

Dr. Carmen Olivas Graham
 Mr. Brian J. Haggerty
 Ms. Bonnie Soria Najera
 Ms. Nina Piña
 Mrs. Belen B. Robles
 Ms. Christina R. Sanchez
 Mr. John E. Uxer, Jr.

MEETING

PUBLIC MEETING OF THE BOARD OF TRUSTEES
 EL PASO COUNTY COMMUNITY COLLEGE DISTRICT

REGULAR

Via - Video/Teleconference

DATE: October 27, 2020



Consent Docket

5:00 p.m.

1.0 GENERAL FUNCTIONS

A REGULAR MEETING of the Board of Trustees of the El Paso County Community College District will be held on Tuesday, October 27, 2020 beginning at 5:00 p.m. This meeting will be held by video/teleconference in light of State and Local emergency directives regarding COVID-19. The teleconference audio can be accessed by dialing toll free number **1-844-621-3956 (Enter Access Code: 120 493 6967, please press # to access the call)** and through a video/audio feed found at youtube.com/goepcc. Any member of the public wishing to make a comment or question regarding an agenda item can email the comments or questions to the following email address: board-questions@epcc.edu. All backup and related materials for the meeting can be accessed at the following link: epcc.edu/Administration/BoardOfTrustees

1.1 Call to Order

1.2 Roll Call

1.3 The Board of Trustees may conduct an executive or closed session pursuant to Chapter 551 of the Texas Government Code for one or more of the following reasons:

(1) Consultation with its attorney to seek or receive legal advice or consultation regarding pending or contemplated litigation or for any purpose authorized by law; (2) discussion about the value or transfer of real property; (3) discussion about a prospective gift or donation; (4) consideration of specific personnel matters; (5) discussion about security, personnel or devices; or (6) discussion of certain economic development matters. The Board may also announce that it will go into executive session on any item listed on this agenda if the subject matter is permitted for a closed session by provisions of Chapter 551 of the Texas Government Code. Any vote regarding these items shall be taken in open session.

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Discussion with legal counsel regarding the application of the College’s proposed free speech policies to religious expression, pursuant to Texas Government Code Section 551.071.

Discussion with legal counsel regarding the distribution of the proceeds of the settlement and designation of fiscal agent between the College, as a member of the Rate 41 Group Intervenors, and Public Utility Commission Applicants El Paso Electric Company and Sun Jupiter Holdings in Public Utility Commission of Texas proceeding related to the sale, transfer, or merger of El Paso Electric Company to a J.P. Morgan’s Infrastructure Investments Fund, Docket No. 49849 Public Utility Commission of Texas, pursuant to Texas Government Code Section 551.071.

Discussion regarding bankruptcy proceeding styled, *In re Texas Association of Public Schools Property and Liability Fund*, Cause No. 17-52437, in the United States Bankruptcy Court for the Western District of Texas, San Antonio Division, pursuant to Texas Government Code Section 551.071.

Motion
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 Ayes
 Nays
 Abstain

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1.4 Approval of Minutes:

July 29, 2020 – Special

August 12, 2020 – Special

September 29, 2020 – Special

September 29, 2020 – Regular

The minutes recorded in the agenda are a summary of the presentations and actions taken. Tape recorded minutes comprise the full official minutes.

Exhibit 1.4
 Pages 1a-1e
 Pages 1-8
 Pages 9-11
 Pages 12-28

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1.5 Welcome to Guests and Staff Members

1.6 Open Forum

The El Paso Community College By-laws limit individual presentations for any individual to three minutes – Section 1.5031.

1.7 Presentations by Individuals, Groups, and Organizations:

1.7.1 Dr. William Serrata, College President, will recognize individuals who have retired from the College District.

1.7.2 Optional written reports submitted by the presidents of the Classified Staff Association, the Professional Staff Association, the Faculty Association, and the Student Government Association will be read at this time.

1.8 Communications – NONE

1.9 Board of Trustees Business

1.9.1 Discussion and action on the timeline and schedule to review and approve Local Policies recommended by the Texas Association of School Boards (TASB).

Motion
 Second
 Ayes
 Nays
 Abstain

Exhibit 1.9.1
Pages 29-31

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2.0 ADMINISTRATION

2.1.1 The following policy is presented for first reading:

DGC (Legal) and DGC (Local) Employee Expression and Use of College Facilities.

Resource Person: Julie Penley

2.1.2 The following policy is presented for first reading:

DIAA (Legal) and DIAA (Local) Sex and Sexual Violence relating to Personnel complaints.

Resource Person: Julie Penley

2.1.3 The following policy is presented for first reading:

FFDA (Legal) & FFDA (Local) Sex and Sexual Violence relating to Students complaints.

Resource Person: Julie Penley

2.1.4 The following policy is presented for first reading:

FKC (Legal) and FKC (Local) Registered Student Organizations.

Resource Person: Julie Penley

Exhibit 2.1.1

Pages 32-40

Exhibit 2.1.2

Pages 41-80

Exhibit 2.1.3

Pages 81-120

Exhibit 2.1.4

Pages 121-128

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3.0 PERSONNEL

Consent Docket

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| Motion Second Ayes Nays Abstain | <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> | 3.1 Discussion and action to approve full-time staff and faculty recruited in positions funded by the institutional budget. | <input type="checkbox"/> Exhibit 3.1 Pages 154-156 |
| Motion Second Ayes Nays Abstain | <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> | 3.2 Discussion and action to approve full-time staff and faculty recruited in positions funded by grants and/or contracts. | <input checked="" type="checkbox"/> Exhibit 3.2 Page 157 |
| Motion Second Ayes Nays Abstain | <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> | 3.3 Information items – Resignations and retirements No action required | <input type="checkbox"/> Exhibit 3.3 Page 158 |

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6.0 CURRICULUM AND INSTRUCTION

Consent Docket

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6.1 Discussion and action on the acceptance of a grant from the U.S. Department of Labor for the Job Corps Scholars Program in the amount of \$1,186,900.

