

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

Colleges by Name (T-W)

September 2024

Table of Contents

Institutions by Name (T-W)

Tarrant County College District.....	3
Temple College	123
Texarkana College	126
Texas Southmost College.....	130
Texas State Technical College	138
Trinity Valley Community College.....	190
Tyler Junior College District	192
Vernon College	195
Victoria College	200
Weatherford College.....	205
Western Texas College	208
Wharton County Junior College	211

Institution: Tarrant County College District
Date Submitted: 08/30/24
Pages: 119

Navigating the Waves of Change

Understanding the Implications of SB-17



Presented by: Antonio Allen, General Counsel
August 15, 2024

Agenda

- Introduction
- General Counsel Office
- Definition of DEI
- SB-17: The Law
- Ensuring Compliance with SB-17
- SB-17 Scenarios
- Q&A



Definition of DEI (Diversity, Equity, and Inclusion)

Diversity: Refers to the presence of differences within a given setting, including race, gender, age, sexual orientation, physical abilities, and cultural background.

Equity: Ensures fair treatment, opportunities, and advancement while striving to identify and eliminate barriers that have prevented the full participation of some groups.

Inclusion: Creating environments in which any individual or group can feel welcomed, respected, supported, and valued to fully participate.



Texas Education Code Section 51.3525



§ 51.3525. Responsibility of Governing Boards Regarding Diversity, Equity, and Inclusion Initiatives

Currentness

<Text of section effective Jan. 1, 2024>

(a) In this section, “diversity, equity, and inclusion office” means an office, division, or other unit of an institution of higher education established for the purpose of:

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



DEI in Tex. Educ. Code 51.3525

- Influencing hiring or employment practices with respect to **race, sex, color, or ethnicity**;
- 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**; or
- Conducting trainings, programs, or activities about **race, color, ethnicity, gender identity, or sexual orientation**.

Texas Education Code Section 51.3525



(b) The governing board of an institution of higher education shall ensure that each unit of the institution:

(1) does not, except as required by federal law:

(A) establish or maintain a diversity, equity, and inclusion office;

(B) hire or assign an employee of the institution or contract with a third party to perform the duties of a diversity, equity, and inclusion officer.

The governing board of an institution of higher education shall ensure that each unit of the institution: 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 institution.

(ii) does not include a training, program, or activity developed by an attorney and approved in writing by the institution's general counsel and the Texas Higher Education Coordinating Board for the sole purpose of ensuring compliance with any applicable court order or state or federal law; and

(2) adopts policies and procedures for appropriately disciplining, including by termination, an employee or contractor of the institution who engages in conduct in violation of Subdivision (1).



Key Prohibitions

- Prohibits having a “diversity, equity, and inclusion office”
- Prohibits hiring a 3rd Party to perform duties of a DEI office
- Prohibits requiring DEI Statements or giving preference in employment based on DEI Statements
- Prohibits giving preference based on race, sex, color, ethnicity, or national origin (in employment or to an employee or a participant in any function of the institution)
- Prohibits requiring employees or students from participating in DEI Training – excludes Title IX training or training required for compliance with the law



SB-17 Exceptions



- Submitting a statement to a grantor or accrediting agency highlighting college's work supporting first generation or low-income students or underserved student populations or certifying the college's compliance with antidiscrimination laws.
- Academic courses; scholarly research or creative works by students, faculty, or research personnel or the dissemination of the research or works; or data collection.
- policy, procedure, practice, program, or activity intended to enhance student academic achievement or postgraduate outcomes if it is designed and implemented without regard to race, sex, color, or ethnicity.
- activities of a registered or recognized student organization, a short-term guest speaker or performer, or student recruitment or admissions.

SB-17 Does Not Prohibit:



- Multicultural Center that provides support or educational programming on different cultures that are available equally to all groups
- Programming in recognition of holidays and celebrations surrounding a particular race, sex, color, ethnicity, national origin, gender identity, or sexual orientation
 - Open to all without preference for a certain group
 - Participation not Required
- Support employee or student organizations and programs that are focused on covered identity groups
 - All employees and/or students Must Be Able to Join and Enjoy the Same Benefits of Membership
- Attendance at a DEI conferences or other conference that includes a DEI component
 - Participation Must Be Voluntary
- Engaging in efforts to Recruit a Diverse Pool of Students or Applicants for a Vacant Position

Ensuring Compliance with SB-17

- Must discipline, including possible termination, any employee or contractor who violates SB-17 Prohibitions. DH(Legal).
- Must submit a yearly report certifying compliance with SB-17 during the preceding state fiscal year.
- Must testify before the Texas Senate and/or House Committee on Higher Education regarding the compliance with SB-17.
- Subject to periodic compliance audit to determine whether state money spent in violation of SB-17.

Violations could result in loss of State funding

0 responses submitted

Scenario 1: DEI in Curriculum Dr. Harris, a sociology professor at TCC, includes a unit on social justice movements in her Social Problems course...



Scan this QR code to view this activity

0 views



SB 12 Introduction



Nov. SB 17 Resolution

See

1/1

Show correct answer

0 responses submitted

Scenario 1: DEI in Curriculum Dr. Harris, a sociology professor at TCC, includes a unit on social justice movements in her Social Problems course...



Scan this QR code to view this activity

0 views



SB 12 Introduction



Nov. SB 17 Resolution

See

1/1

Show correct answer

Scenario 1: DEI in Curriculum

Dr. Harris, a sociology professor at TCC, includes a unit on social justice movements in her Social Problems course. The unit examines various social issues, including gender equality, LGBTQ+ rights, and the role of activism in social change. Dr. Harris encourages students to engage in open discussions, critically analyze these movements, and write reflective essays on DEI topics.



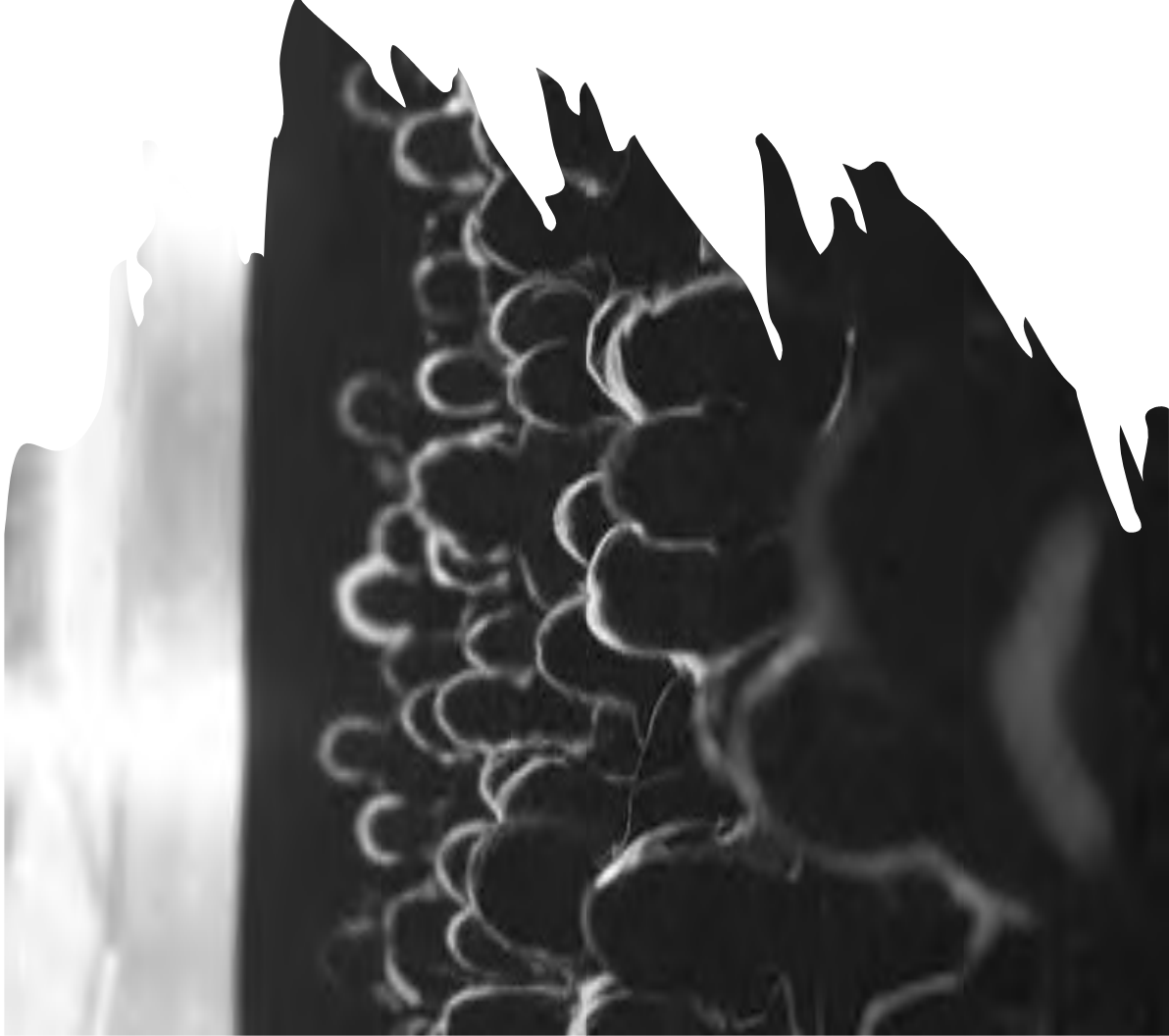
Scenario 2: Mandatory DEI Training

TCC requires all new faculty members to complete a mandatory DEI training program that focuses on cultural competence and reducing implicit bias before they begin teaching.



Scenario 3: Guest Speaker on DEI

The TCC Student Government Association invites a prominent civil rights activist to speak on campus about the history and future of DEI initiatives in higher education. The event is open to all students and faculty.



Scenario 4: Scholarship for Minority Students

TCC offers a scholarship exclusively for female students pursuing degrees in STEM fields to promote diversity in these areas.



Scenario 5: Multicultural Center

TCC establishes a multicultural center that provides resources and support to all students, including multicultural competency workshops, language learning sessions, and forums on diverse cultural traditions.



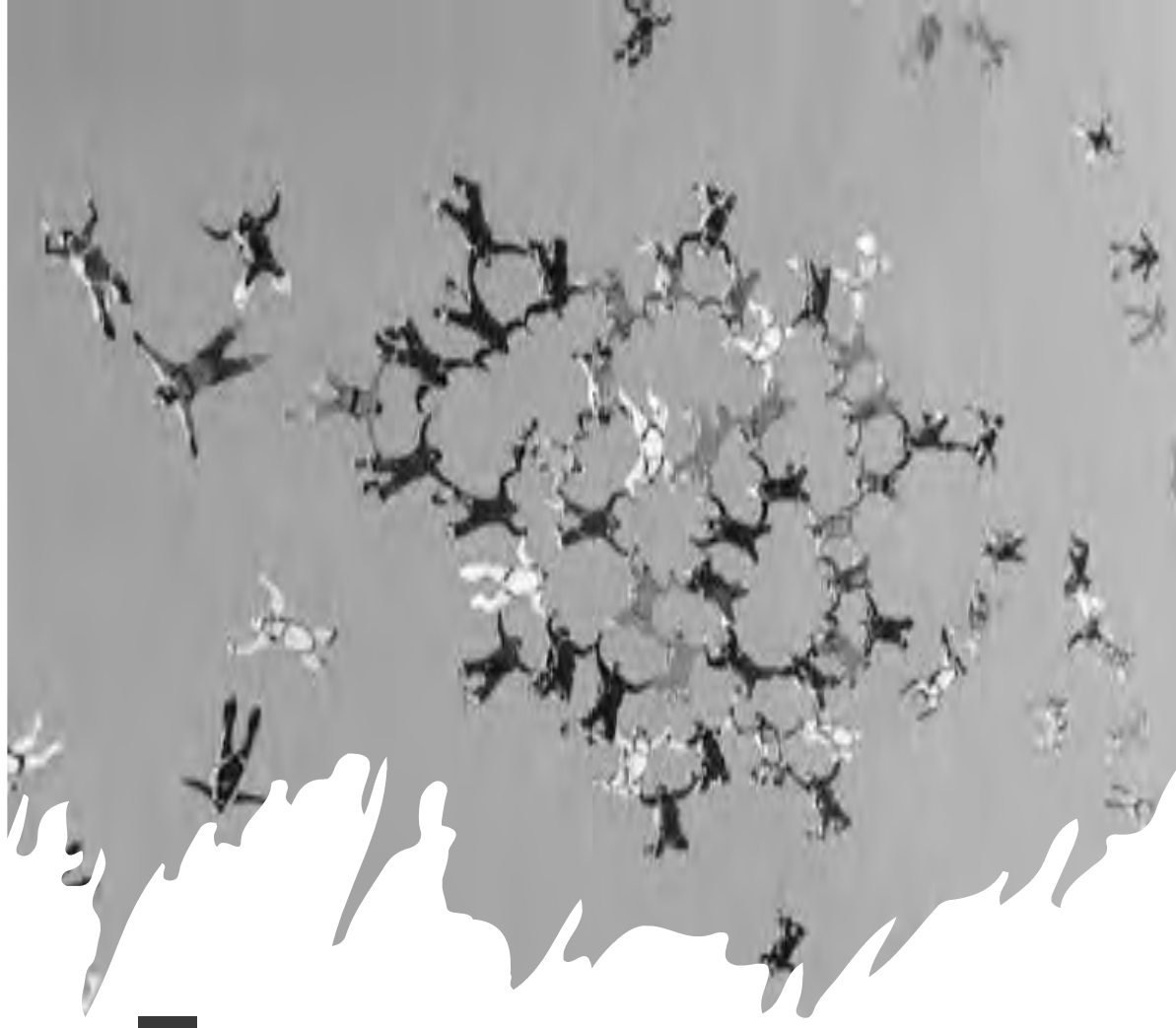


Scenario 6: DEI Statements in Hiring

The hiring committee for the sociology department requires applicants for faculty positions to submit a DEI statement outlining their commitment to fostering an inclusive classroom environment.

Scenario 7: Grant Application Highlighting DEI

TCC applies for a federal grant that requires them to demonstrate their efforts in supporting first-generation and low-income students, including programs aimed at enhancing DEI on campus.



Scenario 8: Voluntary DEI Workshop

TCC's OED offers a voluntary DEI workshop taught by a guest speaker on creating inclusive syllabi and classrooms. Faculty can choose to attend, but it is not mandatory.

Scenario 9: Funding for DEI-focused Student Organization

TCC provides funding to a student organization that focuses on promoting DEI through seminars, workshops, and community service projects.

A Faculty advisor developed and provided an agenda for the programs and directed the student organization leaders to carry out.





Scenario 10: Cultural Heritage Event

TCC hosts an annual event celebrating Hispanic Heritage Month, including guest lectures, cultural performances, and workshops open to the entire campus community.

QUESTIONS



MEMORANDUM

TO: TCC Connect Leadership Team (Dr. Carlos Morales,
Dr. Zena Jackson, and Dr. Deshonta Holmes)

FROM: Antonio U. Allen, General Counsel

DATE: August 23, 2024

RE: *Legal Analysis of Planned and/or Proposed Activities in Light of
SB-17*

This memorandum provides a detailed legal analysis to determine the compliance with Senate Bill 17 (SB-17) of four programs or activities either planned or proposed by TCC Connect employees. Below is a summary of the conclusions drawn from the detailed analysis:

1. **SHRM Certification Course:** The SHRM Certification Course appears to be compliant with SB-17, provided it remains inclusive and focuses on professional skills rather than DEI principles.
2. **IREX Global Solutions Program:** Participation in the IREX Global Solutions Program is likely not a violation of SB-17, as the program emphasizes global citizenship and cross-cultural communication rather than DEI-specific content.
3. **Zoot Suit Riots Program:** The Zoot Suit Riots Program, as currently framed, is likely a violation of SB-17 due to its focus on race and ethnicity and its execution by a college employee.
4. **Jewish American Heritage Month Event:** The Jewish American Heritage Month event featuring a guest speaker from the Holocaust Museum is not likely a violation of SB-17, as it falls within the exceptions for guest speakers and cultural heritage events.

DETAILED ANALYSIS

1. Society of Human Resources Management (SHRM) Certification Test Preparation Course (Kenya Wilson)

Background

TCC Connect Campus proposes to offer an online SHRM Certification Course. The Society for Human Resource Management (SHRM) certifies individuals based on its Body of Applied Skills and Knowledge (BASK). The BASK includes clusters and knowledge domains such as Leadership, Interpersonal, Business, People, Workplace, and Organization. Within the Leadership Domain, Diversity, Equity, and Inclusion (DEI) is explicitly covered, focusing on managing a diverse workforce and fostering equity. The course would be instructed by individuals holding the SHRM Senior Certified Professional (SHRM-SCP) certification, hired as continuing education instructors.

Analysis of SB-17 Implications

SB-17 prohibits higher education institutions from hiring or assigning employees, or contracting with third parties, to perform the duties associated with a diversity, equity, and inclusion office. The statute defines these duties to include conducting any “trainings, programs, or activities designed or implemented in reference to race, color, ethnicity, gender identity, or sexual orientation,” unless such activities are for the sole purpose of ensuring compliance with applicable court orders or state or federal law.

Here, the proposal involves college employees delivering a continuing education course that includes a DEI component. SB-17 further prohibits the institution from compelling any person to participate in DEI training. However, the statute provides an exception for activities that are designed and implemented to enhance student academic achievement or postgraduate outcomes, provided they are conducted without regard to race, sex, color, or ethnicity.

Conclusion

The SHRM Certification Course is designed to enhance professional skills for human resource professionals, including TCC’s postgraduate students. The course aims to improve academic achievement and postgraduate outcomes by equipping participants with essential HR knowledge and skills, including those related to DEI. So long as the course is offered inclusively to all students and professionals, without consideration of race, sex, color, or ethnicity, and the DEI content is focused on the skills necessary for obtaining SHRM certification, the program would likely fall within the exception provided by SB-17.

Thus, the SHRM Certification Course, as proposed, should be considered exempt from the restrictions of SB-17, allowing it to be offered without violating the statute.

2. International Research & Exchange Board (IREX) Sustainability Program (Craig Clark)

Background

Tarrant County College (TCC) has participated in the IREX Global Solutions Program for several years. This program is a virtual exchange initiative that supports workforce development in the United States, Iraq, and Jordan. Its primary objectives are to improve global citizenship, strengthen problem-solving skills, develop enduring connections between participants, and enhance students' job skills through online collaboration. The program brings together community college and university students from the U.S. with technical college and university students from Iraq and Jordan to collaboratively address global challenges within their communities. The upcoming cohort is scheduled to begin in September, with two TCC faculty members committed to facilitating student group discussions. The program's curriculum is developed and provided by IREX.

The curriculum for the Global Solutions Conversations program is organized into six sessions that focus on cross-cultural communication, sustainability, empathy, and design thinking. The overarching goals are to foster global citizenship, promote collaboration across diverse cultures, and engage students in problem-solving related to the United Nations Sustainable Development Goals (SDGs).

Analysis of SB-17 Compliance

Senate Bill 17 (SB-17) prohibits employees of Texas public institutions of higher education from conducting any “trainings, programs, or activities designed or implemented in reference to race, color, ethnicity, gender identity, or sexual orientation,” unless specifically for compliance with applicable legal requirements.

The Global Solutions program, while involving discussions on culture, empathy, and social awareness, is not explicitly designed or implemented with a primary focus on the DEI categories outlined in SB-17 (i.e., race, color, ethnicity, gender identity, or sexual orientation). Instead, the program emphasizes broader themes such as cross-cultural communication, global collaboration, and sustainable development, which are not inherently tied to DEI principles as defined by the statute.

