into and monitoring compliance with a contract with another party engaged in the business of record destruction to dispose of material, specifically identified as consumer information, in a manner consistent with this rule.

16 C.F.R. 682.1(b)-(c), .3

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<sup>1</sup> Texas Attorney General's Child Support Division: <https://www.texasattorneygeneral.gov/child-support>

EMPLOYMENT PRACTICES

DC  
(LOCAL)

<b>Posting Vacancies</b>	The College President or vice presidents shall establish guidelines for advertising employment opportunities and posting notices of vacancies. These guidelines shall advance the Board's commitment to equal opportunity employment and to recruiting well-qualified candidates. Current College District employees may apply for any vacancy for which they have appropriate qualifications.
<b>Applications</b>	All applicants shall complete the application form supplied by the College District. Information on applications shall be confirmed before a contract is offered for a contractual position and before hiring or as soon as possible thereafter for a noncontractual position.
<b>Employment of Contractual Personnel</b>	<p>The College President has sole authority to make recommendations to the Board regarding the selection of contractual personnel.</p> <p>The Board retains final authority for employment of contractual personnel. [See DCA]</p>
<b>Employment of Noncontractual Personnel</b>	The Board delegates to the College President and vice presidents final authority to employ and dismiss noncontractual employees on an at-will basis. [See DCC]

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- Employment of Noncontractual Personnel** The Board delegates to the College President and vice presidents final authority to employ and dismiss noncontractual employees on an at-will basis. [See DCC]

Procedures

The following procedures will be followed in recruiting and selecting applicants for faculty/professional positions.

1. The office of the coordinator of administrative services will be designated as the place where all applications for employment will be disbursed, received, and kept on file for three years.
2. The coordinator of administrative services must be notified of all new or vacant, full-time positions to be filled before recruitment will commence.
3. An official job announcement will be developed with the cooperation of the affirmative action coordinator, appropriate dean, and chairperson or supervisor.
4. All job announcements will be disbursed by the coordinator of administrative services to a comprehensive list of sources: newspapers in the service area, professional publications, college and university job placement centers, and if available, online computer services. Position vacancy notices will be posted on bulletin boards in the following locations: administration building, business office, and printing center.
5. Only completed application files, including those from full-time employees, will be considered by the coordinator of administrative services. All completed application files received for a specific position vacancy notice will be available for review by the appropriate dean and other search committee members. All complete application files received will be kept on file for three years.
6. Application files will be screened by a search committee and a personal interview will be conducted with selected qualified applicants. The search team will consist of the appropriate dean, division chairperson (or supervisor), and the College President or a representative selected by the College President.
7. Filling positions by internal promotions or transfer of College District employees is most desirable to encourage employees to obtain further education and training for advancement. When internal promotions or transfers are possible and desirable, advertising will not be necessary. The internal application process may be implemented. If a position is not filled by internal promotion or transfer, the procedures listed at items 8 and 9 related to external posting will be followed, as applicable to the position.

8. A professional position will be open for internal applications for ten working days. If the position is not filled with an internal applicant, the position will be open to external candidates for a period not less than 30 days, unless circumstances require immediate employment to fill unfinished terms or sudden resignations. Application closing dates may be extended to achieve the College District's employment goals. Vacancy notices may include "until filled" to allow additional time to increase the pool of qualified applicants. The search committee will make the decision to allow additional time or pursue other sources to reach applicant objectives.
9. Non-professional positions will be open for internal applications for ten working days. If the position is not filled with an internal applicant, the position will be open to external candidates for a period of not less than 15 days unless circumstances require immediate employment to fill unfinished terms or sudden resignations. Application closing dates may be extended to achieve the College District's employment goals. Vacancy notices may include "until filled" to allow additional time to increase the pool of qualified applicants. The search committee will make the decision to allow additional time or pursue other sources to reach applicant objectives.
10. The appropriate vice president or designee will make the offer of employment to the successful candidate.
11. The College District may need to hire non-tenure track full-time instructors on a semester-by-semester basis according to need. These instructors will be at-will employees with full salary and benefits for the duration of each semester of employment.