Note: Grant funds will be used to hire two career counselors, two employment counselors, and one administrative assistant.

Resource Person: Steven Smith

6.2 Discussion and action on the acceptance of a grant from the Texas Workforce Commission in the amount of \$200,000.

Note: To approve the increase of workforce capacity in the El Paso area by offering training opportunities to local Apprenticeship sponsors.

Resource Person: Steven Smith

6.3 Discussion and action on the acceptance of the U.S. Department of Labor Susan Harwood Training Grant in the amount of \$160,000.

Note: To provide occupational safety training in the topic area of Lockout/Tagout, a U.S. Department of Labor (DOL) targeted topic, that will focus on educating Limited-English speaking and low-literacy workers, including temporary workers and youth, of local small businesses.

Resource Person: Steven Smith

Exhibit 6.1
Page 160

Exhibit 6.2
Page 161

Exhibit 6.3
Page 162

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7.0 STUDENT SERVICES

Consent Docket

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7.1 Discussion and action on the approval of a contract award from JSA Technology Card Systems LP (dba ‘Atrium’) to purchase a student ID card system in an amount not to exceed \$479,852.

Note: To approve the replacement of the existing 15-year old ID card system. Funding for the initial investment is provided by the current fund balance in the Student Activities Fund. Annual maintenance will be budgeted in the Student Activities Fund for every year of the contract.

Resource Person: Kenneth Gonzalez

Exhibit 7.1
 Pages 175-178

7.2 Discussion and action on the approval of Continuing Education tuition rates for new courses.

Note: To approve tuition rates for new CE courses. As new courses are brought into the inventory, the Board of Trustees approves the associated tuition rates.

Resource Person: Steven Smith

Exhibit 7.2
 Pages 179-182

7.3 Discussion and action on the approval of Continuing Education tuition rates for revised courses.

Note: Workforce and Continuing Education is requesting approval for changes in tuition. The comments column describes reasons for each course.

Resource Person: Steven Smith

Exhibit 7.3
 Pages 183-184

EL PASO COUNTY COMMUNITY COLLEGE DISTRICT

**BOARD OF TRUSTEES
MINUTES**

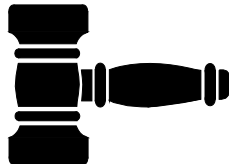
July 29, 2020

SPECIAL

REGULAR

October 27, 2020

Exhibit 1.4



1b

El Paso Community College
Board of Trustees
Facilities & Finance Committee Meeting



MINUTES

Via Teleconference

July 29, 2020 – 3:00 p.m.

1) **General Functions**

A Facilities and Finance Committee Meeting of the Board of Trustees of the El Paso County Community College District will be held on Wednesday, July 29, 2020, beginning at 3:00 p.m. This meeting will be held by teleconference in light of State and Local emergency directives regarding COVID-19. The teleconference audio can be accessed by dialing toll free number 1-855-797-9485 (Enter Access Code 145 430 3342 to access call and when requested enter #) and through an audio feed found at youtube.com/goepcc. Any member of the public wishing to make a comment or question regarding an agenda item can email the comments or questions to the following email address: board-questions@epcc.edu. All backup and related materials for the meeting can be accessed at the following link: epcc.edu/Administration/BoardOfTrustees

2) **Welcome and Call to Order-** The meeting was called to order at 3:06 p.m. by Board Chair Brian Haggerty.

3) **Roll Call** - All members were present; however, Trustee Christina Sanchez joined the meeting after the executive session..

4) **Public Comment** – *(The El Paso Community College By-laws limit individual presentations for any individual to three minutes – Section 1.6031.)* No comment.

5) **Discussion Items**

5.1) Mr. Paulo Peres, (Program Manager, ECM) will provide an update briefing on the progress of the Combined Fee Revenue Improvement Bonds, Series 2016 program. The briefing items will include but are not limited to: a general update including schedule and budget for all six projects, as well as an overall Bond schedule and budget update.

Mr. Peres updated the Trustees on the Mission del Paso project, and mentioned that it showed great progress. He informed the Trustees that although classrooms and restrooms are ready, the common areas are not, but will be completed by August 13, 2020. He informed the Trustees that the substantial completion date will be August 17, 2020.

Mr. David Rawlings, Assistant Program Manager, provided information on the Rio Grande Project, and commented that the project has made great progress. He informed the Trustees that the pouring of concrete has been completed with the exception of the mechanical room and the project will move on to the interior and structural spaces inside the building. Mr. Rawlings commented that the substantial completion date remains as December 14, 2020, and the project will be completed by the Spring 2021 Minimester. He stated that the manpower on the project has been steady.

Mr. Peres updated the Trustees on the Valle Verde project, and mentioned that most of the exterior is completed. He informed the Trustees that the site concrete is 80% completed and is making progress.

Mr. Peres commented that the substantial completion date is September 30, 2020. Mr. Peres reviewed the Schedule Benchmarks, and informed the Trustees that the building climatization was supposed to be completed on July 24, 2020, but the projected new date is August 21, 2020. The building lighting scheduled to be completed on May 29, 2020, is now scheduled for October 13, 2020.

Mr. Peres provided a Safety update, and commented that there were 721,424 hours worked with only 5 safety incidents resulting in 60 lost days.

Mr. Peres presented an overall bond budget update and informed the Trustees that he transferred \$36,000 from the Mission del Paso contingency fund to the Northwest project to complete additional electrical work. He commented that there are no major budget changes.