Conclusion

As long as the IREX Global Solutions Program is open to all students without any preference based on race, sex, color, ethnicity, or national origin, and the focus remains on the broader educational goals of global citizenship and collaboration, TCC's participation in the program does not appear to violate SB-17. The program’s content and structure align with the statute’s allowances for academic and professional development activities that are not centered on DEI categories.

Therefore, it is my opinion that TCC may continue to participate in the IREX Global Solutions Program without contravening SB-17, provided the program remains inclusive and does not involve preferential treatment based on the characteristics outlined in the statute.

3. Zoot Suit Riots Program (Olivia Agudelo)

Background

Tarrant County College (TCC) is planning to host an event titled "The Summer of Style and Strife: Zoot Suit Riots," which includes a lecture by Professor Eric Salas followed by a Q&A session with students from the Organization of Latin American Students (OLAS). The Zoot Suit Riots were a series of conflicts in Los Angeles in the 1940s that primarily involved conflict between white servicemembers and Mexican-American youth fueled by racial tensions and xenophobia. The lecture is likely to discuss these events in the context of race and ethnicity, particularly focusing on the impact of these riots on the Mexican-American community. This event is scheduled as part of Hispanic Heritage Month and is open to all students and the public. The lecture, however, will be given by a TCC employee and is not part of an academic course or class.

Analysis of SB-17 Compliance

Senate Bill 17 (SB-17) explicitly prohibits public institutions of higher education in Texas from conducting “trainings, programs, or activities designed or implemented in reference to race, color, ethnicity, gender identity, or sexual orientation” unless these are necessary for legal compliance with court orders or federal/state laws.

Here, the lecture centers on a historical event tied to race and ethnicity. Therefore, the program is “designed or implemented in reference to” ethnicity, which is directly restricted by SB-17 unless it serves a compliance-related purpose. Furthermore, the lecture will be presented by Professor Eric Salas, a TCC faculty member. Since SB-17 applies to activities conducted by employees of public higher education institutions, the involvement of a faculty member in delivering a lecture that focuses on ethnicity outside the context of a standard academic course falls within the prohibitions of SB-17. Although the event is part of Hispanic Heritage Month, which is typically celebrated to honor and educate about Hispanic culture, the facilitation of the lecture by a college employee engagement makes the guest speaker exception inapplicable.

Conclusion

Based on the above analysis, the Zoot Suit Riots program, as currently framed, is likely a violation of SB-17. The event's focus on race and ethnicity, combined with the involvement of a TCC faculty member in delivering the content, falls within the activities restricted by SB-17.

4. Jewish American Heritage Month Event (Angela Thurman)

Background

Tarrant County College (TCC) is considering hosting an event for Jewish American Heritage Month that features a guest speaker from the Holocaust Museum in Dallas. The event would be open to all students, faculty, staff, and the community. Additionally, instructors from all campuses would have the option to offer extra credit to students who attend the program.

Analysis of SB-17 Compliance

Senate Bill 17 (SB-17) prohibits public institutions of higher education from conducting activities designed or implemented in reference to race, color, ethnicity, gender identity, or sexual orientation, unless necessary for legal compliance. However, the statute does allow for short-term engagements with guest speakers and performers, even if the subject matter relates to the restricted categories.

Here, the event involves a guest speaker from the Holocaust Museum, this falls within the allowable exception under SB-17. The engagement of a guest speaker is a short-term event, and as long as it is not tied to any mandatory DEI training for faculty, staff, or students, it would not violate SB-17. Furthermore, according to guidance from the Texas Association of School Boards (TASB), cultural and heritage events that are inclusive and do not provide preferential treatment based on race, ethnicity, or other protected characteristics are generally permissible under SB-17. Here, the event celebrating Jewish American Heritage Month and featuring a discussion on the Holocaust would be considered an educational and cultural program. As long as the event is open to everyone and does not imply or enact preferential treatment, it aligns with the exceptions outlined by TASB and SB-17.

The statute does not explicitly address the issue of extra credit, but it is important to ensure that offering extra credit does not indirectly compel students to participate in DEI-related events. As long as the extra credit is optional and part of a broader educational context (e.g., relating to history, cultural studies), it should not raise significant SB-17 concerns. In other words, instructors offering students extra credit for attending the event is ok so long as the program content logically ties to the instructor’s academic course.

Conclusion

The proposed event featuring a guest speaker from the Holocaust Museum as part of Jewish American Heritage Month is not likely a violation of SB-17. The program falls within the allowable exception for guest speakers and is consistent with TASB's guidance on cultural and heritage events. Additionally, offering optional extra credit for attendance, as long as it is appropriately framed within an academic context, should not present a compliance issue. However, it would be prudent to ensure all promotional materials and communications clearly reflect the educational and inclusive nature of the event.

Executive Memorandum

TO: Board of Trustees

FROM: Dr. Elva LeBlanc, Chancellor

DATE: April 23, 2024

SUBJECT: Senate Bill 17 Compliance | Governor's Executive Order No. GA-44

The purpose of this communication is to update you on the College's compliance with Senate Bill 17 and the Governor's Executive Order No. GA-44.

SB 17 Compliance

As noted in the April 18th Memo titled "Board Requests," the General Counsel's Office continues to play a critical role in guiding, monitoring, and enforcing the SB 17 statute. This ongoing effort includes reviewing purchasing contracts, providing training sessions, overseeing events, and addressing complaints related to SB 17. These comprehensive efforts ensure that the statute's requirements are fully integrated and upheld within the operations of Tarrant County College.

Most recently, the College reviewed its annual Equal Employment Opportunity (EEO) training courses, which emphasize the importance of a discrimination and harassment-free workplace in compliance with Texas Labor Code section 21.010 Employee Discrimination Train for State Employees. As with previous practice, the College utilized training certified by the Texas Workforce Commission (TWC). In a review by the TCC General Counsel's Office, the training module on diversity was identified to be in non-compliance with SB 17. The training module has since been removed, and the college is seeking recertification of the revised EEO training with TWC.

The General Counsel's Office will also work with the Chief Human Resources Officer and the Executive Director of Organizational Excellence and Development to develop mandatory training for TCC employees, students, and vendors on SB-17 Compliance. In addition, SB-17 training will be integrated into new employee orientation training, and we will require all employees to sign an acknowledgment that they have read and understood applicable SB-17-related Board policies and procedures.

Governor's Executive Order (GA-44)

The Governor's Executive Order No. GA-44 requires the College to undertake the following:

- Review and update free speech policies to address the sharp rise in antisemitic speech and acts on university campuses and establish appropriate punishments, including expulsion from the institution.
- Ensure that these policies are being enforced on campuses and that groups such as the Palestine Solidarity Committee and Students for Justice in Palestine are disciplined for violating these policies.

- Include the definition of antisemitism, adopted by the State of Texas in Section 448.001 of the Texas Government Code, in university free speech policies to guide university personnel and students on what constitutes antisemitic speech.

Therefore, we are reviewing the following College policies for which we will bring updates for your review, discussion, and potential approval in May:

- DGC (Local) Employee Rights and Privileges
- GD (Local) Community Expression and Use of College Facilities
- FLA (Local) Student Rights and Responsibilities

After your approval, we will report the actions taken to the Office of the Governor, Budget and Policy Division.

Furthermore, we are conducting a comprehensive review of the TCC Student Handbook, which outlines information related to student rights, responsibilities, and rules for governing student conduct, including speech, expression, and assembly. In addition, we will conduct a comprehensive review of the TCC Faculty Handbook to ensure compliance.

As mentioned in my memorandum of March 28 and April 18, Tarrant County College will follow all applicable laws and regulations as they apply to community colleges and will continue to work hard to keep students in a safe and positive learning environment.

Executive Memorandum

TO: Board of Trustees
FROM: Dr. Elva LeBlanc, Chancellor
DATE: July 8, 2024
SUBJECT: Dallas Express Inquiry

This communication is a friendly reminder regarding protocols for working with the media. Recently, you have received requests from the Dallas Express for information linked to SB 17. Currently when approached by the media, the protocols used by Board of Trustees and college staff are to refer the media to Reginald Gates, Vice Chancellor of Communications and External Affairs.

On June 28th we gave the reporter the following information:

Question 1. "What's the current Faculty Recruitment and Retention Program? Is it still the same? Has it been modified?"

Response:

Tarrant County College does not have a Faculty Recruitment and Retention Plan. The document you referenced below was requested by former Chancellor Giovannini and presented to the Board of Trustees as an informational item at the Board Working Session on September 16, 2021. The plan referenced was not modified, and it was never implemented.

Question 2. "Does TCC have a racial quota when it comes to its hiring practices?"

Response:

Tarrant County College does not have a racial quota as part of its hiring practices.

Question 3. "Does TCC have anti-white bias?"

Response:

Tarrant County College does not have an anti-white bias. The demographic data from 2021 compared to 2024, shows a similar makeup of employees by race. The majority of TCC employees continue to identify as white as indicated in the tables below. In compliance with federal and state law, TCC's employment practices are implemented without regard to race or any other protected characteristic.

FALL 2021	Students	Faculty
Asian	6.7%	6.2%
Black or African American	17.6%	15.2%
Hispanic/Latino	35.5%	8.7%
White	30.8%	64.1%
American/Alaska Native		
Hawaiian/Pacific Islander		
Nonresident Alien	9.4%	5.8%
Race and ethnicity unknown		
Two or more races		

SPRING 2024	Students	Faculty
Asian	7.5%	7.5%
Black or African American	17.8%	15.9%
Hispanic/Latino	36.3%	9.2%
White	27.0%	61.1%
American/Alaska Native		
Hawaiian/Pacific Islander		
Nonresident Alien	11.4%	6.3%
Race and ethnicity unknown		
Two or more races		

Question 4. "Does TCC support Critical Race Theory?"

Response:

Tarrant County College's academic courses comply with state and federal law. TCCD supports academic freedom for its faculty members so long as their instruction complies with state and federal law and our own Board policies.

The information Reginald gave the reporter is not what was reported this morning. We have made the decision to ignore the article and not make any further comments to the reporter. To do so would only help him spin a story that is not based on facts.

[Home](#) / [Announcements](#) / [Navigating SB 17](#) c



Navigating

[January 11, 2024](#) by [insideTCC](#) In [Announcements](#)

Texas Senate Bill 17 (SB 17) was signed into law by Governor Greg Abbott in June 2023 and went into effect January 1, 2024. SB 17 relates to diversity, equity and inclusion (DEI) initiatives at public institutions of higher education.

Employees should have a thorough understanding of SB 17 prohibitions and exceptions, as the College is required to discipline any employee or contractor who violates SB 17 prohibitions.

Key Prohibitions

- Prohibits “diversity, equity and inclusion office”.
- Prohibits hiring a third party to perform the duties of a DEI office.
- Prohibits requiring DEI statements or giving preference in employment based on DEI statements.
- Prohibits giving preference based on race, sex, color, ethnicity or national origin (in employment or to an employee or a participant in any function of the institution).
- Prohibits requiring employees or students to participate in DEI training, excludes Title IX training or training required for compliance with the law.
- Scholarship requirements around race, sex, color or ethnicity.

Exceptio

- Submitting a statement to a grantor or accrediting agency highlighting the college's work supporting first-generation, low-income or underserved populations OR certifying the College's compliance with anti-discrimination laws.
- Academic courses; scholarly research or creative works by students, faculty or research personnel or the dissemination of the research or works; or data collections.
- Policy, procedures, practices, programs or activity intended to enhance student academic achievement or postgraduate outcomes if it is designed and implemented without regard to race, sex, color or ethnicity.
- Activities of a registered or recognized student organization, a short-term guest speaker or performer, or student recruitment or admissions.

What is Allowed Under SB 17

- Multicultural Centers that provide support or educational programming on different cultures that are available equally to all groups.
- Programming in recognition of holidays and celebrations surrounding a particular race, sex, color, ethnicity, national origin, gender identity, or sexual orientation.
 - Must be open to all without preference for a certain group; participation cannot be required.
- Support of employee or student organizations and programs that are focused on covered identity groups.
 - All employees and/or students must be able to join and enjoy the same benefits of membership.

Employee questions should be submitted to askHR@tccd.edu. For student-related questions, contact your campus's Vice President for Student Affairs.

Tags: [Human Resources](#), [Student Affairs](#), [TCC Faculty](#), [TCC Staff](#), [TCC Students](#) w

TASB Update 46

Presented by:

Antonio Allen, Interim General Counsel

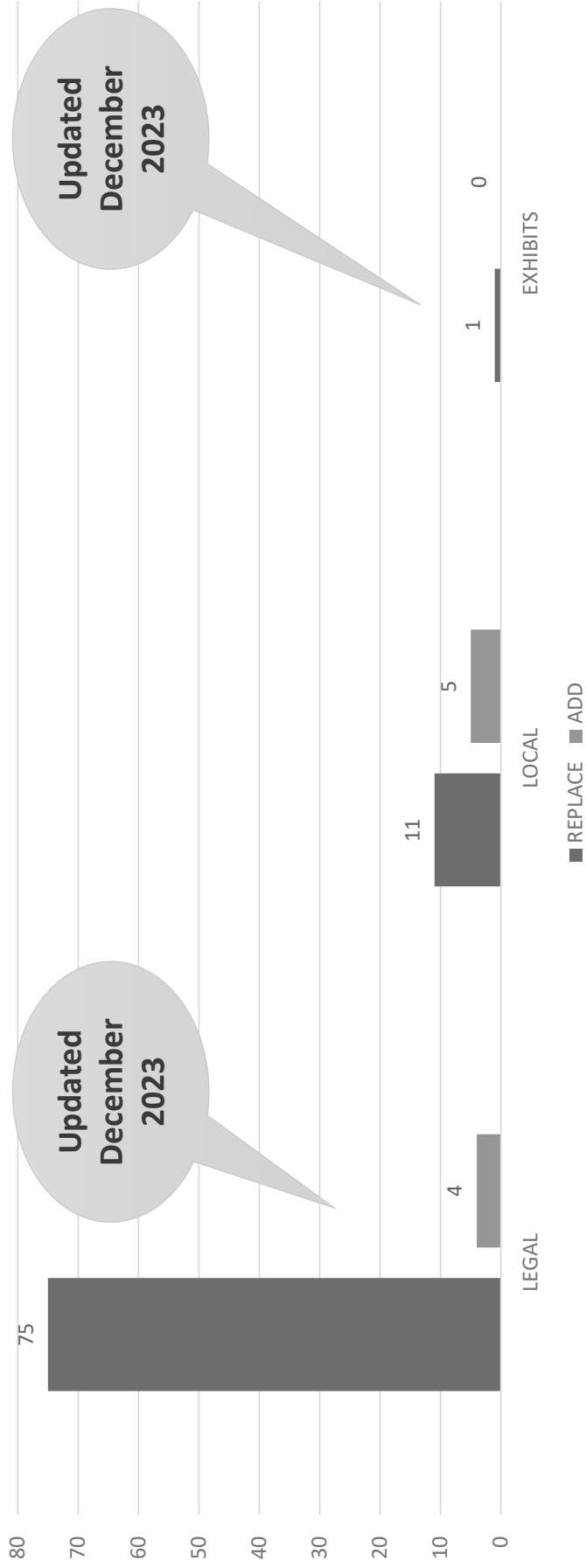
Presentation Date:

March 07, 2024



TASB POLICY UPDATE 46 TOUCHES NEARLY 100 POLICIES . . .

TASB UPDATE 46 CHANGES

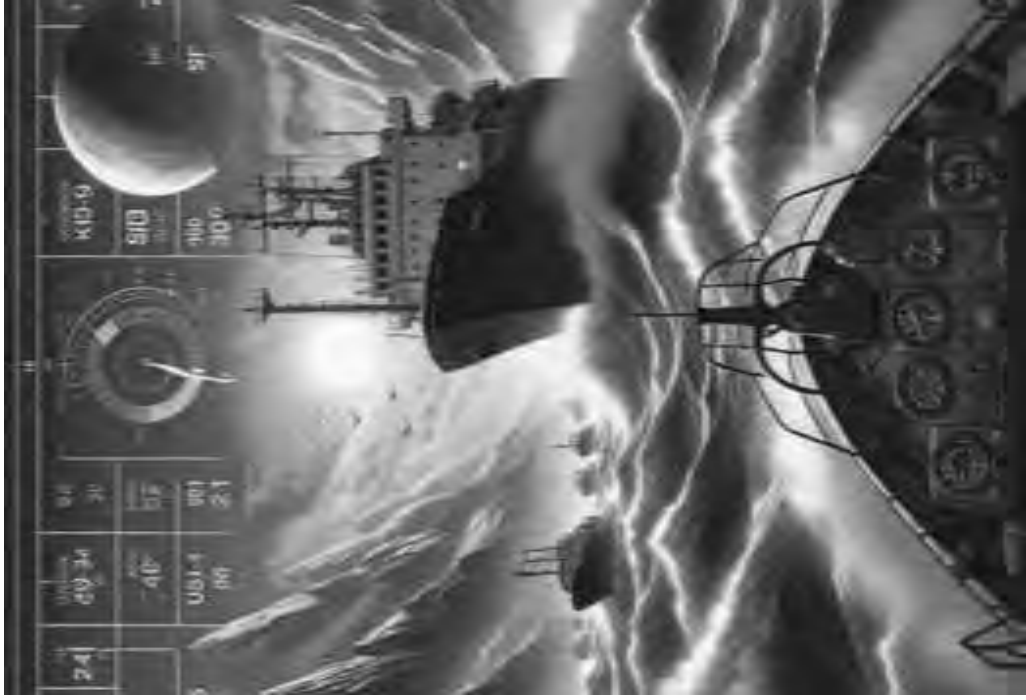


SEVERAL POLICY CHANGES DRIVEN BY SB-17 AND HB8 LEGISLATION...

POLICIES	SB-17	HB 8	SB-412	OTHER
LOCAL	4	1	2	9
LEGAL	6	16	2	59

BOARD REQUESTED TO APPROVE CHANGES / ADDITIONS OF LOCAL POLICIES . . .

<u>LOCAL POLICY</u>	<u>REVISION</u>	<u>ADDITION</u>
DEC		X
BBD		X
BBI		X
BG	X	
CFE	X	
CGC		X
CS		X
CU	X	
DAA		X
EBA		X
ECC		X
FA	X	
FAA	X	
FFDA		X
FLB		X
GCB		X



Navigating SB-17: A Guide to Compliance

SB-17: Diversity, Equity, & Inclusion Regulation

§ 51.3525. Responsibility of Governing Boards Regarding Diversity, Equity, and Inclusion Initiatives

CODED

2023 ACTING GOVERNOR, 10/10/23

(a) In this section, "diversity, equity, and inclusion efforts" means an office, division, or other unit of an institution of higher education established for the purpose of

- (1) reflecting 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-blind hiring programs in accordance with any applicable state and federal anti-discrimination laws;
- (2) providing differential treatment or providing special benefits to individuals on the basis of race, color, or ethnicity;
- (3) promoting policies or procedures designed or implemented in reference to race, color, or ethnicity, other than policies or procedures approved in writing by the institution's general council 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
- (4) conducting training, programs, or activities designed or implemented in reference to race, color, ethnicity, gender identity, or sexual orientation, other than training, programs, or activities approved in writing by the institution's general council and the Texas Higher Education Coordinating Board for the sole purpose of ensuring compliance with any applicable court order or state or federal law.