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**Note:** For complaints of discrimination, harassment, and retaliation targeting employees on the basis of a protected characteristic, see DAA(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. *Boock 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. 42 U.S.C. 2000e-2(d)
Job Qualification	It shall not be an unlawful employment practice for an employer to hire and employ an employee on the basis of his religion, sex, national origin, or age in those certain instances where religion, sex, national origin, or age is a bona fide occupational qualification. 42 U.S.C. 2000e-2(e)
Employment Postings	It shall be an unlawful employment practice for an employer controlling apprenticeship or other training or retraining, including on-the-job training programs, to print or publish or cause to be printed or published any notice or advertisement relating to employment by such an employer or membership in or any classification or referral for employment by such a labor organization, or relating to any classification or referral for employment by such an employment agency, or relating to admission to, or employment in, any program established to provide apprenticeship or other training by such a joint labor-management committee, indicating any preference, limitation, specification, or discrimination based on race, color, religion, sex, or national origin, except that such a notice or advertisement may indicate a preference, limitation, specification, or discrimination based on religion, sex, or national origin when religion, sex, or national origin is a bona fide occupational qualification. 42 U.S.C. 2000e-3(b)
Additional Considerations 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</i> , 490 U.S. 228 (1989)  The terms "because of sex" or "on the basis of sex" include, but are not limited to, because of or on the basis of pregnancy, childbirth, or related medical conditions; and women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work, and nothing in 29 U.S.C. 2000e-2(h) shall be interpreted to permit otherwise. 42 U.S.C. 2000e(k)
Equal Pay	No employer having employees subject to any provisions of this section shall discriminate, within any establishment in which such employees are employed, between employees on the basis of sex by paying wages to employees in such establishment at a rate less than the rate at which he pays wages to employees of the opposite sex in such establishment for equal work on jobs the performance

of which requires equal skill, effort, or responsibility, and which are performed under similar working conditions, except where such payment is pursuant to a seniority system, a merit system, a system which measures earnings by quantity or quality of production, or a differential based on any other factor other than sex. 29 U.S.C. 206(d); 34 C.F.R. 106.54

*Religious  
Discrimination*

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

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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

3. Otherwise adversely affects an individual's employment opportunities.

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

Quid Pro Quo

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

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

29 C.F.R. 1604.11(a)

Same-Sex Sexual Harassment

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

Sexual Harassment Policy

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

Corrective Action

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

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

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

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

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

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

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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.

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

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

*Regarded as Having Such an Impairment*

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

Transitory and Minor

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

*Mitigating Measures*

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

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

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

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

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

Other Definitions

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

*Major Life Activities*

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

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

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

*Physical or  
Mental  
Impairment*

"Physical or mental impairment" means:

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

29 C.F.R. 1630.2(h)

*Qualified  
Individual*

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

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

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

*Reasonable  
Accommodation*

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

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

"Reasonable accommodation" may include:

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

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

*Undue Hardship*

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

Discrimination  
Based on  
Relationship

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

Illegal Drugs and  
Alcohol

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

*Drug Testing*

Nothing in 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,

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)

Qualification  
Standards

It is unlawful for a covered entity to use qualification standards, employment tests, or other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities, on the basis of disability, unless the standard, test, or other selection criteria, as used by the covered entity, is shown to be job-related for the position in question and is consistent with business necessity. 29 C.F.R. 1630.10(a)

*Direct Threat to  
Health or Safety*

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)

*Vision Standards  
and Tests*

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)

*Communicable  
Diseases*

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)

Service Animals

A covered entity that is subject to the jurisdiction of Title I of the ADA (employment discrimination) or to section 504 of the Rehabilitation Act (employment discrimination), shall comply with the reasonable accommodation requirements of those laws with respect to service animals. [See Reasonable Accommodations, above]

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

EMPLOYMENT OBJECTIVES  
EQUAL EMPLOYMENT OPPORTUNITY

DAA  
(LEGAL)

<p>Definitions</p> <p><i>Known Limitation</i></p>  <p><i>Qualified Employee</i></p>  <p><i>Reasonable Accommodation and Undue Hardship</i></p>	<p>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. <i>42 U.S.C. 2000gg(4)</i></p> <p>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:</p> <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> <p><i>42 U.S.C. 2000gg(6)</i></p> <p>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. <i>42 U.S.C. 2000gg(7)</i></p> <hr/> <p><b>Note:</b> 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.</p> <hr/> <p><b>Military Service</b></p> <p>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.</p> <p>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-</p>
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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.

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)*

*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

DAA  
(LEGAL)

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;

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:

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)*

EMPLOYMENT OBJECTIVES  
EQUAL EMPLOYMENT OPPORTUNITY

DAA  
(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*

<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>

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*

EMPLOYMENT OBJECTIVES  
EQUAL EMPLOYMENT OPPORTUNITY

DAA  
(LOCAL)

The College District has been, and shall continue to be, an equal opportunity employer. To ensure full implementation of this policy, the College District shall ensure that:

1. Persons are recruited, hired, and promoted for all positions without regard to race, religion, color, sex, national origin, age, or disability.
2. Placement decisions are based solely on the individual's qualifications for the positions being filled.
3. Other personnel actions, such as compensation, benefits, transfers, layoffs, returns from layoffs, leaves of absence, institution-sponsored training, education, tuition assistance, and social and recreational programs are administered without regard to race, religion, color, sex, national origin, ages or disability.