6) Action Items

- 6.1) Mr. Peres will request the Board of Trustees to formally approve a contract award for the upcoming Rio Grande Building project to Education Management Solutions (EMS) in an amount not to exceed \$745,000, which includes a 10% contingency for the purchase and installation of SIMULATIONiQ™ Enterprise Cloud, a simulation management platform for integrated recording, center operations management, and performance evaluation for educational training environments. The contingency will be added to the contract, only if needed, and at the sole discretion of the College. This purchase would be conducted through United States General Services Administration Contract (GSA) GS-35F-227BA, in compliance with Texas Local Government Code Section 271.103.

Motion to approve was made by Vice Chair Carmen Olivas Graham and seconded by Board Secretary. Belen Robles. Motion passed. Note: Ms. Sanchez and Trustee Bonnie Najera did not vote on this item.

- 6.2) Mr. Peres will request the Board of Trustees to formally approve a Proposed Change Order (PCO) to HB Construction, in an amount not to exceed \$108,462, for upgraded marker boards (IDEA Interactive Dry Erase by Paralax) for the Valle Verde Classroom/Lab Building construction project.

Motion to approve was made by Dr. Graham and seconded by Mrs. Robles. Motion passed. Note: Ms. Sanchez and Ms. Najera did not vote on this item.

- 6.3) Mr. Peres will request the Board of Trustees to formally approve a Proposed Change Order (PCO) to HB Construction, in an amount not to exceed \$120,427, for 328 additional data drops in floor boxes for the 2nd and 3rd Floor for the Valle Verde Classroom/Lab Building construction project.

Motion to approve was made by Mrs. Robles and seconded by Dr. Graham. Motion passed. Note: Ms. Sanchez and Ms. Najera did not vote on this item.

The Board of Trustees recessed into executive session at 3:57 p.m. The meeting was reconvened at 4:27 p.m. All Trustees, except Trustee John Uxer, were on the call upon reconvening.

Item 7.0 was the first item addressed upon reconvening.

7) Additional Items

- 7.1) Ms. Josette Shaughnessy, Vice President-Financial and Administrative Operations, and Mr. Rick Lobato, Executive Director, Physical Plant, will brief the Board of Trustees on pending capital projects for the current fiscal year and fiscal year 2020/2021.

Ms. Shaughnessy reviewed the agenda for the pending capital projects, which included: funding of capital projects, the status of current and pending funding projects, the review of unfunded pending projects, and the recommendation for FY 2020-2021 projects. Ms. Shaughnessy updated the Trustees on the funding of current and future projects. She informed the Trustees that projects are funded by annual transfers of \$900,000 and \$110,000 to the unexpended plant, and the Renewals and Replacement Funds respectively. She reported that the Project Reserve Fund has a current balance of \$3.9 million. Ms. Shaughnessy discussed the annual budgeted transfers from the Auxiliary Fund of \$75,000 and \$250,000 to the Preventive Maintenance and the Parking Lot Renovation funds respectively. She informed the Trustees that savings from completed projects get returned to the Project Reserve Fund, and that there may be savings from unexpended bond proceeds that can be used for future projects.

Mr. Lobato provided an update on the projects completed during FY 2019-2020, which included the installation of emergency evacuation chairs on all campuses, flooring replacement at the Library of the Valle Verde and Transmountain campuses, and chiller replacements at the Northwest Campus, and the Mission Early College High School. Mr. Lobato updated the Trustees on projects currently in progress for FY 2019-2020, which include: replacement of fire alarms at the Rio Grande campus, renovation of restrooms at the Transmountain campus, and floor replacement in the cafeteria at the Valle Verde campus.

Mr. Lobato addressed Physical Plant Projects that were funded but have not been started during FY 2019-2020, and have been prioritized from one to five. He informed the Trustees of four projects that have top priority as follows: replacing the classroom furniture districtwide, repairing the road in front of the gym at the Valle Verde campus, construction of the first-year experience center at the Northwest campus, and the renovation of the gym shower and restroom at the Valle Verde campus. Mr. Lobato informed the Trustees that the second priority projects include: repairing the stairwell cladding at Valle Verde, road modifications for the intersection at the Administrative Services Center, and the replacement of the parking signage districtwide. Mr. Lobato stated that the third priority is the renovation of the KTSM building at the Rio Grande campus, and the fourth priority is the stairwell modifications at the ASC buildings A and B. Mr. Lobato shared that the last priorities would include the landscaping at the Transmountain campus, and the renovation of the ISC and faculty offices at the Valle Verde campus. The total cost for these projects amount to \$3,923,597.

Mr. Lobato reviewed the top priority unfunded projects for FY 2020-2021, which include: the ATC boiler replacement at the Valle Verde campus; the removal of the switchgear and the replacement of the cooling tower at ASC and the Transmountain campus; the cable replacement at the Valle Verde campus; HVAC modification and replacements at the Valle Verde campus; and road repair at the Mission del Paso campus. The next priorities are the gym shower renovations at the Transmountain campus, and the air conditioning controls upgrade of the Law Enforcement building at the Mission del Paso and at the Rio Grande campuses. The last project priority would include the Epoxy Floor at the Transportation Training Center (TTC) of the Valle Verde campus.

Mr. Lobato then proposed the following projects for FY 2020-2021, that include: the ATC boiler replacement, transformer/cable replacement, the HVAC replacement and modifications, and the Dyno exhaust in the TTC building. He commented that the ASC would need the removal of the

switchgear, and the replacement of the cooling tower. He stated that the Transmountin campus needed the repair of the electrical loop, and the replacement of the cooling tower; and Rio Grande needed the replacement of the Mechanical Room stairs in the H Building. Mr. Lobato informed the Trustees that Northwest Campus needed the correction of the fume hood exhaust in the new building, and Mission del Paso needed the Service Road repaired to prevent flooding. Mr. Lobato informed the Trustees that the estimated cost for these proposed projects amount to \$2,900,000.