(b) The governing board of an institution of higher education shall ensure that each unit of the institution

(1) does not, except as required by federal law

- (A) violate or maintain a diversity, equity, and inclusion effort;
 - (B) hire or assign an employee of the institution or contract with a third party to perform the duties of a diversity, equity, and inclusion office;
 - (C) recruit, recruit, induce, or solicit any person to provide a diversity, equity, and inclusion statement or give feedback or comments to any person based on the provision of a diversity, equity, and inclusion statement;
 - (D) 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
 - (E) require in a condition of providing at the institution or performing any institution function any person to participate in diversity, equity, and inclusion training, which
 - (i) excludes a training, program, or activity designed or implemented or endorsed in writing by the institution's general council and the Texas Higher Education Coordinating Board for the sole purpose of ensuring compliance with any applicable court order or state or federal law; and
 - (ii) does not include a training, program, or activity developed by an attorney not approved in writing by the institution's general council and the Texas Higher Education Coordinating Board for the sole purpose of ensuring compliance with any applicable court order or state or federal law; and
- (2) adopt policies and procedures by appropriately disclosing, including by termination, an employee or contractor of the institution who engages in conduct as an employee of the institution.



Key Prohibitions

- Prohibits having a “diversity, equity, and inclusion office”
- Prohibits hiring a 3rd Party to perform duties of a DEI office
- Prohibits requiring DEI Statements or giving preference in employment based on DEI Statements
- Prohibits giving preference based on race, sex, color, ethnicity, or national origin (*in employment or to an employee or a participant in any function of the institution*)
- Prohibits requiring employees or students from participating in DEI Training – excludes Title IX training or training required for compliance with the law





**College Required to
Discipline, including
possible termination, any
employee or contractor who
violates SB-17 Prohibitions.**



SB-17 Exceptions

- Submitting a statement to a grantor or accrediting agency highlighting college's work supporting first generation or low-income students or underserved student populations or certifying the college's compliance with antidiscrimination laws.
- Academic courses; scholarly research or creative works by students, faculty, or research personnel or the dissemination of the research or works; or data collection.
- policy, procedure, practice, program, or activity intended to enhance student academic achievement or postgraduate outcomes if it is designed and implemented without regard to race, sex, color, or ethnicity.
- activities of a registered or recognized student organization, a short-term guest speaker or performer, or student recruitment or admissions.



What SB-17 Does Not Prohibit?

- Multicultural Center that provides support or educational programming on different cultures that are available equally to all groups
- Programming in recognition of holidays and celebrations surrounding a particular race, sex, color, ethnicity, national origin, gender identity, or sexual orientation
 - Open to all without preference for a certain group
 - Participation not Required
- Support employee or student organizations and programs that are focused on covered identity groups
 - All employees and/or students Must Be Able to Join and Enjoy the Same Benefits of Membership



QUESTIONS?





GENERAL COUNSEL'S OFFICE

Faculty Bootcamp 2024

Presented by:
Antonio Allen, General Counsel

July 31, 2024



SB-17: DEI Legislation



§ 51.3525. Responsibility of Governing Boards Regarding Diversity, Equity, and Inclusion Initiatives

Current version

<Text of section effective Jan. 1, 2024.>

(a) In this section, "diversity, equity, and inclusion office" means an office, division, or other unit of an institution of higher education established for the

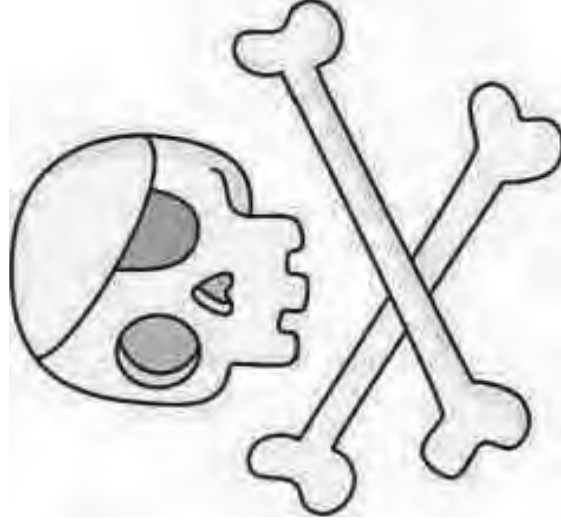
The governing board of an institution of higher education shall ensure that each unit of the institution: does not . . . give preference on the basis of race, sex, color, ethnicity, or national origin to an applicant for employment, an employee, or a participant in any function of the institution.

(i) does not include a training, program, or activity developed by an attorney and approved in writing by the institution's general counsel and the Texas Higher Education Coordinating Board for the sole purpose of ensuring compliance with any applicable court order or state or federal law; and

(2) adopts policies and procedures for appropriately disciplining, including by termination, an employee or contractor of the institution who engages in conduct in violation of Subdivision (1).

Key Prohibitions

- Prohibits having a “diversity, equity, and inclusion office”
- Prohibits hiring a 3rd Party to perform duties of a DEI office
- Prohibits requiring DEI Statements or giving preference in employment based on DEI Statements
- Prohibits giving preference based on race, sex, color, ethnicity, or national origin (in employment or to an employee or a participant in any function of the institution)
- Prohibits requiring employees or students from participating in DEI Training – excludes Title IX training or training required for compliance with the law



Mandatory

- **College Required to Discipline, including possible termination, any employee or contractor who violates SB-17 Prohibitions.**

DH(Legal)



SB-17 Exceptions



- Submitting a statement to a grantor or accrediting agency highlighting college's work supporting first generation or low-income students or underserved student populations or certifying the college's compliance with antidiscrimination laws.
- Academic courses; scholarly research or creative works by students, faculty, or research personnel or the dissemination of the research or works; or data collection.
- policy, procedure, practice, program, or activity intended to enhance student academic achievement or postgraduate outcomes if it is designed and implemented without regard to race, sex, color, or ethnicity.
- activities of a registered or recognized student organization, a short-term guest speaker or performer, or student recruitment or admissions.

SB-17 Does Not Prohibit:



- Multicultural Center that provides support or educational programming on different cultures that are available equally to all groups
- Programming in recognition of holidays and celebrations surrounding a particular race, sex, color, ethnicity, national origin, gender identity, or sexual orientation
 - Open to all without preference for a certain group
 - Participation not Required
- Support employee or student organizations and programs that are focused on covered identity groups
 - All employees and/or students Must Be Able to Join and Enjoy the Same Benefits of Membership
- Attendance at a DEI conferences or other conference that includes a DEI component
 - Participation Must Be Voluntary
- Engaging in efforts to Recruit a Diverse Pool of Students or Applicants for a Vacant Position

Violation of TCC Policy?



Professor Smith assigns a book he authored under a pseudonym as a required reading for his course. He did not disclose his authorship or any royalties he receives from the book's sales to the college.

An employee, Jane Doe, records a conversation with her supervisor without informing them. She does this because she believes the supervisor is engaging in discriminatory behavior and wants evidence to support her claim.

An employee, John Doe, witnesses another employee making derogatory remarks about a colleague's religion. John reports the incident to his immediate supervisor, who does not take any action. John then escalates the report to the next level of leadership.

Dr. Thompson, a history professor at TCC, includes a unit on the civil rights movement in his American History course. The unit covers various aspects of Diversity, Equity, and Inclusion (DEI), including the historical struggles for racial equality, the impact of discriminatory laws, and the contributions of marginalized groups to American society. Dr. Thompson encourages open discussions about these topics and assigns readings that explore different perspectives on DEI issues.



QUESTIONS?



ELECTRONIC SIGNATURE ACKNOWLEDGEMENT AND CONSENT FORM

I, TERESA MARIE AYALA, 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.

Teresa Marie Ayala
Signature

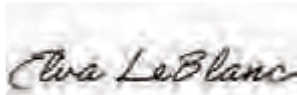
August 30, 2024
Date

Please check one:

- President
 Board Chair

ELECTRONIC SIGNATURE ACKNOWLEDGEMENT AND CONSENT FORM

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



Signature

08/30/2024

Date

Please check one:

- ~~President~~ Chancellor
- Board Chair

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

**Diversity, Equity,
and Inclusion Office**

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

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

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

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

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

Exceptions

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

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

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

This section may not be construed to apply to:

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

Education Code 51.3525(c)-(d)

Compliance
Report

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

Testimony

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

Audit

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

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

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

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

Education Code 51.3525(g)-(h)

**Required Vendor
Disclosure**

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

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

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

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

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

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

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

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

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

Definitions

Vendor

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

Agent

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

*Business
Relationship*

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

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

Local Gov't Code 176.001(1-a)

PURCHASING AND ACQUISITION
VENDOR RELATIONS

CFE
(LEGAL)

<i>Family Member</i>	“Family member” means a person related to another person within the first degree by consanguinity or affinity, as described by Government Code Chapter 573, Subchapter B. [See DBE(EXHIBIT)] <i>Local Gov’t Code 176.001(2)</i>
<i>Family Relationship</i>	“Family relationship” means a relationship between a person and another person within the third degree by consanguinity or the second degree by affinity, as those terms are defined by Government Code Chapter 573, Subchapter B. [See DBE(EXHIBIT)] <i>Local Gov’t Code 176.001(3)</i>
<i>Records Administrator</i>	“Records administrator” means the director, county clerk, municipal secretary, superintendent, or other person responsible for maintaining the records of the local governmental entity or another person designated by the local governmental entity to maintain statements and questionnaires filed under Local Government Code Chapter 176 and perform related functions. [See CIA] <i>Local Gov’t Code 176.001(5)</i>
<i>Gift</i>	“Gift” means a benefit offered by a person, including food, lodging, transportation, and entertainment accepted as a guest. The term does not include a benefit offered on account of kinship or a personal, professional, or business relationship independent of the official status of the recipient. <i>Local Gov’t Code 176.001(2-b)</i>
<i>Investment Income</i>	“Investment income” means dividends, capital gains, or interest income generated from: <ol style="list-style-type: none">1. A personal or business:<ol style="list-style-type: none">a. Checking or savings account;b. Share draft or share account; orc. Other similar account;2. A personal or business investment; or3. A personal or business loan. <i>Local Gov’t Code 176.001(2-d)</i>
Disclosure Form	The Texas Ethics Commission shall adopt a conflict of interest questionnaire that requires disclosure of a vendor’s business and family relationships with a local governmental entity. <i>Local Gov’t Code 176.006(b)</i>
<i>Electronic Filing</i>	The required questionnaire, including signature requirements, may be filed electronically in a form approved by the Commission. <i>Local Gov’t Code 176.008</i>

PURCHASING AND ACQUISITION
VENDOR RELATIONS

CFE
(LEGAL)

Updates A vendor shall file an updated completed questionnaire with the appropriate records administrator not later than the seventh business day after the date on which the vendor becomes aware of an event that would make a statement in the questionnaire incomplete or inaccurate. *Local Gov't Code 176.006(d)*

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] *Local Gov't Code 176.0065*

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. *Local Gov't Code 176.009*

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. *Local Gov't Code 176.013(e)*

Violations A vendor commits an offense under Local Government Code Chapter 176 if the vendor:

1. Is required to file a conflict of interest questionnaire under Local Government Code 176.006; and
2. Either:
 - 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
 - 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.

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.

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

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

**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)*

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

PURCHASING AND ACQUISITION
VENDOR RELATIONS

CFE
(LOCAL)

**Diversity, Equity,
and Inclusion
Initiatives**

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

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

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

Generally

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

It shall be an unlawful employment practice for an employer to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to 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 <i>Discrimination</i> 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*

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

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

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

Harassment on the basis of sex is a violation of Title VII, 42 U.S.C. 2000e-2.

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)

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

**ADEA—Age
Discrimination**

It shall be unlawful for an employer:

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

29 U.S.C. 623(a)

It shall not be unlawful for an employer:

1. To take any action otherwise prohibited under 29 U.S.C. 623(a) where age is a bona fide occupational qualification reasonably necessary to the normal operation of the particular business, or where the differentiation is based on reasonable factors other than age, or where such practices involve an employee in a workplace in a foreign country, and compliance with such subsections would cause such employer, or a corporation controlled by such employer, to violate the laws of the country in which such workplace is located;
2. To take any action otherwise prohibited under 29 U.S.C. 623(a):
 - a. To observe the terms of a bona fide seniority system that is not intended to evade the purposes of 29 U.S.C.

Chapter 14, except that no such seniority system shall require or permit the involuntary retirement of any individual specified by 29 U.S.C. 631(a) because of the age of such individual; or

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

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

29 U.S.C. 623(f)

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

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

**ADA and Section 504
—Disability
Discrimination**

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

Discrimination
Based on Lack of
Disability

Nothing in 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.

EMPLOYMENT OBJECTIVES
EQUAL EMPLOYMENT OPPORTUNITY

DAA
(LEGAL)

	<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">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,

EMPLOYMENT OBJECTIVES
EQUAL EMPLOYMENT OPPORTUNITY

DAA
(LEGAL)

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

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

28 C.F.R. 35.140

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

**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)

Definitions	
<i>Known Limitation</i>	The term “known limitation” means physical or mental condition related to, affected by, or arising out of pregnancy, childbirth, or related medical conditions that the employee or employee’s representative has communicated to the employer whether or not such condition meets the definition of disability specified in the Americans with Disabilities Act (ADA) of 1990, 42 U.S.C. 12102. 42 U.S.C. 2000gg(4)
<i>Qualified Employee</i>	The term “qualified employee” means an employee or applicant who, with or without reasonable accommodation, can perform the essential functions of the employment position, except that an employee or applicant shall be considered qualified if: <ol style="list-style-type: none">1. Any inability to perform an essential function is for a temporary period;2. The essential function could be performed in the near future; and3. The inability to perform the essential function can be reasonably accommodated. 42 U.S.C. 2000gg(6)
<i>Reasonable Accommodation and Undue Hardship</i>	The terms “reasonable accommodation and “undue hardship” have the meanings given such terms in the ADA, 42 U.S.C. 12111, and shall be construed as such terms are construed under the ADA and as set forth in the regulations required by this section, including with regard to the interactive process that will typically be used to determine an appropriate reasonable accommodation. 42 U.S.C. 2000gg(7)

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.

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)*

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

State Law

Unlawful
Employment
Practice

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

EMPLOYMENT OBJECTIVES
EQUAL EMPLOYMENT OPPORTUNITY

DAA
(LEGAL)

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

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

Disparate Impact

An unlawful employment practice based on disparate impact is established under Labor Code Chapter 21 only if a complainant demonstrates that a respondent uses a particular employment practice that causes a disparate impact on the basis of race, color, sex, national origin, religion, or disability and the respondent fails to demonstrate that the challenged practice is job-related for the position in question and consistent with business necessity; or the complainant makes the demonstration in accordance with federal law as that law existed June 4, 1989, with respect to the concept of alternative employment practices, and the respondent refuses to adopt such an alternative employment practice. To demonstrate that a particular employment practice causes a disparate impact, the complainant must demonstrate that each particular challenged employment practice causes a disparate impact, except that if the complainant demonstrates to the satisfaction of the court that the elements of a respondent's decision-making process are not capable of separation for analysis, that decision-making process may be analyzed as one employment practice. *Labor Code 21.122(a), (c)*

Exception

An employer does not commit an unlawful employment practice by engaging in a practice that has a discriminatory effect and that would otherwise be prohibited by Chapter 21 if the employer establishes that the practice is not intentionally devised or operated to contravene the prohibitions of Chapter 21 and is justified by business necessity. *Labor Code 21.115(a)*

Job Training
Programs

Unless a training or retraining opportunity or program is provided under an affirmative action plan approved under a federal law, rule, or order, an employer, labor organization, or joint labor-management committee controlling an apprenticeship, on-the-job training, or other training or retraining program commits an unlawful employment practice if the employer, labor organization, or committee discriminates against an individual because of race, color, disability, religion, sex, national origin, or age in admission to or participation in the program. *Labor Code 21.054*

Selection Criterion

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

EMPLOYMENT OBJECTIVES
EQUAL EMPLOYMENT OPPORTUNITY

DAA
(LEGAL)

*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;

EMPLOYMENT OBJECTIVES
EQUAL EMPLOYMENT OPPORTUNITY

DAA
(LEGAL)

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)

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.

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:

EMPLOYMENT OBJECTIVES
EQUAL EMPLOYMENT OPPORTUNITY

DAA
(LEGAL)

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*

EMPLOYMENT OBJECTIVES
EQUAL EMPLOYMENT OPPORTUNITY

DAA
(LEGAL)

<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">1. Know or should have known that the conduct constituting sexual harassment was occurring; and2. Fail to take immediate and appropriate corrective action. <p>An individual is considered to be an unpaid intern of an employer if:</p> <ol style="list-style-type: none">1. The individual's internship, even though it includes engagement in the employer's operations or the performance of productive work for the employer, is similar to training that would be given in an educational environment;2. The individual's internship experience is for the individual's benefit;3. The individual does not displace the employer's regular employees but works under close supervision of the employer's existing staff;

EMPLOYMENT OBJECTIVES
EQUAL EMPLOYMENT OPPORTUNITY

DAA
(LEGAL)

4. The employer does not derive any immediate advantage from the individual's internship activities and on occasion the employer's operations may be impeded by those activities;
5. The individual is not entitled to a job at the conclusion of the internship; and
6. The individual is not entitled to wages for the time spent in the internship.

"Sexual harassment" means an unwelcome sexual advance, a request for a sexual favor, or any other verbal or physical conduct of a sexual nature if:

1. Submission to the advance, request, or conduct is made a term or condition of an individual's internship, either explicitly or implicitly;
2. Submission to or rejection of the advance, request, or conduct by an individual is used as the basis for a decision affecting the individual's internship;
3. The advance, request, or conduct has the purpose or effect of unreasonably interfering with an individual's work performance at the individual's internship; or
4. The advance, request, or conduct has the purpose or effect of creating an intimidating, hostile, or offensive working environment.

Labor Code 21.1065

Retaliation

An employer commits an unlawful employment practice if the employer, labor union, or employment agency retaliates or discriminates against a person who, under Labor Code Chapter 21 opposes a discriminatory practice; makes or files a charge; files a complaint; or testifies, assists, or participates in any manner in an investigation, proceeding, or hearing. *Labor Code 21.055; 40 TAC 819.12(e)*

Notices

Title VII

Every employer, including each college district, shall post and keep posted in conspicuous places upon its premises, where notices to employees, applicants for employment, and members are customarily posted, a notice to be prepared or approved by the Equal Employment Opportunity Commission (EEOC) setting forth excerpts from or, summaries of, the pertinent provisions of 42 U.S.C. Chapter 21, Subchapter VI, and information pertinent to the filing of a complaint. *42 U.S.C. 2000e-10*

ADEA

Every employer shall post and keep posted in conspicuous places upon its premises a notice to be prepared or approved by the

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

EMPLOYEE STANDARDS OF CONDUCT

DH
(LEGAL)

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

EMPLOYEE STANDARDS OF CONDUCT

DH
(LEGAL)

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

3. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by item 1;
4. Notifying the employee in the statement required by item 1 that as a condition of employment in the grant the employee will abide by the terms of the statement; and notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after the conviction;
5. Notifying the granting agency within 10 days after receiving notice under item 4 from an employee or otherwise receiving actual notice of a conviction;
6. Imposing a sanction on, or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by, any employee who is convicted, as required by 41 U.S.C. 8104; and
7. Making a good faith effort to continue to maintain a drug-free workplace through the implementation of items 1 to 6.

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

**Sex Offender
Registration**

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

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

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

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

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

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

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

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

**Misconduct by a
Person Licensed
Under Occupations
Code 1701**

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

TCOLE shall adopt a model policy establishing procedures applicable to a law enforcement agency investigating alleged misconduct by a license holder employed by the agency.