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

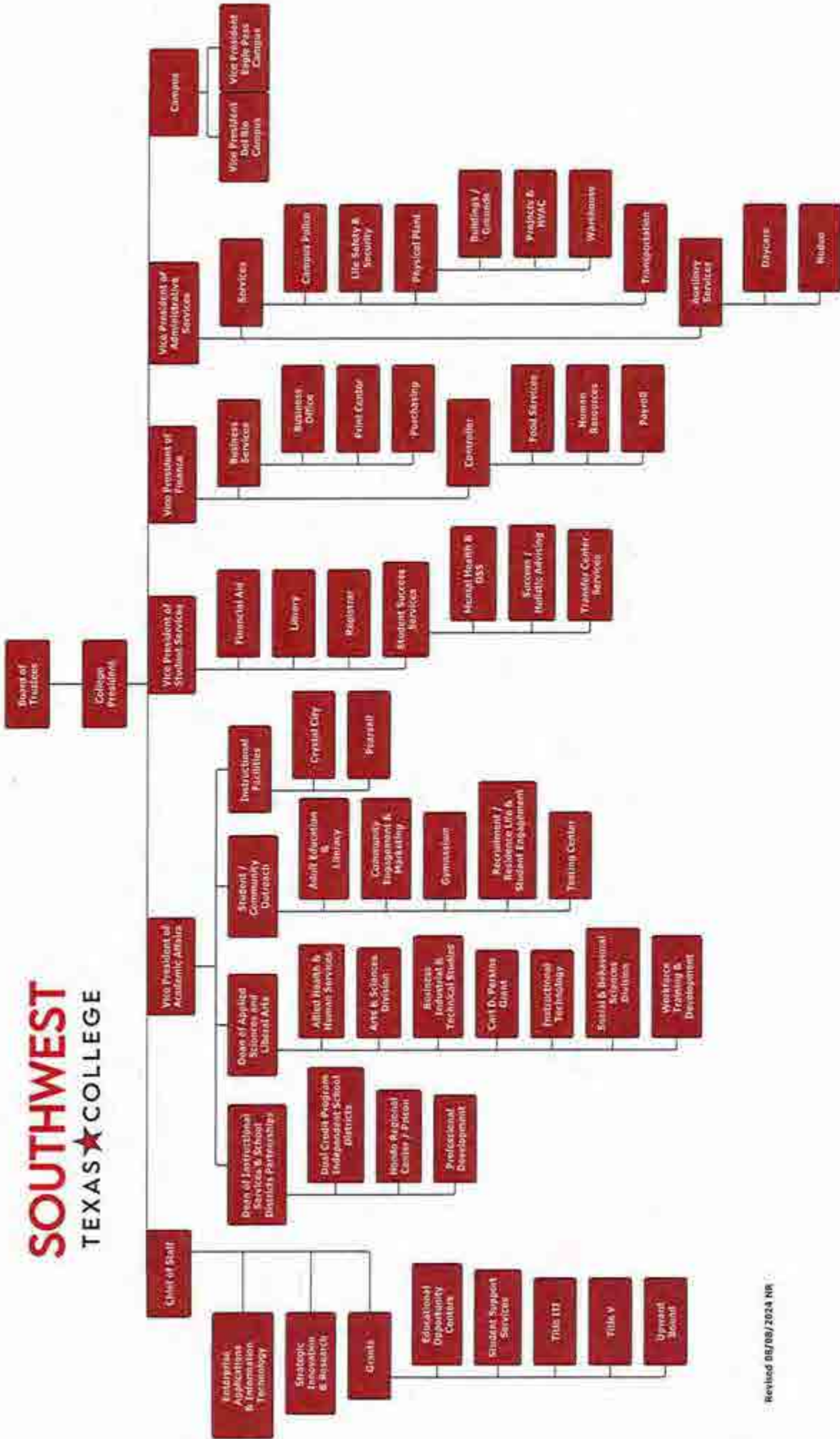
1. Submitting a statement as part of a grant application or to comply with the terms of accreditation that highlights the College District's work in supporting first-generation college students, low-income students, or underserved student populations, or that certifies compliance with state and federal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



I certify, under penalty of perjury and the loss of funding to Southwest Texas College, that Southwest Texas 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.

[ X ] 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).

[ X ] 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).

[ X ] I certify, in accordance with Tex. Educ. Code § 51.3525(e), that no state appropriations to this institution for fiscal year 2024 have been spent prior to submission of this certification report to the Legislature and the Texas Higher Education Coordinating Board.

[ X ] 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.

[ X ] 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 Southwest Texas College has conducted the following a review of policies and procedures and no instances of violations to the applicable statutes were noted.

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: *Thea G. Gull*  
Date: 8/15/2024

Signature of Board Chair: *Harry Stovall III*  
Date: 8/15/2024

Date submitted to THECB: 8/16/2024

Date submitted to the Legislature: 8/16/2024