Mr. Lobato concluded his presentation by thanking the Trustees for their time and attention.

- 7.2) Ms. Shaughnessy will update the Board of Trustees on the budget development process for Fiscal Year 2020/2021.

Mr. Haggerty suggested that the budget presentation be rescheduled for Wednesday, August 12, 2020 at 5:00 p.m. due to the lack of time before the beginning of the regular meeting. The Trustees agreed to reschedule the budget presentation.

- 8) The Board of Trustees may conduct an executive or closed session pursuant to Chapter 551 of the Texas Government Code for one or more of the following reasons:**

(1) Consultation with its attorney to seek or receive legal advice or consultation regarding pending or contemplated litigation or for any purpose authorized by law; (2) discussion about the value or transfer of real property; (3) discussion about a prospective gift or donation; (4) consideration of specific personnel matters; (5) discussion about security, personnel or devices; or (6) discussion of certain economic development matters. The Board may also announce that it will go into executive session on any item listed on this agenda if the subject matter is permitted for a closed session by provisions of Chapter 551 of the Texas Government Code. Any vote regarding these items shall be taken in open session.

Discussion regarding the the possible purchase by the College of real property adjacent to Mission del Paso campus pursuant to Section 551.072 of the Texas Government Code

- 9) Adjournment**

Motion to adjourn was made by Dr. Graham and seconded by Mrs. Robles. The meeting was adjourned at 5:10 p.m. by unanimous consent.

EL PASO COUNTY COMMUNITY COLLEGE DISTRICT

**BOARD OF TRUSTEES
MINUTES**

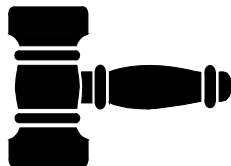
August 12, 2020

SPECIAL

REGULAR

October 27, 2020

Exhibit 1.4





PUBLIC MEETING OF THE BOARD OF TRUSTEES
EL PASO COUNTY COMMUNITY COLLEGE DISTRICT

BUDGET WORKSHOP

MINUTES

VIA TELECONFERENCE

DATE: August 12, 2020

Consent Docket

5:00 p.m.

- Dr. Carmen Olivas Graham
- Mr. Brian J. Haggerty
- Ms. Bonnie Soria Najera
- Ms. Nina Piña
- Mrs. Belen B. Robles
- Ms. Christina R. Sanchez
- Mr. John E. Uxer, Jr.

1.0 GENERAL FUNCTIONS

A BUDGET WORKSHOP of the Board of Trustees of the El Paso County Community College District will be held on Wednesday, August 12, 2020, beginning at 5:00 p.m. This meeting will be held by teleconference. The teleconference audio can be accessed by dialing toll free number **1-855-797-9485 (Enter Access Code 145 425 8848 to access call and when requested enter #)** and through an audio feed found at [youtube.com/goepcc](https://www.youtube.com/goepcc). Any member of the public wishing to make a comment or question regarding an agenda item can email the comments or questions to the following email address: board-questions@epcc.edu. All backup and related materials can be accessed at the following link: epcc.edu/Administration/BoardOfTrustees.

1.1 Call to Order- Board Chair Brian Haggerty called the meeting to order at 5:00 p.m.

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| Present | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Not Present | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

1.2 Roll Call- All Trustees were present, with the exception of Trustee Bonnie Najera.

1.3 The Board of Trustees may conduct an executive or closed session pursuant to Chapter 551 of the Texas Government Code for one or more of the following reasons:

(1) Consultation with its attorney to seek or receive legal advice or consultation regarding pending or contemplated litigation or for any purpose authorized by law; (2) discussion about the value or transfer of real property; (3) discussion about a prospective gift or donation; (4) consideration of specific personnel matters; (5) discussion about security, personnel or devices; or (6) discussion of certain economic development matters. The Board may also announce that it will go into executive session on any item listed on this agenda if the subject matter is permitted for a closed session by provisions of Chapter 551 of the Texas Government Code. Any vote regarding these items shall be taken in open session.

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Discussion with legal counsel regarding review of pending legal cases and attorney's fees pursuant to Section 551.071 of the Texas Government Code.

1.5 Welcome to Guests and Staff Members- Mr. Haggerty welcomed all guests and staff members to the teleconference meeting.

1.6 Open Forum- No comment.

The El Paso Community College By-laws limit individual presentations for any individual to three minutes – Section 1.5031.

1.7 Presentations by Individuals, Groups and Organizations

1.7.1 Ms. Josette Shaughnessy (Vice President, Financial & Administrative Operations) will provide an update on the development of the 2020-2021 Fiscal Year Budget.

Ms. Shaughnessy reviewed the Workshop Agenda, which included updates on: strategic planning for FY 2020-2021 budget; the CARES Act funding; FY 2019-2020 projected revenues and budget; FY 2020-2021 projected revenues and the preliminary budget; budget strategies for FY 2020-2021, and next steps.

Ms. Shaughnessy started with the Updated Strategic Planning for FY 2020-2021 Budget. She reminded the Trustees that strategic planning for the FY 20/21 budget involved planning for: stable state appropriations in FY 2020/21; a potential state funding reduction for the 2022-2023 biennium in light of the current economic crisis; an enrollment decrease in non-dual credit students during the fall 2020 and spring 2021 semesters; lower property tax collections during FY 2020-

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2021, lower interest income impacted by the unfavorable investment market; and higher unfunded liability related to the implementation of GASB 68 and 75 because of the investment market.

Ms. Shaughnessy reminded the Trustees of the continued cost containment measures that the institution is taking as a result of COVID-19 and commented that the College has canceled all travel, halted recruitment of vacant full-time positions unless critical, scrutinized the need for part-time staff, and postponed non-critical construction projects. She also mentioned that the College has postponed non-critical capital equipment purchases, scrutinized procurement of goods and services for essential need, held off on hotel reservations for large groups, and identified budget savings to help mitigate any potential revenue deficit for the rest of the fiscal year.