The policy adopted under this section must:

1. Require a law enforcement agency to:
 - a. Initiate an appropriate administrative or criminal investigation into alleged misconduct of a license holder employed by the law enforcement agency at the time the agency becomes aware of the alleged misconduct;
 - b. Complete the investigation described by item 1a in a timely manner, as prescribed by TCOLE;
 - c. Report an investigation into alleged criminal misconduct for which criminal charges are filed against the license holder to TCOLE in a timely manner after the investigation is completed;
 - d. Complete an administrative investigation of alleged misconduct and prepare and submit to TCOLE a summary

- report on the investigation, including the disposition of the investigation and any informational findings, in a format prescribed by TCOLE, in a timely manner but not later than the 30th day after the date of the license holder's separation from the agency, if applicable;
- e. Include documentation of the completed investigation in the personnel file, as described by Occupations Code 1701.4535, of the license holder maintained by the agency [see DBA]; and
 - f. Submit to TCOLE each report of a completed investigation.
2. Provide that an investigation into the alleged misconduct of a license holder may not be terminated by the resignation, retirement, termination, death, or separation from employment of the license holder; and
 3. Specify that a license holder under investigation for misconduct is entitled to any internal due process procedures provided by the investigating agency to contest the investigation or completed report.

TCOLE shall maintain each report received under a policy adopted under this section as part of the license holder's record in the licensing status database established under Occupations Code 1701.168. [See DC]

"Misconduct" means a violation of law or any of the following that have been sustained by a law enforcement agency employing a license holder:

1. A violation of a law enforcement agency policy for which the agency may suspend, demote, or terminate a license holder's employment; or
2. An allegation of untruthfulness against a license holder.

Occupations Code 1701.001(2-a); .4522(a)-(d)

Disqualification from Retirement Annuity for Conviction of Certain Felonies

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

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

1. Section 21.02 (continuous sexual abuse of young child or disabled individual);

EMPLOYEE STANDARDS OF CONDUCT

DH
(LEGAL)

2. Section 21.12 (improper relationship between educator and student);
3. Section 22.011 (sexual assault) or Section 22.021 (aggravated sexual assault); or
4. Section 43.24 (sale, distribution, or display of harmful material to minor).

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

Gov't Code 824.009(a)-(c)

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

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

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

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

**Diversity, Equity,
and Inclusion
Initiatives**

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

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

Table of Contents

Section I: Generally	2
Section II: Religious Freedom	2
Association with a Religious Organization	2
Access for Religious Organizations During Disasters.....	3
Section III: Discrimination on the Basis of Sex	3
Parental, Family, and Marital Status	3
Sexual Harassment.....	3
Clery Act—Campus Sexual Assault Programs	4
Section IV: Discrimination on the Basis of Race, Color, or National Origin	12
Hair Texture or Style	13
Section V: Diversity, Equity, and Inclusion Initiatives	13
Section VI: Discrimination on the Basis of Age	14
Exceptions	14
Notice.....	15
Section VII: Discrimination on the Basis of Disability	15
ADA.....	15
Section 504	15
Disability.....	15
Qualified Individual with a Disability.....	18
Student with a Disability	18
Reasonable Modification.....	18
Communications	19
Direct Threat	20
Services Inventory	20
Section VIII: Retaliation	21
Section IX: Handgun License as Proof of Identification	21

Section I: Generally

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

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

Section II: Religious Freedom

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

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

Association with a Religious Organization

Notwithstanding any other law, a governmental entity, including a college district, may not take any adverse action against any person, as defined by Government Code 2400.001(4), based wholly or partly on the person's membership in, affiliation with, or contribution, donation, or other support provided to a religious organization.

"Adverse action" means any action taken by a governmental entity to:

1. Withhold, reduce, exclude, terminate, or otherwise deny any grant, contract, subcontract, cooperative agreement, loan, scholarship, license, registration, accreditation, employment, or other similar status from or to a person;
2. Withhold, reduce, exclude, terminate, or otherwise deny any benefit provided under a benefit program from or to a person;
3. Alter in any way the tax treatment of, cause any tax, penalty, or payment assessment against, or deny, delay, or revoke a tax exemption of a person;
4. Disallow a tax deduction for any charitable contribution made to or by a person;
5. Deny admission to, equal treatment in, or eligibility for a degree from an educational program or institution to a person; or

6. Withhold, reduce, exclude, terminate, or otherwise deny access to a property, educational institution, speech forum, or charitable fundraising campaign from or to a person.

Gov't Code 2400.001(1), .002 [See GA]

Access for
Religious
Organizations
During Disasters

A governmental entity may not:

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

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

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

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

Educational programs and activities include:

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

Parental, Family,
and Marital Status

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

Sexual Harassment

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

<i>Definition of Sexual Harassment</i>	Sexual harassment of students is conduct that is so severe, pervasive, and objectively offensive that it can be said to deprive the victim of access to the educational opportunities or benefits provided by the school. Sexual harassment does not include simple acts of teasing and name-calling, however, even when the comments target differences in gender. <u><i>Davis v. Monroe County Bd. of Educ.</i></u> , 526 U.S. 629 (1999)
<i>Employee–Student Sexual Harassment</i>	An official of an educational entity who has authority to address alleged harassment by employees on the entity’s behalf shall take corrective measures to address the harassment or abuse. <u><i>Gebser v. Lago Vista Indep. Sch. Dist.</i></u> , 524 U.S. 274 (1998)
<i>Student–Student Sexual Harassment</i>	An educational entity must reasonably respond to known student-on-student harassment where the harasser is under the entity’s disciplinary authority. <u><i>Davis v. Monroe County Bd. of Educ.</i></u> , 526 U.S. 629 (1999)
Clery Act—Campus Sexual Assault Programs	<p>An institution’s Clery Act annual security report [see GCC] must include a statement of policy regarding the institution’s programs to prevent dating violence, domestic violence, sexual assault, and stalking and of procedures that the institution will follow when one of these crimes is reported. The statement must include:</p> <ol style="list-style-type: none">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:<ol style="list-style-type: none">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:<ol style="list-style-type: none">(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)
<i>Procedures for Institutional Disciplinary Action</i>	<p>An institution must include in its annual security report a clear statement of policy that addresses the procedures for institutional disciplinary action in cases of alleged dating violence, domestic violence, sexual assault, or stalking, as defined in 34 C.F.R. 668.46(a), and that:</p> <ol style="list-style-type: none">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

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

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

disciplinary proceeding, if such procedures are available;

(3) Any change to the result; and

(4) When such results become final.

34 C.F.R. 668.46(k)

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

Prompt, Fair,
and Impartial
Proceeding

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

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

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

Adviser

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

Proceeding

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

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

Definitions

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

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

34 C.F.R. 668.46(a)

Domestic Violence

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

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

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

34 C.F.R. 668.46(a)

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

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

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

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

34 C.F.R. 668.46(a)

Sexual Assault

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

Stalking

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

For the purposes of this definition:

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

34 C.F.R. 668.46(a)

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

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

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

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

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

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

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

Hair Texture or
Style

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

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

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

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

Education Code 51.3525(b)(1)

Exceptions

This section may not be construed to apply to:

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

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

Education Code 51.3525(c)-(d)

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.

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

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

Exceptions

*Normal Operation
or Statutory
Objective*

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

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

34 C.F.R. 110.12

*Reasonable
Factors Other
Than Age*

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

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

*Special Benefits
for Children and
the Elderly*

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

Affirmative Action

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

Notice

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

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

ADA

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

Section 504

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

Disability

“Disability” means, with respect to an individual:

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

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

The term “disability” does not include:

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

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

*Regarded as
Having Such an
Impairment*

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

Transitory and
Minor

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

*Mitigating
Measures*

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

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

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

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

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

*Major Life
Activities*

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

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

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

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

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

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

*Physical or
Mental
Impairment*

"Physical or mental impairment" means:

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

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

Physical or mental impairment does not include homosexuality or bisexuality.

28 C.F.R. 35.108(b)

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

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

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

Communications

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

*Auxiliary Aids
and Services*

“Auxiliary aids and services” include:

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

28 C.F.R. 35.104

*Limits of
Required
Modification*

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

Direct Threat

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

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

28 C.F.R. 35.104

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

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

28 C.F.R. 35.139

Services Inventory

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

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

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

Education Code 61.0663

**Section VIII:
Retaliation**

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

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

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

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

Business and Commerce Code 506.001



Navigating LinkedIn Learning Currently Unavailable

[August 2 , 2024](#) by [insideTCC](#) in [Announcements](#)

Texas Senate Bill 17 (SB 17) was signed into law by Governor Greg Abbott, effective January 1, 2024. Per the statute, “An institution of higher education may not establish or maintain a diversity, equity, and inclusion office or hire or assign an employee of the institution, or contract with a third party, to perform the duties of a diversity, equity, and inclusion office.”

The statute defines a duty of a DEI office as including “conducting trainings, programs, or activities designed or implemented in reference to race, color, ethnicity, gender identity, or sexual orientation.”

Tarrant County College will continue to follow the law as outlined in SB 17 and at this time, LinkedIn Learning is currently unavailable through TCC. This does not impact the overall LinkedIn tool, which is separate from LinkedIn Learning, or your access to any LinkedIn products through personal accounts.

For similar training opportunities, check the TCC LearnCenter developed by Organizational Excellence and Development (OED). We are working diligently to identify and provide alternate professional development solutions.

Additional updates and information will be provided by your College leaders. **9**

[Navigating _____ insideTCC \(tccd.edu\)](#)

Tags: [legal](#) [O_ganizati_nal Excellence and Devel_pment](#) [TCC Faculty](#) [TCC_staff](#)
[TCC_students](#) r

Navigating SB 17 | LinkedIn Learning Currently Unavailable

Posted on August 29, 2024 by RB & Markshin



Texas Senate Bill 17 (SB 17) was signed into law by Governor Greg Abbott, effective January 1, 2024. Per the statute, "An institution of higher education may not establish or maintain a diversity, equity, and inclusion office or hire or assign an employee of the institution, or contract with a third party, to perform the duties of a diversity, equity, and inclusion office."

The statute defines a duty of a DEI office as including "conducting trainings, programs, or activities designed or implemented in reference to race, color, ethnicity, gender identity, or sexual orientation."

Tarrant County College District will continue to follow the law as outlined in SB 17 and at this time, LinkedIn Learning is currently unavailable through TCCD. This does not impact the overall LinkedIn tool, which is separate from LinkedIn Learning, or access to any LinkedIn products through personal accounts of students and employees.

Faculty will provide alternate methods of supplemental student instruction if LinkedIn Learning is used in class while the tool is unavailable through TCCD.

TCCD employees are able to access similar training opportunities through the internal TCCD LearnCenter developed by Organizational Excellence and Development (OED). We are working diligently to identify and provide additional professional development solutions.

Category:

- [Statements](#)

[Previous story: TCC receives \\$350,000 National Science Foundation Advanced Technological Education Grant](#)



OFFICE OF HUMAN RESOURCES

300 Trinity Campus Circle • Fort Worth, Texas 76102 • 817-515-5100

August 20, 2024



RE: Placement on Administrative Leave

Dear [REDACTED]:

This letter serves as formal notification that, effective immediately, you are being placed on administrative leave with pay pending a recommendation for termination due to violation of Tarrant County College Board Policy DH-Legal. We learned today that your department launched the mandatory Equal Employment Opportunity Training last week that included a module on Diversity, Equity, and Inclusion in violation of SB17. Board policy and Texas law states:

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

While you are on administrative leave with pay, you are required to:

1. Be available during normal business hours for any necessary questions, calls, or in-person meetings related to your pending work items. If there are any periods of unavailability, you should request sick, or vacation leave by emailing Vanessa Jones, executive director for HR operations at the email address listed below.
2. Refrain from contacting other TCC employees or being present in the workplace unless requested to do so by Dr. Elva Le Blanc or a designee.
3. Turn in any District-issued equipment, identification, keys, etc. upon receipt of this letter.
4. Notify the Office of Human Resources via email at hremployeerelations@tccd.edu if/when you accept employment prior to the end of your contract, from another company/organization.

While on administrative leave, your access to TCC systems will be disabled. However, you will be able to access your payment and leave information using your MYTCCTrack account at selfservice.tccd.edu. All communications while you're on administrative leave will take place via your personal telephone, email, and/or regular mail using your home address.



**Tarrant County[®]
College District**

OFFICE OF HUMAN RESOURCES

300 Trinity Campus Circle • Fort Worth, Texas 76102 • 817-515-5100

Failure to adhere to the administrative leave requirements listed may result in immediate termination of your employment.

Any human resources-specific questions should be communicated to Vanessa Jones, Executive Director- HR Operations. I can be reached via telephone at (817) 515-5053, or email at vanessa.jones2@tccd.edu.

Sincerely,

Gloria Maddox-Powell, Chief Human Resources Officer

CC: Personnel Record



300 Trinity Campus Circle • Fort Worth, Texas 76102-6524 • 817-515-5201

Office of the Chancellor

August 29, 2024

Via E-Mail and Certified Mail:



Dear [REDACTED]:

Thank you for meeting with me on Tuesday, August 27, 2024, to discuss the recommendation made by Gloria Maddox-Powell, our Chief Human Resources Officer, to terminate your employment when your contract ends on August 30, 2024. I have carefully considered the information you shared during our meeting, along with Ms. Maddox-Powell's recommendation.

After a thorough review and due consideration, I have decided to support the recommendation for termination based on the substantiated violation of Tarrant County College Board Policy DH-Legal. The mandatory Equal Employment Opportunity Training distributed to faculty by your department on August 14, 2024, included a module on Diversity, Equity, and Inclusion in violation of SB17. Board policy and Texas law states:

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

Your administrative leave with pay will continue through Friday, August 30, 2024. This will be your last date of employment with the College unless you sign and return the attached Release of Employment Claims" (the "Release"). Please note that you have until September 19, 2024, to execute and return the Release. After returning the signed Release, you will have a seven-day period to revoke it should you change your mind.

If you execute and return the Release, your administrative leave with pay will be extended until October 31, 2024, which will be recorded as your last date of employment.

During the administrative leave period, whether you sign the Release or not, you are required to:

1. Be reasonably available during your normal work hours in the event questions arise regarding previous job responsibilities.
2. Not have contact with any TCC employees or be present on any District properties without prior authorization.

Additionally, you are required to report any changes in your employment status during this period to Gloria Maddox-Powell, at the email address provided below.

If you wish to appeal the decision to not renew your contract, you may do so by following the procedures outlined in Board Policy DGBA (Local) and DGBA (Regulation). You must submit your request to appeal within ten (10) business days from the receipt of this letter to Gloria Maddox-Powell, Chief Human Resources Officer, via email at gloria.maddox-powell@tccd.edu. Copies of the relevant policies are attached for your review.

Thank you for your service to Tarrant County College.

Best regards,



Elva LeBlanc, Ph.D.
Chancellor

Cc: Personnel Record
Encl: TCC Board Policy DGBA (Local) and (Regulation)
TCC Release of Employment Claims Document

Institution: Temple College
Date Submitted: 08/30/24
Pages: 2

ELECTRONIC SIGNATURE ACKNOWLEDGEMENT AND CONSENT FORM

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


Signature

8-26-24
Date

Please check one:

- President
- Board Chair

ELECTRONIC SIGNATURE ACKNOWLEDGEMENT AND CONSENT FORM

I, Christina Ponce, 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.

Christina Ponce
Signature

August 26, 2024
Date

Please check one:

- President
- Board Chair

Institution: Texarkana College
Date Submitted: 08/06/24
Pages: 3



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

[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 fiscal year 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.

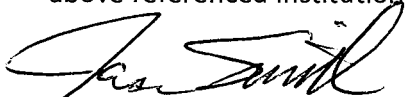
[X] I understand all complaints regarding any violations made by this institution will be sent to the State Auditor's Office for review.

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

- Review of hiring and employment practices to ensure compliance.
- Review of campus policies and procedures to ensure compliance.

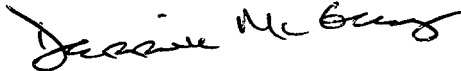
- Review of trainings, programs, and activities to ensure compliance.
- Review of scholarships offered to students to ensure compliance.
- Review of student and faculty/staff organization membership criteria to ensure compliance.

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:

Date: 7-22-24



Signature of Board Chair:

Date: 7-22-24

Date submitted to THECB:

Date submitted to the Legislature:

Institution: Texas Southmost College
Date Submitted: 08/29/24
Pages: 7

Frank E. Pérez & Associates

A Professional Corporation
Attorneys and Mediators

Frank E. Pérez

300 Mexico Boulevard
P.O. Box 3490
Brownsville, Texas 78523-3490
Email: fperez@feperezandassociates.com

Telephone (956) 504-5403

August 29, 2024

Adela G. Garza
Chair, Board of Trustees
Texas Southmost College District
80 Fort Brown
Brownsville, Texas 78520

Dr. Jesus Roberto Rodriguez
President, Texas Southmost College
80 Fort Brown
Brownsville, Texas 78520

Madam Chair and Dr. Rodriguez:

I have been asked for my legal opinion whether Texas Southmost College District is in compliance with the requirements of § 51.3525 of the Texas Education Code, commonly known as Senate Bill 17 (SB 17). My legal opinion is that Texas Southmost College District is in compliance with the requirements of § 51.3525 of the Texas Education Code, commonly known as Senate Bill 17 (SB 17).

For background and informational purposes, I am Board Counsel for Texas Southmost College District. I have been engaged by TSC in that capacity for 14 years. As part of my duties as Board Counsel I am involved in reviewing, providing counsel regarding, and drafting local policies that are considered and implemented by the Board. For the purposes of answering the question posed, I have reviewed and performed the following in preparing this legal opinion.

1. The August 7, 2024, Memorandum from the Assistant Deputy Commissioner for Academic Affairs for the Texas Higher Education Coordinating Board regarding Certification Submission for SB 17.
2. The Certification Submission for SB 17 Web Portal setting forth the requirements in § 51.3525 of the Texas Education Code.
3. TSC's legal and local policies pertaining to diversity, equity, and inclusion including but not limited to BG(LEGAL), BG(LOCAL), CFE(LEGAL), CFE(LOCAL), DAA(LEGAL), DAA(LOCAL), FA(LEGAL), and FA(LOCAL).

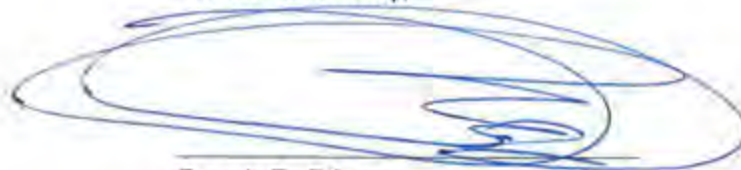
4. TSC's legal and local policies addressing discipline for violation of TSC Policy, including DH(LEGAL), DH(LOCAL), DM(LEGAL), DM(LOCAL), and FM(LEGAL), and FM(LOCAL).
5. The March 28, 2024 Agenda and Minutes of the Board of Trustees for Texas College at which meeting the local policies described in item 3 above were considered and approved by the Board. I also attended that meeting as TSC Board Counsel and presented the local policies to the Board.
6. Consultation with the Vice President of Finance and Administration for Texas Southmost College regarding expenditures.
7. Review written communication from, and consultation with, the Associate Vice President of Human Resources for Texas Southmost College concerning Policy provisions relevant to disciplinary procedures at TSC.

Based on the foregoing, it is my legal opinion that Texas Southmost College District is in compliance with the provisions and requirements of § 51.3525 of the Texas Education Code.

Please do not hesitate to contact me if you have any questions.

Thank you.

Yours faithfully,

A handwritten signature in blue ink, appearing to read "Frank E. Pérez", enclosed within a large, irregular blue oval scribble.

Frank E. Pérez

FEP/kg

ELECTRONIC SIGNATURE ACKNOWLEDGEMENT AND CONSENT FORM

I, Jesus Roberto Rodriguez, 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 29, 2024

Date

Please check one:

- President
- Board Chair



Memorandum

To: Dr. Jesus Roberto Rodriguez, President

From: Ruben N. Vega, Associate Vice President of Human Resources

Concerning: Senate Bill 17 – Compliance Review

Date: May 24, 2024

This notice serves to advise you that the Office of Human Resources has conducted a thorough review of our department policies and practices regarding Senate Bill 17 (SB 17).

Our findings confirm that we are in compliance with SB 17 and none of the material used or produce in our regular course of business contains any information, verbiage or statements concerning diversity, equity, and inclusion (DEI).

We are also pleased to inform you that our compliance extends to the following areas:

- Eliminating DEI offices or any roles performing similar functions
- Prohibiting the requirement of a DEI statement or related training for students, staff, or faculty.
- Ensuring that hiring and promotional practices are conducted solely based on merit, without demographic preferences.

Should you have any questions regarding our review, please contact me at your earliest convenience.



August 29, 2024

Dr. Jesus Roberto Rodriguez
President
Texas Southmost College
80 Fort Brown
Brownsville, Texas 78520

Dr. Rodriguez;

You have requested, that I, as legal counsel for Texas Southmost College provide a legal opinion as to Texas Southmost College's (TSC) compliance with the requirements of Section 51.3525 of the Texas Education Code, i.e. S.B. 17. In order to determine the College's compliance with S.B. 17 I have undertaken the following:

Reviewed the Associate Vice President of Human Resources for Texas Southmost College, memorandum regarding current policies related to enforcement of S.B. 17 and its provision regarding disciplinary procedures ;

Reviewed the budget as presented by the Vice-President of Finance and Administration for TSC and have determined that the College's expenditures are aligned with the provisions of S.B. 17 and do not violate any of its provisions;

Reviewed Texas Southmost College's current legal and local policies which address the procedures for disciplining employees for violations of the provision of S.B. 17 including but not limited to DH(LEGAL), DM(LEGAL), DM (LOCAL), and FM (LEGAL) and FM (LOCAL);

I have reviewed the provisions of §51.3524 of the Texas Education Code,;

I have reviewed the Certification Submission for SB 17's Web Portal requirements;

I have reviewed the August 7, 2024 Memorandum from the Assistant Deputy Commissioner for Academic Affairs for the Texas High Education Coordinating Board regarding Certification Submission for SB 17 ;

I have reviewed Texas Southmost College's academic and career programs, it's student programs and its athletic programs and have determined that TSC is in compliance with the provisions of SB 17;

I have determined that Texas Southmost College does not have a D.E.I office;

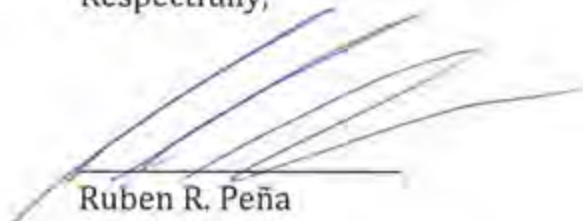
I have reviewed various communications from the Governor of Texas and various elected officials who have opined on the purpose of SB 17 ;

I have reviewed internal communications regarding SB 17 and have found that TSC is committed to insuring compliance with SB 17;

As a result of my investigation and based on the above it is my legal opinion that Texas Southmost College District is in compliance with the provisions and requirements of §51.3525 of the Texas Education Code.

Should you have any questions please feel free to contact me.

Respectfully,



Ruben R. Peña
Legal Counsel
Texas Southmost College

ELECTRONIC SIGNATURE ACKNOWLEDGEMENT AND CONSENT FORM

I, Adela G. Garza, 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 29, 2024

Date

Please check one:

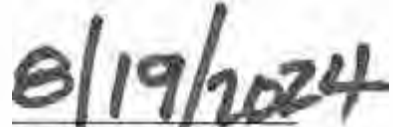
- President
- Board Chair

Institution: Texas State Technical College
Date Submitted: 08/20/24
Pages: 51

ELECTRONIC SIGNATURE ACKNOWLEDGEMENT AND CONSENT FORM

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


Signature

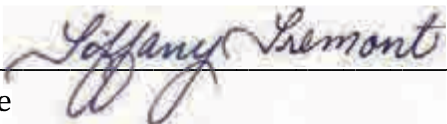

Date

Please check one:

- Chancellor
- Board Chair

ELECTRONIC SIGNATURE ACKNOWLEDGEMENT AND CONSENT FORM

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

Signature 

Date August 20, 2024

Please check one:

- Chancellor
- Board Chair

TEXAS STATE TECHNICAL COLLEGE
STATEWIDE OPERATING STANDARD

No. HR 2.5.1	Page 1 of 9	Effective Date: 3/10/2022
DIVISION:	Human Resources	
SUBJECT:	Anti-Harassment Policy	
AUTHORITY:	Minute Order #04-13 29 U.S. Code § 206 - Minimum Wage 42 U.S. Code Subchapter VI - Equal Employment Opportunities 29 U.S. Code Chapter 14 - Age Discrimination in Employment Title IX of The Education Amendments of 1972 Pregnancy Discrimination Act of 1978 The Rehabilitation Act Amendments of 1973, as amended The Americans with Disabilities Act of 1990, as amended The Genetic Information Nondiscrimination Act of 2008 Title VI and VII of the Civil Rights Act of 1964	
PROPOSED BY:	Jonathan Hoekstra	
TITLE:	Vice Chancellor & Chief Financial Officer	Date: 3/10/2022
RECOMMENDED BY:	Jonathan Hoekstra	
TITLE:	Vice Chancellor & Chief Financial Officer	Date: 3/10/2022
APPROVED BY:	Mike Reeser	
TITLE:	Chancellor	Date: 3/10/2022

STATUS: Approved by BOR 3/10/2022

HISTORICAL STATUS:

Approved by EMC 01/19/2022 via Email - Substantive Changes	Revised 02/2005
Approved by Chancellor 8/31/15	Approved by MC 05/12/94
Revised 06/10/15	Revised 04/29/94
Approved by BOR 02/07/13 MO#04-13	Revised December 14, 1981, BOR MO# 117-81.
Approved by BOR 04/29/05 MO# 37-05	Approved November 18, 1974, BOR MO# 97-74.
MO# 59-94 Rescinded 4/29/05	Determination July 1, 1974, BOR MO# 59-74
Approved by MC 03/11/05	Plan Development January 21, 1974 BOR MO# 10-74

I. STATEWIDE STANDARD

POLICY: It is the policy of Texas State Technical College (TSTC) to promote and ensure equal employment opportunities for all individuals without regard to race, color, religion, sex (including pregnancy, gender identity, and sexual orientation), parental status, national origin, age, disability, genetic information (including family medical history), political affiliation, military service, or other non-merit based factors.

TSTC prohibits unlawful harassment of any kind, including sexual harassment, and will take appropriate and immediate action in response to complaints or knowledge of noncompliance with this policy.

II. PERTINENT INFORMATION

As an equal opportunity employer, TSTC does not discriminate in its employment decisions on the basis of race, color, religion, sex (including pregnancy, gender identity, and sexual orientation), parental status, national origin, age, disability, genetic information (including family medical history), political affiliation, military service, or other non-merit based factors that would be in violation of any applicable federal, state, or local law.

III. GENERAL GUIDELINES

TSTC prohibits unlawful harassment of any kind, including sexual harassment, and will take appropriate and immediate action in response to complaints or knowledge of noncompliance with this policy.

For purposes of this policy, harassment is any verbal or physical conduct designed to threaten, intimidate, or coerce an employee, co-worker, or any person working for or on behalf of TSTC. Harassment becomes unlawful when: 1) enduring the offensive conduct becomes a condition of continued employment, or 2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.

TSTC's goal is to recruit, hire, and maintain a diverse workforce. Equal employment opportunity is a good business practice and is required by law. Equal employment opportunity applies to all areas of employment, including recruitment, selection, hiring, training, transfer, promotion, termination, compensation, and benefits. This also includes all management practices and decisions, performance evaluations, career development programs, and employment related decisions.

All employees, regardless of their positions, visitors, non-employees, or others with affiliation to the college, are covered by and are expected to comply with this policy and to take appropriate measures to ensure that proper conduct occurs. Appropriate corrective action will be taken with any employee who does not comply with this policy. Based on the seriousness of the offense, corrective action may include verbal or written coaching, training, suspension, or separation of employment.

Managers and supervisors who knowingly allow or tolerate unlawful discrimination, harassment or retaliation, including the failure to immediately report such misconduct to human resources (HR), are considered to be in noncompliance of this policy and subject to corrective action.

TSTC will make reasonable accommodations for qualified individuals with known disabilities unless doing so would result in an undue hardship, safety, and/or health risk, in accordance with applicable laws.

IV. DEFINITIONS

Harassment: Unwelcome conduct that is based on one of the above noted protected classes.

The following examples of harassment are intended to be guidelines and are not exclusive when determining whether there has been an infraction of this policy:

- Verbal harassment includes comments that are offensive or unwelcome regarding a person's national origin, race, color, religion, gender, sexual orientation, age, body, disability, or appearance, including epithets, slurs, and negative stereotyping.
- Offensive conduct may include, but is not limited to, offensive jokes, slurs, epithets or name calling, physical assaults or threats, intimidation, ridicule or mockery, insults or put-downs, offensive objects or pictures, and interference with work performance.”
- Nonverbal harassment includes distribution, display or discussion of any written or graphic material that ridicules, denigrates, insults, belittles or shows hostility, aversion or disrespect toward an individual or group.

Retaliation: A negative action against an employee who files a concern or complaint about work the workplace related to discrimination or harassment.

V. DELEGATION OF AUTHORITY

The Chancellor and designated executives are responsible for ensuring equal employment opportunity at TSTC in accordance with all applicable laws and with system policy.

The Human Resources Office will serve as the liaison between campuses and local, state, and federal compliance agencies regarding matters that include, but are not limited to, discrimination charges or complaints that are filed with local agencies, state agencies including the Texas Workforce Commission's Civil Rights Division, or federal civil rights compliance agencies.

The Chancellor, or designee, is responsible for the coordination of all reporting requirements related to equal employment, discrimination complaints, and disability accommodations under applicable state and federal regulations.

The Chancellor, or designee, will appoint a Title IX Coordinator, a Section 504 of the Rehabilitation Act of 1973 Coordinator, and other administrators who will oversee implementation of procedures to ensure compliance with this policy and with all applicable federal, state, and local laws related to equal employment, discrimination complaints, and disability accommodations.

All employees are encouraged to report conduct that they believe constitutes unlawful harassment (or that, if left unchecked, may rise to the level of unlawful harassment), discrimination or retaliation even if they are not sure the conduct violates the policy before it becomes severe or pervasive.

Upon receipt of the allegation, TSTC will provide a prompt, impartial, and thorough investigation. TSTC will assure that all necessary steps and that immediate action and proportionate corrective action is taken if deemed necessary and warranted upon determining that harassment has occurred.

VI. PERFORMANCE STANDARDS

1. The Chancellor or his or her designee has appointed a Title IX Coordinator, a Section 504 of the Rehabilitation Act of 1973 Coordinator, and other administrators who ensure compliance with this policy and with all applicable federal, state, and local laws related to equal employment, discrimination complaints, and disability accommodations.
2. Required annual Equal Employment Opportunity reports are submitted in a timely manner as requested.
3. Analyses are performed annually, as requested, for workforce composition, compensation, evaluations, and harassment training according to the EEO categories and as defined by the Texas Workforce Commission - Civil Rights Division.
4. All employees are trained on equal opportunity, harassment, nondiscrimination, and retaliation within 30 days of hire and every two years thereafter.

APPENDIX

VII. RELATED STATEWIDE STANDARDS, LEGAL CITATIONS, OR SUPPORTING DOCUMENTS

[29 U.S. Code § 206 - Minimum Wage](#)
[42 U.S. Code Subchapter VI - Equal Employment Opportunities](#)
[29 U.S. Code Chapter 14 - Age Discrimination in Employment Title IX of The Education Amendments of 1972](#)
[Pregnancy Discrimination Act of 1978](#)
[The Rehabilitation Act Amendments of 1973, as amended](#)
[The Americans with Disabilities Act of 1990, as amended](#)
[The Genetic Information Nondiscrimination Act of 2008](#)
[Texas Labor Code, Title 2, Subtitle A, Chapter 21 Employment Discrimination](#)
[SOS HR 2.5.2 Americans with Disabilities Act](#)
[SOS HR 2.4.15 Prohibiting Sexual Misconduct and Gender-based Discrimination](#)
[SOS ES 3.24 Student Grievances and Complaints](#)
[SOS ES 3.26 Students with Disabilities](#)
[Texas State Technical College Discrimination/Harassment Complaint Form](#)

VIII. OPERATING REQUIREMENTS:

Required Employee Equal Opportunity Employment Training

1. All TSTC employees are responsible for complying with state law requiring training on equal opportunity, harassment, nondiscrimination, and retaliation within 30 days of hire and every two years thereafter.

Harassment, Discrimination and/or Related Retaliation Complaints

2. If an employee or visitor feels he/she has been subjected to any form of harassment, discrimination, and/or related retaliation, the employee should report that conduct to his/her immediate supervisor and Human Resources. (A visitor should report the complaint to Human Resources.) A complaint alleging harassment, discrimination, and/or related retaliation in connection with corrective action must be filed within thirty 30 business days of the action that caused the complaint or it may be deemed as untimely filed and dismissed. A complaint alleging harassment, discrimination, and/or related retaliation unrelated to corrective action must be filed within thirty 30 calendar days of the most recent incident, or it may be deemed as untimely filed and dismissed. Employees are not required to approach the person who is harassing, discriminating, and/or retaliating against them, and they may bypass any offending member of management.

* *For cases involving gender discrimination under Title IX, please refer to HR 2.4.15 Sexual Misconduct and Gender Based Discrimination.*

3. The complaint may be oral or in writing. After receiving an oral complaint, the Human Resources (HR) designee shall make a written record of the specific incident related to the complaint. The written account shall be reviewed with the complainant for completeness and accuracy and must be signed by the complainant before the investigation is undertaken. The person, to whom the harassment, discrimination, or related retaliation is reported, will take the necessary steps, including filling out the Discrimination/Harassment Complaint Form or providing a signed written statement to initiate an investigation of the harassment, discrimination, and/or related retaliation claim within 10 working days of the complaint. Employees wishing to submit a written complaint may do so by completing the Discrimination/Harassment/Retaliation Complaint Form.

The identity of individuals who report harassment, alleged victims, witnesses, and alleged harassers will be kept confidential to the extent legally possible, consistent with a thorough and impartial investigation and with relevant legal requirements. Inclusively, any information obtained during the investigation will also be kept confidential to the extent legally possible.

All employees are responsible for ensuring their work and educational environments are free from harassment, discrimination and/or related retaliation. When alleged or suspected harassment, discrimination, and/or related retaliation is experienced or observed by or made known to an employee, the employee is responsible for reporting that information as outlined in this section.

The filing of a harassment, discrimination, and/or related retaliation complaint will not stop, delay or affect pending unrelated corrective action.

Investigation

All employees and students are expected to cooperate fully with those performing an investigation pursuant to this policy. Employees who fail or refuse to cooperate with an investigation under this policy may be subject to corrective action, up to and including separation.

Reports of suspected harassment, discrimination, and/or related retaliation must be based on reasonable, factual information rather than speculative information or rumor, and contain as much specific information as possible to allow for proper assessment of the nature, extent, and urgency of preliminary investigative procedures. Employees found to have intentionally made false or materially misleading allegations of suspected harassment, discrimination, and/or related retaliation under this policy may be subject to corrective action, up to and including separation.

Investigation of a complaint will normally begin within 10 working days from when the complaint is received. The investigation shall normally be conducted within 45 working days thereafter and a letter of finding will be forwarded to the appropriate party at the end of the investigation. However, case complexity will vary and the length of the investigation will

depend on each case's particular circumstances but, under normal circumstances, the investigation will commence within the designated time and will conclude within 45 working days. It is incumbent upon the investigating party to document a reasonable justification for extending an investigation beyond 45 working days.

Complaints by Students: Enrollment Management will be responsible for a clearly defined process for student complaints regarding sexual harassment, racial harassment, and/or disabilities accommodation. Student rights and responsibilities are posted on the TSTC website and distributed as part of the student orientation material. [SOS HR 2.4.15 Prohibiting Sexual Misconduct and Gender-based Discrimination](#), [SOS ES 3.24 Student Grievances and Complaints](#), and [SOS ES 3.26 Students with Disabilities](#).

ACCOMMODATIONS

Disabilities Accommodations:

In accordance with Title I, Employment, of the Americans with Disabilities Act (ADA), TSTC will not discriminate against any qualified individual with a disability because of the disability of that individual in such matters as job application procedures; hiring, advancement or discharge practices; compensation; job training; or other terms, conditions and privileges of employment.

TSTC will make reasonable accommodations for qualified individuals with known disabilities unless doing so would result in an undue hardship, safety, and/or health risk. An example of a reasonable accommodation may include but is not limited to the provision of adaptive equipment, an interpreter, etc. The process for requesting accommodations can be found in HR 2.5.2 Americans with Disabilities Act.

Religious Accommodations:

In accordance with federal and state laws, TSTC will not discriminate against any individual on the basis of religion.

TSTC will provide reasonable accommodations for employees' sincerely held religious beliefs or practices unless doing so would impose an undue hardship. An example of reasonable religious accommodation may include but is not limited to granting an individual leave for religious observances, providing a time and place to pray, allowing the flexibility to wear religious attire to work, etc.

It is the responsibility of the employee to seek out religious accommodations. Religious accommodation requests should be submitted in writing to the Human Resources Office.

The written request should identify and describe the reasonable accommodation being requested, the reason or purpose for the requested reasonable accommodation, and suggestions or alternatives and options.

All questions, inquiries, or requests related to any form of employee accommodations (disability, religious, etc.) must be directed to the Human Resources Office.

All questions, inquiries, or requests related to any form of employee accommodations (disability, religious, etc.) must be directed to the Human Resources Office.

Accommodations Review/Complaint (Accommodations) Process:

Employees who wish to submit a Review/Complaint due to accommodations, modifications, auxiliary aids, or effective communication may do so by following the process below.

The employee fills out the Discrimination/Harassment Complaint Form and must submit it within 10 working days of an accommodation related decision to the Human Resources Office. The following information will be requested:

- a. Name and address of the person filing the Review/Complaint;
 - b. A brief description and reason of the Review/Complaint being filed.; and
 - c. Any documents supporting the Review/Complaint.
1. The employee and the Human Resources Office will engage in the interactive process in an effort to clarify and resolve the issue. At times, the Human Resources Office may consult with the other pertinent parties to assist in the resolution process.
 2. The Human Resources Office will review the Review/Complaint and provide the employee with a response within 10 working days of receipt of the Review/Complaint Form. If more than 10 working days are needed, notice will be provided to the employee along with the anticipated completion date.
 3. If the employee is not satisfied with the decision of the Human Resources Office, a written Review/Complaint may be submitted to the Associate Vice Chancellor (AVC) of Human Resources within 10 working days of the decision provided in step number 2.
 4. The written Review/Complaint must include the name and address of the person filing it and a description of the reason for the Review/Complaint. Upon receiving the Review/Complaint, the AVC for Human Resources will review it within 10 working days. If more than 10 working days are needed, notice will be provided to the employee along with the anticipated completion date. At times, the AVC for Human Resources may and will consult pertinent parties to assist in the resolution process. The decision made by the AVC for Human Resources will be final at the College level.

Frivolous or False Charges

This policy is not intended to be used to bring frivolous or false malicious charges against fellow students, faculty, or other employees. Corrective action under appropriate policies concerning personal misconduct or student corrective action shall be taken against any person bringing a charge of harassment in bad faith.

Retaliation Prohibited

This policy seeks to encourage faculty, staff and students to express freely, responsibly, and in an orderly way their opinions and feelings about any problem or complaint of harassment. Any act of reprisal, interference, restraint, penalty, discrimination, coercion, or harassment by a TSTC agent or employee against a student or employee for responsibly using this policy interferes with free expression and openness, and such acts violate this policy and require appropriate and timely corrective action.