Ms. Shaughnessy updated the Trustees on the CARES Act funding blocks. She informed the Trustees that the CARES Act funds committed to students will be distributed throughout the year. She mentioned that 30% of the allocation or \$2.56 million was distributed to spring students, another \$1.67 million was distributed to summer students, and the 30% fall allocation is in the process of being distributed to include a total of \$1.1 million to date. The remaining balance will be available for additional demand during the academic year. She informed the Trustees that the funds direct institutions to use no less than 50% of funds received under these sections to provide emergency financial aid grants to eligible students, and lastly, it allows institutions to use the other 50% to cover any costs associated with significant changes in the delivery of instruction and support services.

Ms. Shaughnessy informed the Trustees of the

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Revenue Projections for FY 2019-2020 based on the current enrollment. She mentioned that the institution was impacted by COVID-19 towards the end of the Spring 2020 semester, which means most of the funds had been collected. She commented that the tuition and fees fund had an impact of \$1.4 million, which includes a decrease in tuition revenue from Continuing Education courses. She reviewed the Self-Supporting Accounts Revenue, and mentioned that self-supporting programs cannot spend funds unless revenue comes in. She commented that the projected expenses for the self-supporting accounts will decrease from a budget of \$4,421,888 to \$1,521,512. Ms. Shaughnessy shared that the increase in fund balance for the current year is estimated at \$8,526,387, but she mentioned that this amount will change depending on additional savings incurred by the institution.

Ms. Shaughnessy shared the basis for FY 2020-2021 Revenue Projections, and mentioned that state appropriations are based on the second year of biennium funding. She mentioned that the revenue from Tuition & Fees was decreased by Distance Education fees to account for the fee waiver due to the shift to online instruction for the fall 2020 semester. She commented that the Property Tax Revenue is based on the certified taxable valuation of \$46.1 billion and a No New Revenue Tax Rate (previously known as Effective Tax Rate) of \$0.139859; as compared to \$45.3 billion for FY 2019-20 and current tax rate of \$0.141167. Ms. Shaughnessy mentioned that for 2021, the institution estimates to collect about \$250,000 in interest income as compared to \$2.2 million in FY 20 because of the projected interest rates of 0 to 25 basis points.

Ms. Shaughnessy informed the Trustees on the No New Revenue Tax Rate, and mentioned that it used

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to be known as the Effective Tax Rate. She commented that it is now calculated to include Chapter 42 appeals related to disputed values of property under lawsuits, and has the net effect to decrease the adjusted 2019 value by the disputed value used for the calculation of the No New Revenue. Ms. Shaughnessy also briefed the Trustees on the Voter-Approval Tax Rate, previously known as the Rollback Rate. She mentioned that the adjusted No New Revenue tax rate considers refunds when arriving to the final Voter-Approval Tax Rate, and that the EPCC Voter-Approval Tax Rate is computed as \$0.151317.

Ms. Shaughnessy provided information on the Proposed Budget Development Strategies based on Revenue Projection Scenarios for FY 2020-2021. Ms. Shaughnessy mentioned that the institution is currently experiencing Scenario 4, a 20% enrollment decrease which is a budget deficit of \$8.9 million.

Dr. William Serrata, College President, commented that for the Summer 2020 semester, enrollment has improved from a 36% decrease to an 8% increase, and for the Fall 2020 semester, there was an improvement from a 76% to a 19% decrease. He mentioned that he wanted to extend registration dates by one week to allow students to add courses the first week of classes. He commented that the institution has added ads on social media, and postcards have been sent to students to try to increase enrollment. He stated that the institution has seen a decrease in two areas: Dual Credit and First Time in College students for the Fall 2020 semester. He mentioned that Dual Credit was down 50% and now they are down 29%, and First Time in College students are down 32%. He mentioned that this decrease will improve once the students in

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the school districts go back to school. He commented that the institution is moving forward with marketing and direct mailing efforts to increase enrollment for the Fall 2020 semester.

Ms. Shaughnessy shared how the institution can fund the projected budget deficit. She mentioned that Scenario 4 with the 20% enrollment drop, is realistic for the institution and she shared a couple of ways that the institution can fund the \$8.9 billion deficit. She mentioned that a couple of options would be to use the biennium reserve, reduce travel budgets, freeze vacant positions that are not under recruitment, or reduce costs in part-time instructional salaries.

Ms. Shaughnessy shared the funds that will be impacted because of the enrollment drop, which include: TPEG Fund in Restricted Fund, Student Activities Fund, Intercollegiate Athletic Fund, Auxiliary Fund, and the Debt Retirement Fund. Ms. Shaughnessy discussed options to consider to balance the Auxiliary Enterprise Fund Preliminary Budget for FY 2020-2021, which include: funding the revenue deficit in Vehicle Registration by the CARES Act MSI, using the Vehicle Registration and Auxiliary Fund balances, using a combination of Vehicle Registration Fund balance and reduction in Staff Scholarships and Educational Assistance budgets to balance the budget, postpone the transfers to the Plant Fund, or a combination of previously mentioned options.

Ms. Shaughnessy reviewed the next steps for the FY 2020-2021 Proposed Budget, that included: continue recruitment efforts for summer and fall registrations, revise and refine revenue projections, finalize the baseline budget for additional potential salary savings, structure budget reductions to balance the budget, and present a proposed budget

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Consent Docket

Motion
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 Ayes
 Nays
 Abstain

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for adoption at the August 26, 2020 Regular Board Meeting.

Ms. Shaughnessy concluded her presentation by thanking the Trustees for their support, and her colleagues and staff for all of their help.

The Board of Trustees recessed for Executive Session at 7:34 p.m.