Retaliation by anyone (supervisors, coworkers, non-employees) is prohibited and will not be tolerated. Alleged victims, individuals who in good faith report harassment or participate in investigations, and other relevant individuals will be protected from retaliation.

No hardship, loss, benefit or penalty may be imposed on an employee as EEO laws prohibit punishing job applicants or employees for asserting their rights to be free from employment discrimination including harassment.

It is unlawful to retaliate against applicants or employees for:

- Filing or being a witness in an EEO charge, complaint, investigation, or lawsuit
- Communicating with a supervisor or manager about employment discrimination, including harassment
- Answering questions during an employer investigation of alleged harassment
- Refusing to follow orders that would result in discrimination
- Resisting sexual advances, or intervening to protect others
- Requesting accommodation of a disability or for a religious practice
- Asking managers or co-workers about salary information to uncover potentially discriminatory wages.

Participating in a complaint process is protected from retaliation under all circumstances.



SOS Category: General Administration
Sub-Category: Department of Internal Audit
Delegation of Authority: Mike Reeser, Chancellor/CEO
Last Revision Date:101/10/2023

Statewide Standard

GA 1.16 REPORTING OF WRONGDOING OR RETALIATION

STATEWIDE STANDARD: POLICY

It is the policy of TSTC to encourage employees to report known or suspected improper activities and violations of laws, rules, policies, and procedures. This policy also prohibits retaliation against employees who report such violations or activities.

PURPOSE

The purpose of this Statewide Operating Standard (SOS) is to provide a culture where the reporting of unethical, dishonest, and/or unlawful acts are encouraged without the fear of retaliation.

SCOPE

This SOS applies to all employees of TSTC.

STATEWIDE STANDARD DEFINITIONS

Statewide Operating Standard (SOS): A document prepared by authorized TSTC employees articulating standards in accordance with one of three directives: Policy, Executive Order, or Compliance. Each document includes the Statewide Standard combined with the Statewide Operating Procedures.

Statewide Standard: A principle-based statement reflecting one of three directives (policy, executive order, compliance).

Statewide Operating Procedures: Specific actions or steps articulating the process and expectations to achieve objectives of the statewide standard.

Policy: A formal action taken by the Board of Regents (BOR) setting forth a decision necessary for the governance of TSTC.

Executive Order: A directive issued by the Chancellor defined or determined to be necessary to maintain day-to-day management of TSTC.

Compliance: A directive ensuring the College is in accordance with state and federal laws, regulations, and/or accreditation requirements.

Delegation of Authority: As CEO of the College, the Chancellor assigns responsibility to his/her designee to establish standards, implement procedures, and adhere to provisions outlined in this SOS.

REFERENCES AND STATEWIDE OPERATING STANDARDS

[Texas Government Code, Section 554.002 \(a\)](#), (“Whistleblower Act”)

[GA 1.15 Fraudulent Use of Assets and Resources](#)

[HR 2.4.15 Prohibiting Sexual Misconduct and Gender-based Discrimination](#)

[TSTC Website Reporting of Wrongdoing Procedures](#)

OPERATING PROCEDURES

STATEWIDE STANDARD DOCUMENT HISTORY

Reviewed/Updated by VC 10/10/2023

Approved by Leadership Team 01/04/2019

Approved by Chancellor 8/31/15

Reviewed/Revised 04/2015

Approved by BOR 04/28/06 MO#54-06

Approved by MC 03/24/06

Proposed 02/2006



Statewide Operating Procedures

GA 1.16 REPORTING OF WRONGDOING OR RETALIATION

PROCEDURES

POSTING NOTICES OF PROCEDURES FOR REPORTING WRONGDOING OR RETALIATION

The College shall publish on its [website](#) information for filing anonymous reports of wrongdoing and allegations of retaliation. Because the report is anonymous, the risk of retaliation due to reporting is diminished.

If an individual feels like reporting anonymously will not ensure protection from retaliation, the individual must submit a written complaint to any of the following: TSTC Chief Auditor; Chief Legal Officer/General Counsel; College Police Department; and/or TSTC Human Resources Department. All complaints received through this method will be forwarded to the General Counsel to ensure appropriate retaliatory protection is afforded.

Employees shall report incidents of wrongdoing, such as sexual harassment, fraud, theft, safety issues, and employee grievances through the administrative process specified in this SOS. Persons reporting these incidents shall not be subjected to acts of retaliation, interference, restraint, penalty, discrimination, or coercion by a TSTC agent or one of its employees as a result of reporting these alleged violations.

This SOS does not protect an employee who files a report or provides information that he or she knows to be false or does not have a reasonable belief in the truth and accuracy of the information. An employee who is determined to have made false accusations knowingly or gives false information during an investigation may be subject to disciplinary action, including termination of employment, in accordance with applicable institutional policies and procedures.

REPORTING PROCEDURES

Great care must be taken in the investigation of suspected improprieties or wrongdoings to avoid mistaken accusations and to avoid alerting suspected individuals that an investigation is underway.

An employee or other complainant who discovers or suspects fraudulent activity shall *contact the Internal Audit Department immediately* through the secure, confidential hotline at <http://TSTCEthics.ethicaladvocate.com> or 1-877-448-5650, or the State Auditor's Office at <http://sao.fraud.fraud.state.tx> or 1-800-TX-AUDIT. The employee or other complainant may remain anonymous. The reporting individual shall be informed of the following stipulations:

1. He or she shall not contact the suspected individual in an effort to determine facts or demand restitution.
2. He or she shall not discuss the case, facts, suspicions, or allegations with *anyone* unless specifically asked to do so by the TSTC Internal Audit, General Counsel, or College Police Departments.

All inquiries concerning the activity under investigation from the suspected individual, his or her attorney or representative, or any other inquirer shall be directed to the Internal Audit, General Counsel, or College Police Departments.

No information concerning the status of an investigation shall be given to the general public. The proper response to any inquiry shall be to say, "I am not at liberty to discuss this matter" and to refer the inquiry to the appropriate College Public Information Officer.

Under no circumstances shall any reference be made to "the allegation," "the crime," "the fraud," "the forgery," "the misappropriation," or any other specific reference.

The reporting individual shall not have an expectation that he/she will be kept apprised of outcomes of reports he/she made.

FILING REQUIREMENTS AND THRESHOLDS FOR RETALIATION COMPLAINTS

Any retaliation complaint filed under this SOS must set forth in sufficient detail the necessary facts and circumstances, including dates and names of relevant persons and the alleged retaliatory acts. In order for a retaliation complaint to be accepted for review by the College, the complainant must allege that, before the alleged

retaliation took place, he or she: filed a report or made a Protected Disclosure alleging an improper activity; was threatened, coerced, commanded, or prevented by intimidation from filing a report alleging an improper activity; or refused to obey an illegal order.

Sufficient information must be included in each report, and retaliation complaints accepted by the College shall meet specific criteria. For all reports of wrongdoing found to have merit, appropriate corrective action shall be taken.

TSTC is committed to protecting individuals from unlawful retaliation for good faith actions in reporting or participating in an investigation pertaining to alleged improper activities or violations of laws, rules, policies, or procedures at TSTC.

The law known as the “Whistleblower Act” prohibits retaliation against public employees who report known or suspected wrongdoing to an appropriate law enforcement authority. The Act states that “a state or local entity may not suspend or terminate the employment of, or take other adverse personnel action against, a public employee who in good faith reports a violation of law by the employing governmental entity or another public employee to an appropriate law enforcement authority” ([Texas Government Code, Section 554.002 \(a\)](#)). For more information on the [“Whistleblower Act,”](#) employees may call (512) 463-2185.

INVESTIGATION

The Internal Audit Department shall have primary responsibility for the investigation of all suspected fraudulent acts, as defined in this SOS. Depending on the nature of the report, assistance may be provided by members on an investigation team. If the investigation substantiates that a fraud activity has or has likely occurred, the results will be referred to the TSTC General Counsel to determine further steps that are necessary, to include referring to the appropriate law enforcement and/or regulatory agencies. A report of each investigation will be made to appropriate administrative personnel and to the Board of Regents through the Audit Committee.

The State Auditor’s Office will determine the appropriate investigative procedures for reports made directly to the Auditor’s Office via its hotline.

AUTHORIZATION FOR INVESTIGATING SUSPECTED FRAUD

Members of the investigation team shall have:

1. Free and unrestricted access to all TSTC records and premises, whether owned or rented; and

2. The authority to examine, copy, and/or remove all or any portion of the contents of files, desks, cabinets, and other storage facilities on TSTC premises, or other premises controlled by TSTC, without prior knowledge or consent of any individual who may use or have custody of any such items or facilities when it is within the scope of their investigation.

CONFIDENTIALITY

The Internal Audit Department shall treat all information received *confidentially*. Any employee who suspects dishonest or fraudulent activity shall notify the Internal Audit Department immediately and *shall not personally attempt to conduct investigations or interviews/interrogations* related to any suspected fraudulent act. (See the Reporting Procedure section below.)

Investigation results *shall not be disclosed or discussed* with anyone other than those who have a legitimate need to know. This stipulation is necessary and important in order to protect the reputation of persons suspected and of TSTC.

ADMINISTRATIVE OR CRIMINAL ACTION

During the course of or upon completion of an investigation, as appropriate, the findings shall be reviewed with the appropriate administrator(s), representative(s) from the Human Resources Office, and the General Counsel. The Internal Audit and College Police Departments do not have the authority to terminate an employee. Employment decisions must be reviewed and approved by the appropriate administration. Actions in response to activities that may be considered criminal must be reviewed and approved by the appropriate administrators, the Human Resources Office, and the General Counsel.

CORRECTIVE ACTION

TSTC shall take appropriate action to prevent and correct verified unethical, dishonest, and/or unlawful acts reported as a result of this SOS.

REPORT TO STATE AUDITOR'S OFFICE

If the Internal Audit Department has reasonable cause to believe that money received from the state by TSTC may have been lost, misappropriated, or misused, or that other fraudulent or other such unlawful conduct has occurred in relation to the operation of TSTC, the Internal Auditor shall report the reason and the basis of the belief to the State Auditor's Office.

It is not necessary that probable cause be established or a suspect be identified.

PROCEDURES DEFINITIONS

Improper Activities: Any activity undertaken by a TSTC employee that is in violation of any local, state, or federal law or regulation, or a TSTC policy or procedure.

Improper Order: Any directive given to violate or assist in violating any local, state, or federal law or regulation, or a TSTC policy or procedure.

Protected Disclosure: A good faith communication that discloses, or demonstrates intent to disclose, alleged improper orders or improper activities.

Retaliation Complaint: Any complaint by an employee or constituent that alleges retaliation (1) for having made an allegation of wrongdoing in a Protected Disclosure, (2) for intending to make that disclosure but being prevented from doing by threats, coercion, command, or intimidation, or (3) for refusing to obey an illegal order.

Unlawful Retaliation: Any action that adversely affects the employment or other institutional status of an individual (including discharging, demoting, suspending, threatening, harassing, or in any other manner discriminating against an employee in the terms and conditions of employment), that is taken by TSTC or one of its employees because an individual has, in good faith, made an allegation concerning the violation of a law, rule, policy, procedure, or improper act, or has cooperated in good faith with an investigation of such allegation.

RELATED FORMS

None

PROCEDURES DOCUMENT HISTORY

Reviewed/Updated by VC 10/10/2023

Approved by Leadership Team 01/04/2019

Approved by Chancellor 8/31/15

Reviewed/Revised 04/2015

Approved by BOR 04/28/06 MO#54-06

Approved by MC 03/24/06

Proposed 02/2006



SOS Category: Educational Services
Sub-Category: Admissions and Records
Delegation of Authority: Mike Reeser, Chancellor/CEO
Last Revision Date: 04/29/2024

Statewide Standard

ES 4.07 ADMISSION OF STUDENTS

STATEWIDE STANDARD: POLICY

It is the policy of Texas State Technical College (TSTC) that the College admits applicants who declare their intention to enroll in the College. Applicants are allowed to enroll in their selected program upon satisfactory completion of all enrollment and program entrance requirements.

PURPOSE

The purpose of this Statewide Operating Standard (SOS) is to define the process for admissions to the College. The TSTC admission's policy, and thereby the College's process for admissions, satisfy requirements of the Southern Association of Colleges and Schools Commission on Colleges (SACSCOC), the Texas Higher Education Coordinating Board (THECB), and the U.S. Department of Education requirements for admission of students. Guidelines to determine resident status for students are outlined by the THECB in the Texas Administrative Code, Title 19, Part 1, Chapter 21, Subchapter B, Rule 21.24. Students classified as residents are entitled to pay resident tuition at TSTC.

SCOPE

This SOS applies to all applicants and prospective students that declare their intent to enroll in the college. The admittance of each student into the College is in accordance and consistent with institutional procedures. As an open admission, two-year, public technical college, TSTC adheres to admissions policies that are consistent with the legislative mission as stated in Section 135.01 of the Texas Education Code.

STATEWIDE STANDARD DEFINITIONS

Statewide Operating Standard (SOS): A document prepared by authorized TSTC employees articulating standards in accordance with one of three directives: Policy, Executive Order, or Compliance. Each document includes the Statewide Standard combined with the Statewide Operating Procedures.

Statewide Standard: A principle-based statement reflecting one of three directives (policy, executive order, compliance).

Statewide Operating Procedures: Specific actions or steps articulating the process and expectations to achieve objectives of the statewide standard.

Policy: A formal action taken by the Board of Regents (BOR) setting forth a decision necessary for the governance of TSTC.

Executive Order: A directive issued by the Chancellor defined or determined to be necessary to maintain day-to-day management of TSTC.

Compliance: A directive ensuring the College is in accordance with state and federal laws, regulations, and/or accreditation requirements.

Delegation of Authority: As CEO of the College, the Chancellor assigns responsibility to his/her designee to establish standards, implement procedures, and adhere to provisions outlined in this SOS.

REFERENCES AND STATEWIDE OPERATING STANDARDS

[SACSCOC Principles of Accreditation, Section 10.5 \(Admissions policies and practices\)](#)

[Texas Administrative Code, Title 19, Part 1, Chapter 5, Subchapter A, Rule 5.5](#)

[Texas Administrative Code, Title 19, Part 1, Chapter 21, Subchapter B, Rule 21.24](#)

[TSTC Catalog and Student Handbook](#)

[Texas Education Code, Chapter 135](#)

[Texas Education Code, Section 51.931](#)

[Texas Education Code, Section 51.3525](#)

OPERATING PROCEDURES

STATEWIDE STANDARD DOCUMENT HISTORY

Updated by OGC 4/29/2024
Updated 4/23/2024
Approved 03/11/2024
Reviewed/Revised 12/08/2023
Approved by LT 02/07/2019
Approved by EMC 6/09/15
Revised 04/2015
Approved by MC 6/6/13
Reviewed and updated 2/6/13
Updated 06/2007
Approved by MC 6/29/01
Updated 04/01
Approved by MC 10/19/00
Updated 10/02/00
Updated 8/17/00
Approved by M/C 1/28/00
Updated 01/19/00
Approved by M/C 10/22/97
Updated 10/09/97

Approved by M/C 07/24/97
Revised 06/18/97
Revised 05/22/97
Approve MC 07/25/96
Revised 06/18/96
Approved MC 09/11/95
Revised 09/11/95
Approved by BOR, Minute Order #43-94
Approved 05/14/94
Revised and Approved by MC 03/24/94
Approved September 24, 1992
Revised July 17, 1992
Revised April 22, 1991
Updated March 25, 1991
Revised December 18, 1989
Completed November 18, 1985, Minute Order 21-86



Statewide Operating Procedures

ES 4.07 ADMISSION OF STUDENTS

PROCEDURES

TSTC adheres to the requirements for admission of students based on the following:

1. SACSCOC Principles of Accreditation, Section 10.5 (Admissions policies and practices), states, “The institution publishes admissions policies that are consistent with its mission.”
2. The THECB’s [Uniform Admission Policy](#) contained within the Texas Administrative Code outlines the general admissions policies for all institutions in the state of Texas.
3. The U.S. Department of Education Code of Federal Regulations (CFR) Title 34, Chapter VI, Part 600, establishes the rules and procedures that the Secretary of Education uses to determine whether an educational institution qualifies, in whole or in part, as an eligible institution of higher education under the Higher Education Act of 1965, as amended.

These rules and regulations state in part that an “eligible institution” is one that “Admits as regular students only persons who:

- a. Have a high school diploma;
- b. Have the recognized equivalent of a high school diploma; or
- c. Are beyond the age of compulsory school attendance in the State in which the institution is physically located...”

THE TSTC OFFICE OF ADMISSIONS PROCEDURES

1. The admission of each student into the College is in accordance with institutional procedures which include the completion of the appropriate forms. In order to register into a specific program, a student must satisfy program entry requirements if applicable.
2. The College does specifically include the following statement in the [TSTC Catalog and Student Handbook](#) and other official recruiting publications: "Equal opportunity is afforded within TSTC to all employees and applicants for admission or employment without regard to race, color, religion, gender, national origin, age, genetic information, disability, or veteran status." TSTC complies with [Texas Education Code \(TEC\) 51.3525](#) "Responsibility of Governing Boards Regarding Diversity, Equity, and Inclusion Initiatives." To assist TSTC employees and students, the requirements of and penalties for violating TEC 51.3525 are further elaborated and detailed in the [DEI Prohibition Statement](#) found on the [TSTC Regulatory Signage Page](#). Students who disagree with the admissions decision may submit a written appeal to the Student Rights and Responsibilities Office.
3. Prospective students are admitted to TSTC as regular students under the following conditions:
 - a. High School Graduate - A student is admitted upon proof of graduation from an accredited high school with an official high school transcript. A student who graduated from a homeschool is admitted once a notarized record of the completed high school equivalent work and the date of successful completion are submitted. This work is consistent with TEA minimums for high school completion.
 - b. College Transfer - A student is admitted who had prior attendance at a regionally accredited college or university. A transfer student is admitted upon receipt of official transcripts from all previously attended institutions of higher education. Official high school transcripts may also be required for financial aid purposes. Transcripts are considered official only when they are signed by the registrar, have the seal of that college or university received through the mail, hand delivered in a sealed envelope, or received through Standardization of Postsecondary Education Electronic Data Exchange (SPEEDE). Transcripts submitted electronically by the student via Workday require additional review to determine if it meets the requirements for an official transcript. Students who have completed a bachelor's or

- graduate degree from a regionally accredited college or university may not need to submit the additional undergraduate transcripts.
- c. General Education Development Test (GED) - A student is admitted upon successful completion of the GED or a recognized equivalent as certified by a state education agency or a state authorized examination that the state recognizes as the equivalent of a higher school diploma.
4. Prospective students may be granted exceptional admission if they do not qualify under one of the previous categories for regular admission. Students may be admitted under one of the two following Individual Approval Categories:
 - a. Individual Approval A:
 - i. Students who are age 16 or older who are graduates of an unaccredited high school may be admitted through exceptional admission.
 - ii. Students who are age 17 or older who are attending a course of instruction to prepare for the high school equivalency examination and/or who are considered to be concurrently enrolled in high school or homeschool may be admitted through exceptional admission. High school counselor or parent recommendations shall be required.
 - iii. Students 18 or older without a high school diploma or CHSE/GED may be admitted through exceptional admission.
 - b. Individual Approval B:
 - i. Dual credit students who are currently attending a high school and do not have a diploma or GED may be admitted through exceptional admission under Individual Approval B.
 5. Prior to enrollment at TSTC, prospective students must complete the following admission procedures:
 - a. Submit an Application for Admissions form which includes core residency questions and a declaration of intent to enroll as a degree-seeking or non-degree-seeking student. All applicants applying for admissions to the College shall be required to complete the information regarding felony charges on the Application for Admissions form. Applicants who answer "Yes" will be required to complete a "Supplemental form" and may be required to submit additional documentation.
 - b. Submit applicable documents based on the appropriate admission category.
 - c. Comply with applicable testing requirements:

- i. Submitting TSI Assessment test results; or
 - ii. Submitting documentation of TSI exemption or waiver; or
 - iii. Taking the TSI Assessment test.
- d. Submit compliance with any immunization-related requirements as specified by law.
- e. Submit proof of compliance with any established and approved program entry level standards.

TSTC contractual agreements (including State Authorization Reciprocity Agreements) with independent school districts, businesses, and/or other entities for the delivery of courses to specific student populations may develop supplemental admissions requirements and documentation to meet the conditions of the agreement. In such cases, the supplemental requirements and documentation are in addition to the minimum requirements stated in these operating requirements.

6. Students seeking readmission after an interruption of enrollment of more than one-year prior must:
 - a. Submit an Application for Admissions form which includes core residency questions and a declaration of intent to enroll as a degree-seeking or non-degree-seeking student.
 - b. Comply with applicable testing requirements;
 - c. Comply with any immunization-related requirements as specified by law;
 - d. Submit official transcripts for any college or university previously attended, GED score report, or high school transcript.
7. Texas Education Code, [Section 51.931](#), entitled "Right to An Academic Fresh Start," allows a person who is a resident of Texas to apply for admission and not have coursework completed 10 or more years prior to the date of anticipated enrollment included as consideration in the admission decision. This allows the student to begin a new course of study with a clear academic record.
 - a. This is an all or nothing option. Students are not able to choose which courses to ignore and which courses to count. This option clears the student's academic record. If the student chooses the "Right to An Academic Fresh Start" option, the student does not receive any credit for any courses taken 10 or more years prior to the re-enrollment. This means that:
 - i. Courses taken previously cannot be used to fulfill new prerequisite requirements.

- ii. Courses taken previously cannot be counted towards a new degree.
 - iii. Courses taken previously shall not be counted in the student's GPA calculation.
- b. The student must complete the usual admissions process, including providing information on all colleges or universities previously attended with official transcripts. Once the "Right to An Academic Fresh Start" provision is claimed and the student is enrolled, the provision cannot be reversed.

PROCEDURES DEFINITIONS

Accredited High School: A Texas public high school accredited by the Texas Education Agency (TEA), a Texas non-public high school accredited by the Texas Private School Accreditation Commission, or an out-of-state high school accredited by an equivalent official accrediting body for the state in which the high school is located, or a homeschool directed by a parent as defined in case law by *TEA vs Leeper*.

Exceptional Admission Students: Students admitted who do not meet the standard requirements for admissions and maybe admitted as Individual approval.

Non-Degree-Seeking Student: A student who is not pursuing an associate's degree, certificate, or award. Undeclared majors are included as non-degree-seeking students.

Regular Students: Students enrolled or accepted for enrollment at TSTC for the purpose of obtaining an associate's degree, certificate, or award as defined by Texas Higher Education Coordinating Board.

Texas Success Initiative (TSI): A state-legislated program designed to improve student success in college and consisting of two components: 1) an assessment to diagnose basic reading, writing, and math skills, and 2) developmental instruction to strengthen academic skills needing improvement.

Conditional Enrollment: A temporary extension issued to students to submit official documents required for admission to the college. Documents must be submitted no later than the end of the first term to continue enrollment in the college.

RELATED FORMS

[TSTC Application for Admission](#)

PROCEDURES DOCUMENT HISTORY

Updated by OGC 4/29/2024	Approved by M/C 07/24/97
Updated 4/23/2024	Revised 06/18/97
Approved 03/11/2024	Revised 05/22/97
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Approved by LT 02/07/2019	Revised 06/18/96
Approved by EMC 6/09/15	Approved MC 09/11/95
Revised 04/2015	Revised 09/11/95
Approved by MC 6/6/13	Approved by BOR, Minute Order #43-94
Reviewed and updated 2/6/13	Approved 05/14/94
Updated 06/2007	Revised and Approved by MC 03/24/94
Approved by MC 6/29/01	Approved September 24, 1992
Updated 04/01	Revised July 17, 1992
Approved by MC 10/19/00	Revised April 22, 1991
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Updated 8/17/00	Revised December 18, 1989
Approved by M/C 1/28/00	Completed November 18, 1985, Minute Order 21-86
Updated 01/19/00	
Approved by M/C 10/22/97	
Updated 10/09/97	



SOS Category: Educational Services
Sub-Category: Admissions and Records
Delegation of Authority: Mike Reeser, Chancellor/CEO
Last Revision Date: 04/29/2024

Statewide Standard

ES 4.07 ADMISSION OF STUDENTS

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[SACSCOC Principles of Accreditation, Section 10.5 \(Admissions policies and practices\)](#)

[Texas Administrative Code, Title 19, Part 1, Chapter 5, Subchapter A, Rule 5.5](#)

[Texas Administrative Code, Title 19, Part 1, Chapter 21, Subchapter B, Rule 21.24](#)

[TSTC Catalog and Student Handbook](#)

[Texas Education Code, Chapter 135](#)

[Texas Education Code, Section 51.931](#)

[Texas Education Code, Section 51.3525](#)

OPERATING PROCEDURES

STATEWIDE STANDARD DOCUMENT HISTORY

Updated by OGC 4/29/2024
Updated 4/23/2024
Approved 03/11/2024
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Reviewed and updated 2/6/13
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Approved by MC 6/29/01
Updated 04/01
Approved by MC 10/19/00
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Updated 8/17/00
Approved by M/C 1/28/00
Updated 01/19/00
Approved by M/C 10/22/97
Updated 10/09/97

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Revised 06/18/96
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Approved by BOR, Minute Order #43-94
Approved 05/14/94
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Approved September 24, 1992
Revised July 17, 1992
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Statewide Operating Procedures

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PROCEDURES

TSTC adheres to the requirements for admission of students based on the following:

1. SACSCOC Principles of Accreditation, Section 10.5 (Admissions policies and practices), states, “The institution publishes admissions policies that are consistent with its mission.”
2. The THECB’s [Uniform Admission Policy](#) contained within the Texas Administrative Code outlines the general admissions policies for all institutions in the state of Texas.
3. The U.S. Department of Education Code of Federal Regulations (CFR) Title 34, Chapter VI, Part 600, establishes the rules and procedures that the Secretary of Education uses to determine whether an educational institution qualifies, in whole or in part, as an eligible institution of higher education under the Higher Education Act of 1965, as amended.

These rules and regulations state in part that an “eligible institution” is one that “Admits as regular students only persons who:

- a. Have a high school diploma;
- b. Have the recognized equivalent of a high school diploma; or
- c. Are beyond the age of compulsory school attendance in the State in which the institution is physically located...”

THE TSTC OFFICE OF ADMISSIONS PROCEDURES

1. The admission of each student into the College is in accordance with institutional procedures which include the completion of the appropriate forms. In order to register into a specific program, a student must satisfy program entry requirements if applicable.
2. The College does specifically include the following statement in the [TSTC Catalog and Student Handbook](#) and other official recruiting publications: "Equal opportunity is afforded within TSTC to all employees and applicants for admission or employment without regard to race, color, religion, gender, national origin, age, genetic information, disability, or veteran status." TSTC complies with [Texas Education Code \(TEC\) 51.3525](#) "Responsibility of Governing Boards Regarding Diversity, Equity, and Inclusion Initiatives." To assist TSTC employees and students, the requirements of and penalties for violating TEC 51.3525 are further elaborated and detailed in the [DEI Prohibition Statement](#) found on the [TSTC Regulatory Signage Page](#). Students who disagree with the admissions decision may submit a written appeal to the Student Rights and Responsibilities Office.
3. Prospective students are admitted to TSTC as regular students under the following conditions:
 - a. High School Graduate - A student is admitted upon proof of graduation from an accredited high school with an official high school transcript. A student who graduated from a homeschool is admitted once a notarized record of the completed high school equivalent work and the date of successful completion are submitted. This work is consistent with TEA minimums for high school completion.
 - b. College Transfer - A student is admitted who had prior attendance at a regionally accredited college or university. A transfer student is admitted upon receipt of official transcripts from all previously attended institutions of higher education. Official high school transcripts may also be required for financial aid purposes. Transcripts are considered official only when they are signed by the registrar, have the seal of that college or university received through the mail, hand delivered in a sealed envelope, or received through Standardization of Postsecondary Education Electronic Data Exchange (SPEEDE). Transcripts submitted electronically by the student via Workday require additional review to determine if it meets the requirements for an official transcript. Students who have completed a bachelor's or

- graduate degree from a regionally accredited college or university may not need to submit the additional undergraduate transcripts.
- c. General Education Development Test (GED) - A student is admitted upon successful completion of the GED or a recognized equivalent as certified by a state education agency or a state authorized examination that the state recognizes as the equivalent of a higher school diploma.
4. Prospective students may be granted exceptional admission if they do not qualify under one of the previous categories for regular admission. Students may be admitted under one of the two following Individual Approval Categories:
 - a. Individual Approval A:
 - i. Students who are age 16 or older who are graduates of an unaccredited high school may be admitted through exceptional admission.
 - ii. Students who are age 17 or older who are attending a course of instruction to prepare for the high school equivalency examination and/or who are considered to be concurrently enrolled in high school or homeschool may be admitted through exceptional admission. High school counselor or parent recommendations shall be required.
 - iii. Students 18 or older without a high school diploma or CHSE/GED may be admitted through exceptional admission.
 - b. Individual Approval B:
 - i. Dual credit students who are currently attending a high school and do not have a diploma or GED may be admitted through exceptional admission under Individual Approval B.
 5. Prior to enrollment at TSTC, prospective students must complete the following admission procedures:
 - a. Submit an Application for Admissions form which includes core residency questions and a declaration of intent to enroll as a degree-seeking or non-degree-seeking student. All applicants applying for admissions to the College shall be required to complete the information regarding felony charges on the Application for Admissions form. Applicants who answer "Yes" will be required to complete a "Supplemental form" and may be required to submit additional documentation.
 - b. Submit applicable documents based on the appropriate admission category.
 - c. Comply with applicable testing requirements:

- i. Submitting TSI Assessment test results; or
 - ii. Submitting documentation of TSI exemption or waiver; or
 - iii. Taking the TSI Assessment test.
- d. Submit compliance with any immunization-related requirements as specified by law.
- e. Submit proof of compliance with any established and approved program entry level standards.

TSTC contractual agreements (including State Authorization Reciprocity Agreements) with independent school districts, businesses, and/or other entities for the delivery of courses to specific student populations may develop supplemental admissions requirements and documentation to meet the conditions of the agreement. In such cases, the supplemental requirements and documentation are in addition to the minimum requirements stated in these operating requirements.

- 6. Students seeking readmission after an interruption of enrollment of more than one-year prior must:
 - a. Submit an Application for Admissions form which includes core residency questions and a declaration of intent to enroll as a degree-seeking or non-degree-seeking student.
 - b. Comply with applicable testing requirements;
 - c. Comply with any immunization-related requirements as specified by law;
 - d. Submit official transcripts for any college or university previously attended, GED score report, or high school transcript.
- 7. Texas Education Code, [Section 51.931](#), entitled "Right to An Academic Fresh Start," allows a person who is a resident of Texas to apply for admission and not have coursework completed 10 or more years prior to the date of anticipated enrollment included as consideration in the admission decision. This allows the student to begin a new course of study with a clear academic record.
 - a. This is an all or nothing option. Students are not able to choose which courses to ignore and which courses to count. This option clears the student's academic record. If the student chooses the "Right to An Academic Fresh Start" option, the student does not receive any credit for any courses taken 10 or more years prior to the re-enrollment. This means that:
 - i. Courses taken previously cannot be used to fulfill new prerequisite requirements.

- ii. Courses taken previously cannot be counted towards a new degree.
 - iii. Courses taken previously shall not be counted in the student's GPA calculation.
- b. The student must complete the usual admissions process, including providing information on all colleges or universities previously attended with official transcripts. Once the "Right to An Academic Fresh Start" provision is claimed and the student is enrolled, the provision cannot be reversed.

PROCEDURES DEFINITIONS

Accredited High School: A Texas public high school accredited by the Texas Education Agency (TEA), a Texas non-public high school accredited by the Texas Private School Accreditation Commission, or an out-of-state high school accredited by an equivalent official accrediting body for the state in which the high school is located, or a homeschool directed by a parent as defined in case law by *TEA vs Leeper*.

Exceptional Admission Students: Students admitted who do not meet the standard requirements for admissions and maybe admitted as Individual approval.

Non-Degree-Seeking Student: A student who is not pursuing an associate's degree, certificate, or award. Undeclared majors are included as non-degree-seeking students.

Regular Students: Students enrolled or accepted for enrollment at TSTC for the purpose of obtaining an associate's degree, certificate, or award as defined by Texas Higher Education Coordinating Board.

Texas Success Initiative (TSI): A state-legislated program designed to improve student success in college and consisting of two components: 1) an assessment to diagnose basic reading, writing, and math skills, and 2) developmental instruction to strengthen academic skills needing improvement.

Conditional Enrollment: A temporary extension issued to students to submit official documents required for admission to the college. Documents must be submitted no later than the end of the first term to continue enrollment in the college.

RELATED FORMS

[TSTC Application for Admission](#)

PROCEDURES DOCUMENT HISTORY

Updated by OGC 4/29/2024	Approved by M/C 07/24/97
Updated 4/23/2024	Revised 06/18/97
Approved 03/11/2024	Revised 05/22/97
Reviewed/Revised 12/08/2023	Approve MC 07/25/96
Approved by LT 02/07/2019	Revised 06/18/96
Approved by EMC 6/09/15	Approved MC 09/11/95
Revised 04/2015	Revised 09/11/95
Approved by MC 6/6/13	Approved by BOR, Minute Order #43-94
Reviewed and updated 2/6/13	Approved 05/14/94
Updated 06/2007	Revised and Approved by MC 03/24/94
Approved by MC 6/29/01	Approved September 24, 1992
Updated 04/01	Revised July 17, 1992
Approved by MC 10/19/00	Revised April 22, 1991
Updated 10/02/00	Updated March 25, 1991
Updated 8/17/00	Revised December 18, 1989
Approved by M/C 1/28/00	Completed November 18, 1985, Minute Order 21-86
Updated 01/19/00	
Approved by M/C 10/22/97	
Updated 10/09/97	



Internal Audit Department

Audit Report

Audit of Compliance to Senate Bill 17 of the 88th Legislature (25-001A)

August 19, 2024

**This audit was conducted in accordance with the
International Standards for the Professional Practice of Internal Auditing
Of the Institute of Internal Auditors.**

Executive Summary

We recently completed a compliance audit of Senate Bill 17 (SB 17), “Responsibility of Governing Boards Regarding Diversity, Equity and Inclusion Initiatives”. SB 17, passed by the 88th Texas State Legislature, amended TEC §51.3525 to prohibit diversity, equity, and inclusion (DEI) activities at State supported institutions of higher education.

The objectives of the audit were to verify:

- that a DEI office does not exist within TSTC to influence the hiring or employment practices with respect to race, sex, color, gender identity, sexual orientation or ethnicity other than through the use of color-blind and sex-neutral hiring that follow applicable state and federal rules and regulations;
- the duties of a DEI office are not being performed by an employee or contracted third party outside of an official office;
- DEI statements are not compelled, required, induced or solicited from any person to gain preferential treatment;
- preferential treatment has not been given with respect to race, sex, color, gender identity, sexual orientation or ethnicity;
- mandatory DEI training has not been performed; and
- College policies do not exist that promote DEI, but a disciplinary policy is in place for individuals who engage in prohibited activities.

We determined that the College has never maintained a DEI office, and found no evidence the objectives of such an office are being informally achieved by an employee or third party outside of an official office. Compulsory DEI statements and trainings have not taken place, and we did not identify any preferential treatment of employees or students based on their race, sex, color, gender identity, sexual orientation or ethnicity. College policies do not authorize the practice, and a disciplinary policy is in place that can be applied to individuals who engage in prohibited DEI practices and activities. Finally, while no appropriated money for fiscal year 2025 had been spent at the time of this audit, the Board of Regents certified compliance to SB 17 on May 9, 2024. That certification will be submitted to the Texas Higher Education Coordinating Board and Texas Legislature before August 31, 2024.

Introduction

In June 2023, Governor Greg Abbott signed SB 17, “Responsibility of Governing Boards Regarding Diversity, Equity, and Inclusion Initiatives” into law, effective January 1, 2024. SB 17 requires the Board of Regents to certify before appropriated funds are spent that SB 17 requirements have been adopted. Specifically, the certification asserts the College does not maintain a DEI office, nor has it hired individuals to perform the duties of a DEI office. Preferential treatment is not given to individuals who provide a DEI statement, nor to individuals based on their race, sex, color, gender identity, sexual orientation, or ethnicity. And, there are no compulsory DEI trainings being conducted. Finally, disciplinary policies are in place that can be

applied to individuals engaging in prohibited conduct, but policies do not authorize any DEI activity.

Currently, the Office of General Counsel leads all compliance efforts.

Objectives

The primary purpose of this audit was to verify compliance to TEC §51.3525 as amended by SB 17 adopted by the 88th Legislature.

Scope & Methodology

The scope of our audit included current College policies, hiring practices, training materials and the College’s organizational structure as of July 31, 2024. Our methodology was based on the new requirements stated in TEC §51.3525. Specifically, we reviewed College policies and the organizational structure to identify socially motivated messages and departments. We reviewed training material, with a specific focus on *required* training. We scrutinized recent job postings, and reviewed the rationale for recent hires and promotions to ensure DEI were not considerations.

General Observations

The College has posted a statement on the Human Resources website stating “TSTC shall maintain an environment that promotes learning, academic freedom, and the creation and transmission of knowledge free from any requirements to exhibit or reflect a specific ideology or political view and without providing advantages or disadvantages to individuals based on race, sex, color, ethnicity, or national origin.” In addition, language prohibiting DEI was also added to SOS HR 2.1.14 Equal Opportunity in Employment and SOS ES 4.07 Admissions of Students. Management has also affirmed diversity quotas are not in place.

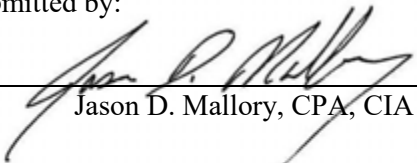
Summary of Findings

No compliance exceptions were identified.

Opinion

Based on the audit work performed, the College has complied with TEC §51.3525 as amended by Senate Bill 17 adopted by the 88th Legislature. No DEI related departments or practices exist at TSTC, currently nor in the past. We would like to extend our appreciation for the time and assistance given by management and employees during this audit.

Submitted by:



Jason D. Mallory, CPA, CIA

August 19, 2024

Date

Sec. 1 Purpose

Pursuant to Senate Bill 17, Texas Education Code §51.3525, Texas State Technical College (TSTC) maintains an environment that promotes learning, academic freedom, and the creation and transmission of knowledge free from any requirements to exhibit or reflect a specific ideology or political view and without providing advantages or disadvantages to individuals based on race, sex, color, ethnicity, or national origin.

Sec. 2 Prohibitions

Texas law prohibits:

(a) Diversity, Equity, and Inclusion Offices.