The meeting was reconvened at 8:45 p.m. Mr. Haggerty was not present upon reconvening.

1.8 ADJOURNMENT and announcement of next Board of Trustees meeting.

Dr. Graham announced that the next meeting of the Board of Trustees would be held on August 25, 2020, at 4:00 p.m.

Motion to adjourn was made by Mrs. Robles. Meeting was adjourned at 8:48 p.m. by unanimous consent.

EL PASO COUNTY COMMUNITY COLLEGE DISTRICT

**BOARD OF TRUSTEES
MINUTES**

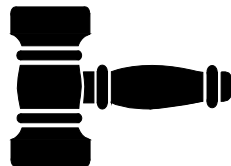
September 29, 2020

SPECIAL

REGULAR

October 27, 2020

Exhibit 1.4



El Paso Community College
Board of Trustees
Facilities & Finance Committee Meeting



MINUTES

Via Teleconference

September 29, 2020 – 4:00 p.m.

1) **General Functions**

A Facilities and Finance Committee Meeting of the Board of Trustees of the El Paso County Community College District will be held on Tuesday, September 29, 2020, beginning at 4:00 p.m. This meeting will be held by teleconference in light of State and Local emergency directives regarding COVID-19. The teleconference audio can be accessed by dialing toll free number **1-844-621-3956 (Enter Access Code 120 309 8316 to access call and when requested enter #)** and through an audio feed found at youtube.com/goepcc. Any member of the public wishing to make a comment or question regarding an agenda item can email the comments or questions to the following email address: board-questions@epcc.edu. All backup and related materials for the meeting can be accessed at the following link: epcc.edu/Administration/BoardOfTrustees

2) **Welcome and Call to Order** - The meeting was called to order at 4:00 p.m. by Board Chair Brian Haggerty.

3) **Roll Call** - All Trustees were present. Trustee Bonnie Najera joined the meeting at 4:04 p.m.

4) **Public Comment** – *(The El Paso Community College By-laws limit individual presentations for any individual to three minutes – Section 1.6031.)* No comment.

5) **Discussion Items**

5.1) Mr. Paulo Peres, (Program Manager, ECM) will provide an update briefing on the progress of the Combined Fee Revenue Improvement Bonds, Series 2016 program. The briefing items will include but are not limited to: a general update including schedule and budget for all six projects, as well as an overall Bond schedule and budget update.

Mr. Peres updated the Trustees on the Mission del Paso project, and mentioned that this project will be complete once the final gas connection is done. He mentioned that some IT items need to be completed before the institution can proceed with activating network in the building. Mr. Peres mentioned that some detailing and staining need to be done on the wooden stairs inside the building. He informed the Trustees that a preliminary accessibility inspection has been completed by the Registered Accessibility Specialist and that the project has a couple of items on the punch list that are in progress. He stated that the project should be completed by the substantial completion date.

Mr. Peres provided an update on the Rio Grande project, and mentioned that the roof is almost complete, and the stairs and elevators are approximately 75% complete. Mr. Peres reminded the Trustees that the landscaping items will be replaced if there are any signs of trees and bushes being damaged. He commented that the finishing surfaces of the garage concrete are in progress, but all of the major concrete placements have been completed. Mr. Peres mentioned that the project is moving slow, but the work is staying consistent and efficient. He stated that he has high confidence that the Rio Grande project will be substantially complete by December 14, 2020.

Mr. Peres reported that the Valle Verde project is behind schedule and is moving slowly. He stated that the building is beautiful and the project is very well done. Mr. Peres informed the Trustees that the lobby is the major area that is incomplete, and he commented that critical IT items may delay the project. He reported that the Valle Verde project will not be completed by the current substantial completion date of December 2020, but estimates that the project will be done by the Spring 2021 minimester.

Mr. Peres gave a safety update, and mentioned that there are no safety incidents to report. He also commented that there are no changes to the overall bond budget.

6) The Board of Trustees may conduct an executive or closed session pursuant to Chapter 551 of the Texas Government Code for one or more of the following reasons:

(1) Consultation with its attorney to seek or receive legal advice or consultation regarding pending or contemplated litigation or for any purpose authorized by law; (2) discussion about the value or transfer of real property; (3) discussion about a prospective gift or donation; (4) consideration of specific personnel matters; (5) discussion about security, personnel or devices; or (6) discussion of certain economic development matters. The Board may also announce that it will go into executive session on any item listed on this agenda if the subject matter is permitted for a closed session by provisions of Chapter 551 of the Texas Government Code. Any vote regarding these items shall be taken in open session.

7) Adjournment

Motion to adjourn was made by Vice-Chair Graham. The meeting was adjourned by unanimous consent at 4:43 p.m.

EL PASO COUNTY COMMUNITY COLLEGE DISTRICT

**BOARD OF TRUSTEES
MINUTES**

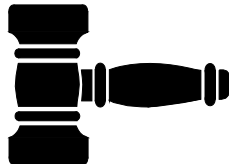
September 29, 2020

REGULAR

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October 27, 2020

Exhibit 1.4



13
MEETING

PUBLIC MEETING OF THE BOARD OF TRUSTEES
EL PASO COUNTY COMMUNITY COLLEGE DISTRICT

REGULAR

MINUTES

Via Teleconference

DATE: September 29, 2020



Consent Docket

5:00 p.m.

Dr. Carmen Olivas Graham
Mr. Brian J. Haggerty
Ms. Bonnie Soria Najera
Ms. Nina Piña
Mrs. Belen B. Robles
Ms. Christina R. Sanchez
Mr. John E. Uxer, Jr.

1.0 GENERAL FUNCTIONS

A REGULAR MEETING of the Board of Trustees of the El Paso County Community College District will be held on Tuesday, September 29, 2020, beginning at 5:00 p.m. This meeting will be held by teleconference in light of State and Local emergency directives regarding COVID-19. The teleconference audio can be accessed by dialing toll free number **1-844-621-3956 (Enter Access Code 120 577 2038 please enter # to access the call)** and through an audio feed found at youtube.com/goepcc. Any member of the public wishing to make a comment or question regarding an agenda item can email the comments or questions to the following email address: board-questions@epcc.edu. All backup and related materials for the meeting can be accessed at the following link:

epcc.edu/Administration/BoardOfTrustees

1.1 Call to Order- The meeting was called to order at 5:00 p.m. by Board Chair Brian Haggerty.

1.2 Roll Call- all Trustees were present.

1.3 The Board of Trustees may conduct an executive or closed session pursuant to Chapter 551 of the Texas Government Code for one or more of the following reasons:

(1) Consultation with its attorney to seek or receive legal advice or consultation regarding pending or contemplated litigation or for any purpose authorized by law; (2) discussion about the value or transfer of real property; (3) discussion about a prospective gift or donation; (4) consideration of specific personnel matters; (5) discussion about security, personnel or devices; or (6) discussion of certain economic development matters. The Board may also announce that it will go into executive session on any item listed on this agenda if the subject matter is permitted for a closed session by provisions of Chapter 551 of the Texas Government Code. Any vote regarding these items shall be taken in open session.

Present
Not Present

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Dr. Carmen Olivas Graham
 Mr. Brian J. Haggerty
 Ms. Bonnie Soria Najera
 Ms. Nina Piña
 Mrs. Belen B. Robles
 Ms. Christina R. Sanchez
 Mr. John E. Uxer, Jr.

Consent Docket

1.7 Presentations by Individuals, Groups, and Organizations:

- 1.7.1 Dr. William Serrata, College President, will recognize individuals who have retired from the College District.

Retirees for the Month of September will be recognized during the October 2020 Regular Board Meeting.

- 1.7.2 Optional written reports submitted by the presidents of the Classified Staff Association, the Professional Staff Association, the Faculty Association, and the Student Government Association will be read at this time.

Mr. Rudy Hernandez (President, Faculty Association) informed the Trustees that the Fall 2020 semester is off to a great start. He mentioned that most faculty and students have adjusted to online teaching and learning, but adjustments are being made constantly for the betterment of everyone. He mentioned that although students and faculty would like to return to face-to-face classes, the safety of students and faculty is important. He informed the Trustees that classes are progressing, and training for faculty is being continued throughout the college.

1.8 Communications – NONE

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|--------------------------|
| Dr. Carmen Olivas Graham |
| Mr. Brian J. Haggerty |
| Ms. Bonnie Soria Najera |
| Ms. Nina Piña |
| Mrs. Belen B. Robles |
| Ms. Christina R. Sanchez |
| Mr. John E. Uxer, Jr. |

Consent Docket

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1.9.2 Update and discussion regarding the College Phased Return Back to Campus Plan.

Dr. Serrata updated the Trustees on a preliminary staff return to campus, and mentioned that the COVID-19 Plan Objectives are to protect the health and safety of faculty, staff, students, and campus visitors. He assured the Trustees that the institution functions and services have and will continue uninterrupted. Dr. Serrata provided a recap of the phased return to campus, and mentioned that Phase 1 is 25%, Phase 2 is 40%, Phase 3 is 50% of total departmental essential employees; Phase 4 is 60%, and Phase 5 is 75% of total departmental essential and non-essential employees. Dr. Serrata mentioned that Phase 6 would more than likely happen August-December 2021 with 90-100% of total departmental staff.

No Exhibit

1.9.3 Update and discussion regarding preparations for the 87th Legislative Session.

Dr. Serrata provided a Legislative Update, and mentioned that based on directions from the Legislative Budget Board, the Texas Association of Community Colleges (TACC) recommended reducing the overall ask for the FYs 2022-2023 biennium to the current FYs 2020-2021 funding levels due to the COVID-10 pandemic. He mentioned that approximately \$1.8 billion would be allocated amongst the 50 community colleges. Dr. Serrata commented that TACC recommended giving priority to Student Success Points and to increase Core Operations to provide \$2 million per college for the biennium.

No Exhibit

Dr. Carmen Olivas Graham
 Mr. Brian J. Haggerty
 Ms. Bonnie Soria Najera
 Ms. Nina Piña
 Mrs. Belen B. Robles
 Ms. Christina R. Sanchez
 Mr. John E. Uxer, Jr.

Consent Docket

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He mentioned that the remaining funds would be allocated through the contact hour formula.

Dr. Serrata informed the Trustees that the Legislative Appropriations Request for 2022-2023 in Core Operations would increase from \$68 to \$100 million, Student Success Points would increase from \$228.3 to \$282.8 million, and the Contact Hour allocation would decrease from \$1,533.7 to \$1,447.2 million.

Dr. Serrata concluded his presentation by informing the Trustees that a presentation for our legislative delegation will be scheduled virtually to provide the delegation information on the institution’s priorities. He mentioned that once the presentations to the delegation are complete, we will reach out to other elected officials, the County Judge, the Commissioner’s Court, the Mayor, and City Council to advocate on our behalf.

1.9.4 Discussion and action to authorize Dr. William Serrata, College President, or his designee to execute a lease rider agreement between the College and the Education Service Center, Region 19, and the U.S. Department of Health and Human Services, Administration for Children and Families, for the use of a head start facility.

No Exhibit

Motion to approve was made by Mrs. Robles and seconded by Dr. Graham. Motion passed.

1.10 Board Reports

1.10.1 Treasurer’s Report – NONE

Dr. Carmen Olivas Graham
 Mr. Brian J. Haggerty
 Ms. Bonnie Soria Najera
 Ms. Nina Piña
 Mrs. Belen B. Robles
 Ms. Christina R. Sanchez
 Mr. John E. Uxer, Jr.