A diversity, equity, and inclusion (“DEI”) office means an office, division, or other unit of an institution of higher education (“DEI Office”), including any group of employees of any size that is established for any of the following purposes or carries out any of the listed duties:

- (1) influencing hiring or employment practices at the institution with respect to race, sex, color, or ethnicity, other than through the use of color-blind and sex-neutral hiring processes in accordance with any applicable state and federal antidiscrimination laws;
- (2) promoting differential treatment of or providing special benefits to individuals on the basis of race, color, or ethnicity;
- (3) promoting policies or procedures designed or implemented in reference to race, color, or ethnicity, other than policies or procedures approved in writing by the TSTC Office of 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;

(4) conducting trainings (required or voluntary), 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 TSTC's chief legal officer, the TSTC Office of 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.

(b) Performing the duties of a DEI Office.

TSTC shall not permit, hire, or assign any employee or volunteer or contract with a third party to perform any of the duties of a DEI Office set out in Section 2(a) above.

(c) Requiring or considering DEI statements.

TSTC shall not compel, require, induce, or solicit any person to provide a DEI statement or give preferential consideration to any person based on the provision of a DEI statement.

(1) A "DEI statement" is a written or oral statement of a person's commitment to (i) furthering diversity, equity, and inclusion based on race, color, ethnicity, national origin, sex, gender identity and/or sexual orientation or (ii) promoting differential treatment of or providing special benefits to individuals based on their identification as a member of one or more of these classifications.

(2) "Preferential consideration to any person" who provides a DEI statement means treating one person more favorably than another, in any respect, because of their inclusion or provision of a DEI statement expressing a preferred viewpoint in materials they provide to the institution.

(d) Preferences based on race, sex, color, ethnicity, or national origin.

TSTC shall not give preference on the basis of race, sex, color, ethnicity, or national origin to an applicant for employment, an employee, or a participant in any function of the institution. To “give preference on the basis of” an attribute means to treat one person more favorably than another, in any respect, because of that attribute.

(e) Requiring participation in DEI training.

TSTC shall not require any person to participate in DEI training as a condition of enrollment, employment, or performing any institution function.

(1) “DEI training” includes a training, program, or activity designed or implemented in reference to race, color, ethnicity, gender identity, or sexual orientation.

(2) “DEI training” does not include a training, program, or activity developed by an attorney and approved in writing by TSTC’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.

(3) Prohibited “DEI trainings” do not include annual equal employment opportunity and Title IX compliance trainings, including sexual harassment training, for faculty, staff, and students designed to educate on legal obligations and TSTC’s commitment to treating employees, students, and applicants consistently and fairly without regard to protected classifications, including race, color, sex, sexual orientation, gender identity, pregnancy, religion, national origin, age, disability, genetic information, citizenship status, and veteran status.

The trainings identify applicable federal and state laws and institution policies, explain definitions, describe employee and student rights and reporting requirements, outline complaint reporting procedures, and emphasize the prohibition on retaliation.

Similarly, prohibited “DEI trainings” do not include trainings required of students, faculty, or staff as a sanction for violating institutional policies regarding compliance with Title IX, Title VII, and Chapter 21 of the Texas Labor Code or similar federal or state laws, if designed to educate recipients on compliance with institution policies.

Sec. 3 Exceptions from Section 2 Prohibitions

(a) Statements in Support of Grant Proposals or Accreditation Compliance

(1) Notwithstanding the prohibitions stated in Section 2 of this policy, TSTC, or an employee of TSTC, for purposes of applying for a grant or complying with the terms of accreditation by an accrediting agency, is permitted to submit to the grantor or accrediting agency a statement that:

i. Highlights the institution's work in supporting:

1. first-generation college students;
2. low-income students; or
3. underserved student populations;

ii. Certifies compliance with state and federal antidiscrimination laws.

(2) TSTC may disclose data regarding impacts on certain student subgroups within the umbrella term of “underserved student populations.”

(3) TSTC is authorized to collect and disclose data and information, which includes but is not limited to data and information necessary to maintain accreditation.

(b) Academic Course Instruction.

Faculty instruction in their assigned courses, practicums, seminars, and executive education programs is not subject to the prohibitions of this policy.

(c) Scholarly Research or Creative Work.

Scholarly research and creative work by TSTC's students, faculty, or other research personnel, and the dissemination of that research or work are not subject to the prohibitions of this policy.

(1) "Scholarly research" may include research conducted by a student, faculty, or other research personnel in their respective field under generally accepted scientific standards (e.g., systems in place to ensure the quality and accuracy of hypotheses, methods, data, and findings, such as in a peer reviewed or refereed publication).

(2) Consistent with and state and federal law, "Creative Work" may include academic work product of an innovative or interpretive nature. "Creative work" may also include non-research written material created for publication and grant submissions seeking funding for research, instructional or other activities.

(3) Programmatic components directly related to and part of the scholarly research or creative work, as defined in Sections 3(c)(1)-(2) above, and proposed in a grant submission, are deemed scholarly research or creative work and are not subject to the prohibitions of this policy.

(4) “Research personnel” may include any non-faculty staff or trainee with assigned job responsibilities related to research based on the employment or academic training position they hold at TSTC, including individuals who serve on institutional review boards.

(d) Student Organizations.

Student organizations that hold registered student organization status pursuant to TSTC’s rules and policies are not subject to the prohibitions of this policy. Depending on the level of institutional control and support, and TSTC’s policies and practices, the programs and activities of a student organization that is sponsored by TSTC may be subject to the prohibitions of this policy.

(e) Guest Speakers and Performers.

The prohibitions in this policy do not apply to guest speakers or performers on short term engagements. TSTC may host guest speakers and performers under its usual policies and rules on a short-term basis for limited duration events. TSTC maintains its commitment to freedom of speech and expression at its institutions to promote open inquiry and expand knowledge.

(f) Student Academic Achievement and Outcomes.

This policy does not prevent TSTC from having a policy, practice, procedure, program, or activity to enhance student academic achievement or outcomes that are designed and implemented without regard to race, sex, color, or ethnicity.

(g) Data Collection.

Nothing in this policy prohibits the collection of data by TSTC or its appropriate disclosure in compliance with the law. This policy includes other exceptions that may be related to the use of collected data, e.g., statements in support of grant proposals or accreditation compliance, academic course instruction, scholarly research, creative work, student academic achievement and postgraduate outcomes designed and implemented without regard to race, sex, color, or ethnicity, and student recruitment and admissions.

(h) Student Recruitment and Admissions.

The prohibitions of this policy generally do not apply to student recruitment and admissions except those prohibitions set out in Section 2(c) above.

Sec. 4 Policy Impact on Programs and Activities.**(a) Programs or Activities Designed in Reference to Sex.**

This policy does not prohibit programs and activities designed in reference to sex, as opposed to gender identity or sexual orientation. Programs and activities designed for women or men that are otherwise lawfully implemented remain permissible. Examples of such permissible programs and activities include single-sex dormitories. Academic programs are permissible when such programs openly allow participation by both women and men.

(b) Employee Organizations.

TSTC shall not establish employee groups organized in reference to one or more of race, color, ethnicity, gender identity, or sexual orientation. Groups are considered established by an institution when they are created by the administration of a TSTC, a department, or business unit of TSTC.

This does not apply to employee organizations that are merely registered with TSTC and do not have an employee assigned by TSTC to lead the organization or its activities.

Employee resource groups are organizations that are not established by TSTC. Employee resource groups typically consist of employees with a common background or a common set of interests. Identity-based groups must be open to all interested participants and receive similar treatment and benefits as other employee groups.

TSTC's staff that handles ministerial tasks like reserving TSTC spaces, coordinating access to audio visual equipment for meeting spaces, or other similar tasks, for all of TSTC's employee organizations may continue to provide such services to all employee organizations, including those organized in reference to one or more of race, color, ethnicity, gender identity, or sexual orientation.

(c) Institutional Investigative Units.

The prohibitions in this policy do not apply to TSTC's investigative units that must sometimes consider race, color, ethnicity, gender identity, or sexual orientation in reaching determinations on alleged violations of institutional policies.

(d) Recognized History Events. The prohibitions in this policy do not apply to institutional activities to participate in state, federal, or other widely recognized history events, including but not limited to Black History Month, Hispanic Heritage Month, Women's History Month, and Pride Month.

Sec. 5 Employee Compliance.

(a) Employees, including contractors hired to perform work that would otherwise be performed by a TSTC employee, are subject to discipline, up to and including termination, for violating any provision set out in Section 2 above.

(b) TSTC may either use its existing discipline policies and procedures or develop new policies and procedures for handling violations of this policy.

Sec. 6 Impacted Employee Positions.

(a) It should be noted that TSTC has never had, used, engaged or employed a "diversity, equity, and inclusion office" as that term is defined in Tex. Edu. Code §51.3525 or otherwise, nor has TSTC employed or contracted with persons to carry out functions of a "diversity, equity, and inclusion office"

(b) An employee whose position is eliminated through implementation of Texas Education Code §51.3525 may be reassigned to a different position at TSTC, if appropriate, or invited to apply for a different position.

(c) TSTC may provide a letter of recommendation for employment at TSTC or elsewhere to each employee in good standing whose position is eliminated as a result of the implementation of Texas Education Code §51.3525. TSTC may also provide such employees reemployment assistance.

Sec. 7 Institution Compliance and Certification.

(a) TSTC shall adopt and communicate policies, procedures, or other guidance to implement the requirements of Texas Education Code §51.3525 and this policy and shall educate community members on permitted and prohibited activities. TSTC shall identify one or more points of contact that various constituencies may consult with compliance questions.

(b) The Chief Human Resources Officer and Chief Operating Officer shall, upon confirming TSTC's compliance with this policy, submit to the Chancellor a certification that the TSTC complies with this policy.

(c) The required form and timing of a certification will be prescribed by the Chancellor.

(d) TSTC may not spend money appropriated to TSTC for a state fiscal year until the Board of Regents submits to the legislature and the Texas Higher Education Coordinating Board a report certifying the board's compliance with this Section during the preceding state fiscal year. This provision applies beginning with funds appropriated for the fiscal year starting September 1, 2024.

Sec. 8 State Audit for Compliance with Texas Education Code §51.3525(g).

(a) Upon receiving notice from the state auditor of an audit of TSTC under Texas Education Code §51.3525, the person receiving said notice shall promptly notify the TSTC Director of Audit and the General Counsel of the pending audit.

(b) TSTC is required to cooperate with the state auditor conducting the statutory audit.

(c) If TSTC receives an audit finding of a violation of Texas Education Code §51.3525, it must cure the violation not later than the 180th day after the date on which the determination is made; and if TSTC fails to cure the violation during the 180-day period, it shall be 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.

Sec. 9 Texas Higher Education Coordinating Board Study under Texas Education Code §51.3525(j).

TSTC shall coordinate with the Texas Higher Education Coordinating Board to complete the statutorily required biennial study.

Sec. 10 Effective Date

TSTC shall immediately take any and all necessary steps to ensure implementation by January 1, 2024, the effective date of Senate Bill 17.

Institution: Trinity Valley Community College
Date Submitted: 08/08/24
Pages: 1

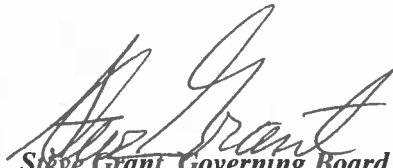


April 17, 2024

To whom this may concern:

I certify as President of the Governing Board, that Trinity Valley Community College is currently in compliance with the standards, rules, and regulations prescribed by Senate Bill 17 (88th Legislature, Regular Session).

I also certify as President of the Governing Board, that Trinity Valley Community College has not spent state money in violation of the Texas Government Code, Section 51.3525.


Steve Grant, Governing Board President
100 Cardinal Dr
Athens, Texas
75751

Institution: Tyler Junior College District
Date Submitted: 08/07/24
Pages: 2



TJC
OFFICE OF THE PRESIDENT

ELECTRONIC SIGNATURE ACKNOWLEDGEMENT AND CONSENT FORM

I, David Hudson, 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.

David Hudson

Signature

8/7/24

Date

Please check one:

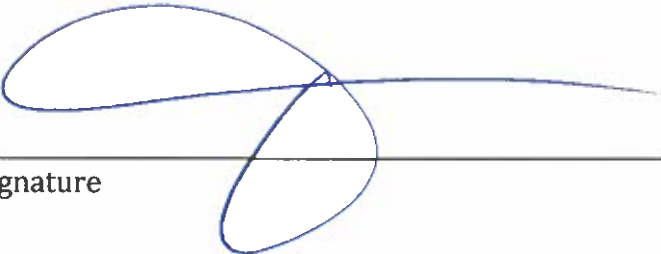
- President
 Board Chair



TJC
OFFICE OF THE PRESIDENT

ELECTRONIC SIGNATURE ACKNOWLEDGEMENT AND CONSENT FORM

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



Signature

8/7/24

Date

Please check one:

- President
 Board Chair

Institution: Vernon College
Date Submitted: 08/09/24
Pages: 4

I certify, under penalty of perjury and the loss of funding to Vernon College, that Vernon 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 FY2024 have been spent prior to submission of this certification report to the Legislature and the Texas Higher Education Coordinating Board.

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

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


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

- Approved update to Vernon College BOARD POLICY effective January 10, 2024
- Vernon College Policy BG is attached

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


Signature of Institution President:

Date: 5-22-24


Signature of Board Chair:

Date:
5/22/24

Date submitted to THECB:

Date submitted to the Legislature:

ADMINISTRATIVE ORGANIZATION

BG
(LOCAL)

The administration has the responsibility for bringing together its various resources and allocating them effectively to accomplish institutional goals.

Titles and Terms The titles of chief administrators, the designations of administrative and academic divisions, the terms used to describe academic offerings and programs, and the names of degrees awarded shall be accurate, descriptive, and appropriate.

Organization The administrative organization shall reflect the purpose and philosophy of the College District and enable each functional unit to perform its particular responsibilities as defined by the stated purpose of the College District.

Administrative responsibility and authority for all educational offerings and functions of the institution shall be clearly identified, and each institution shall develop, publish, and make available an organizational chart clearly delineating lines of responsibility and authority.

The duties of the chief executive officer, and of other administrative officials directly responsible to the chief executive, shall be clearly defined and made known to faculty and staff. Administrative officers shall possess credentials, experience, and/or demonstrated competence appropriate to their areas of responsibility. The effectiveness of all administrators, including the chief executive officer, shall be evaluated periodically.

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.

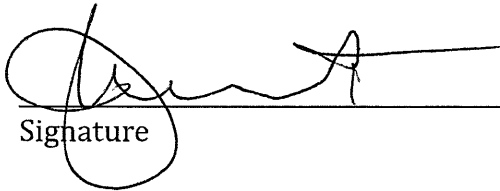
The prohibitions do not apply to:

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.

Institution: Victoria College
Date Submitted: 09/03/24
Pages: 4

ELECTRONIC SIGNATURE ACKNOWLEDGEMENT AND CONSENT FORM

I, Jennifer Kent, 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

8-30-24
Date

Please check one:

- President
 Board Chair



VICTORIA COLLEGE

Jennifer Kent, EdD
President

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 2024-25 have been spent prior to submission of this certification report to the Legislature and the Texas Higher Education Coordinating Board.

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

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

To ensure full compliance with Tex. Educ. Code § 51.3525, in the past fiscal year Victoria College has conducted the following: *Victoria College has reviewed policies and procedures and determined that Victoria College was already in full compliance. No changes were necessary.*

Our Community, Our College



VICTORIA COLLEGE

Jennifer Kent, EdD
President

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

Our Community, Our College



VICTORIA COLLEGE

Jennifer Kent, EdD
President

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.

Jennifer Kent

Signature of Institution President:

Date: 8-29-24

David R. [unclear]

Signature of Board Chair:

Date: 8-29-24

Date submitted to THECB:

Date submitted to the Legislature:

Our Community, Our College

Institution: Weatherford College
Date Submitted: 08/12/24
Pages: 2

ELECTRONIC SIGNATURE ACKNOWLEDGEMENT AND CONSENT FORM

I, DAN CARWEY, 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

8/8/24
Date

Please check one:

- President
- Board Chair

ELECTRONIC SIGNATURE ACKNOWLEDGEMENT AND CONSENT FORM

I, Tod Allen Farmer, 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.

Tod Allen Farmer
Signature

8/7/24
Date

Please check one:

- President
 Board Chair

Institution: Western Texas College
Date Submitted: 08/12/24
Pages: 2

ELECTRONIC SIGNATURE ACKNOWLEDGEMENT AND CONSENT FORM

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

Barbara R. Beebe
Signature

8-12-2024
Date

Please check one:

- President
 Board Chair

ELECTRONIC SIGNATURE ACKNOWLEDGEMENT AND CONSENT FORM

I, Jason West, 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 

8-12-2024
Date

Please check one:

- President
- Board Chair

Institution: Wharton County Junior College
Date Submitted: 08/21/24
Pages: 5



Wharton County Junior College
911 Boling Highway • Wharton, Texas 77488 • (979) 532-4560

Office of the President

Phone: (979) 532-6400

Fax: (979) 532-6526

email: bettym@wcjc.edu

RESOLUTION

Whereas, the Texas Legislature enacted Section 51.3525 of the Texas Education Code, effective January 1, 2024, regarding the responsibilities of governing boards of institutions of higher education regarding diversity, equity, and inclusion initiatives; and

Whereas, the statute requires that the governing board submit to the Texas Higher Education Coordinating Board a report certifying the institution's compliance with the statute during the preceding fiscal year before spending money appropriated to the institution for the next fiscal year; now

Therefore, be it known to all present, that the Board of the Wharton County Junior College (the "Board") on the 16th day of July, 2024, upon information reported by the Wharton County Junior College (the "College") administration, reports that the 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;
- Establishing or enforcing promotion policies or procedures designed or implemented in reference to race, color, or ethnicity, other than policies or procedures approved in writing by the Wharton County Junior College's (the "College") legal 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 the College's legal 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.

Further, that the Board, upon information reported by the College administration, reports that the College 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; and

Further, the Board upon information reported by the College administration, reports that the College does not, except as required by federal law, require any person, as a condition of enrolling at the College 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 Section 51.3525(b)(1)(E)(ii); and

Further, the Board reports that the College has adopted policies and procedures for appropriately disciplining, including by termination, an employee or contractor of the College who engages in conducting in violation of Section 51.3525 of the Texas Education Code; and

Further, that the Board upon information reported by the College administration, reports that no state appropriations to the College for FY2024 have been spent prior to submission of this resolution to the Texas Legislature and the Texas Higher Education Coordinating Board; and

Further, that the Board understands the State Auditor's Office will conduct a compliance audit for the College and if violations of Section 51.3525 of the Texas Education Code are found, the College 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; and

Further, that the Board understands all complaints regarding violations by the College will be sent to the State Auditor's Office for review; and

Further, to ensure full compliance with the statute in the past fiscal year, the Board reports College has taken the following actions:

- The Board adopted policies on January 23, 2024, to ensure compliance with the statute. These policies have been updated to include the prohibition of spending state funds in violation of the statute, detailing criteria set forth in the statute; and
- The Board has received a report from the College that administrative departments, including human resources and student services, reviewed the College website and materials for programs, practices, and language in conflict with the statute and made appropriate adjustments and revisions prior to January 1, 2024. The College did not have individuals employed explicitly for Diversity, Equity, and Inclusion (DEI) positions, nor were DEI offices or activities incorporated into the College's administration or support services prior to the passage of the statute.

In certification of the foregoing, the Board hereby adopts this RESOLUTION.

EXECUTED, APPROVED, AND ADOPTED this 16th day of July, 2024.


Board Chair

ELECTRONIC SIGNATURE ACKNOWLEDGEMENT AND CONSENT FORM

I, Betty McCrehan, 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.

Betty McCrehan
Signature

2-19-24
Date

Please check one:

- President
 Board Chair

ELECTRONIC SIGNATURE ACKNOWLEDGEMENT AND CONSENT FORM

I, James Paul Bpe, 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.

James Paul Bpe
Signature

August 20, 2024
Date

Please check one:

- President
- Board Chair