Consent Docket

1.10.2 President's Report

1.10.2.1 Dr. William Serrata, College President, will update the Board of Trustees and audience on recent events that have transpired at the College to include an update on the COVID-19 pandemic and appropriate actions taken.

Dr. Serrata informed the Trustees that he has participated in over 100 virtual meetings or calls since the last Board Meeting held on August 25, 2020. He mentioned that he presided over an AACC Executive Committee Meeting, attended the Excelencia in Education Board Meeting, served as a keynote speaker for the Convocation at Grand Rapids Community College in Michigan, participated in three Aspen Institute Meetings, and four state-wide transfer meetings as appointed by the Texas Higher Education Commissioner Keller. Dr. Serrata mentioned he had participated in 14 Texas Association of Community Colleges meetings, presented at the Clark State Community College Town Hall in Ohio, attended the El Paso Branch of the Dallas Federal Reserve Bank Board of Directors meeting, and participated in a Leadership Equity Panel during EPCC's Professional Development day. He mentioned that he participated in a "Success Through Technology in Education Panel" discussion, taped for an Educause Session with Dr. Mark Milliron.

Dr. Carmen Olivas Graham
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Consent Docket

Dr. Serrata congratulated Dr. Graham and Dr. Carlos Amaya for being recognized as 2020 Hispanic Heritage Mentors. Dr. Serrata informed the Trustees that on September 17, 2020, he presented at the first-ever EPCC virtual State of the College Address, where 1,218 employees participated. He announced that the Law Enforcement Academy day time Peace Officer Class took their state licensing exam on August 31, 2020 and all 18 students passed, which continued their 100% pass rate record for the program. Dr. Serrata informed the Trustees that the Purchasing & Contract Management Department has worked with the Information Technology Department to implement a software solution to allow vendors to compete for College business without being on-site.

Dr. Serrata updated the Trustees on the Fall 2020 Enrollment, and mentioned that there is continuous progress. He mentioned that there are currently over 26,000 students enrolled, which is a 10% decline over Fall 2019 that had approximately 28,000 students enrolled. Dr. Serrata commented that there was a major decline in the First Time in College (FTIC) students. Dr. Serrata commented that he will be working with the superintendents to help the upcoming class of FTIC students.

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| Dr. Carmen Olivas Graham |
| Mr. Brian J. Haggerty |
| Ms. Bonnie Soria Najera |
| Ms. Nina Piña |
| Mrs. Belen B. Robles |
| Ms. Christina R. Sanchez |
| Mr. John E. Uxer, Jr. |

Consent Docket

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1.11 Consent Docket

Note: Includes item 3.2.

Motion to approve was made by Mr. Haggerty and seconded by Dr. Graham. Motion passed.

2.0 ADMINISTRATION – NONE

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|--------------------------|
| Dr. Carmen Olivas Graham |
| Mr. Brian J. Haggerty |
| Ms. Bonnie Soria Najera |
| Ms. Nina Piña |
| Mrs. Belen B. Robles |
| Ms. Christina R. Sanchez |
| Mr. John E. Uxer, Jr. |

3.0 PERSONNEL

Consent Docket

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3.1 Discussion and action to approve full-time staff and faculty recruited in positions funded by the institutional budget.

Motion to approve was made by Mrs. Robles and seconded by Dr. Graham. Motion passed. *Note: Trustee Nina Piña did not vote on this item.*

Exhibit 3.1
Pages 45-47

3.2 Discussion and action to approve full-time staff and faculty recruited in positions funded by grants and/or contracts.

This item was included on the consent docket. Item passed.

Exhibit 3.2
Pages 48-51

3.3 Information items – Resignations and retirements
No action required

Exhibit 3.3
Page 52

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| Dr. Carmen Olivas Graham |
| Mr. Brian J. Haggerty |
| Ms. Bonnie Soria Najera |
| Ms. Nina Piña |
| Mrs. Belen B. Robles |
| Ms. Christina R. Sanchez |
| Mr. John E. Uxer, Jr. |

6.0 CURRICULUM AND INSTRUCTION

Consent Docket

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6.1 Discussion and action on the sole source procurement of drug screening, background check, and compliance logging services from American Databank, LLC.

Note: To approve the issuance of a one-year contract to American Databank to provide drug screening and background check services, as well as compliance information tracking services district-wide. Funding is provided by the budgets of the respective departments using the services.

**Resource Persons: Steven Smith
Josette Shaughnessy**

Motion to approve was made by Dr. Graham and seconded by Mrs. Robles. Motion passed. Note: Ms. Piña did not vote on this item.

6.2 Discussion and action on the approval of a grant award from the U.S. Department of Education TRIO in the amount of \$707,647.

Note: To provide opportunities for academic development, assist students with basic college requirements, and motivate students toward the successful completion of their postsecondary education.

Resource Person: Steven Smith

Motion to approve items 6.2, 6.3, 6.4, 6.5, and 6.6 was made by Dr. Graham and seconded by Trustee Bonnie Soria Najera. Motion passed. Note: Ms. Piña did not vote on these items.

Exhibit 6.1
Pages 54-56

Exhibit 6.2
Page 57

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| Dr. Carmen Olivas Graham |
| Mr. Brian J. Haggerty |
| Ms. Bonnie Soria Najera |
| Ms. Nina Piña |
| Mrs. Belen B. Robles |
| Ms. Christina R. Sanchez |
| Mr. John E. Uxer, Jr. |

6.0 CURRICULUM AND INSTRUCTION

Consent Docket

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6.3 Discussion and action on the acceptance of a Skills Development Fund (SDF) grant award from the Texas Workforce Commission to provide customized training to DISH Network LLC employees in the amount of \$358,083.

Note: To accept a grant award from the Texas Workforce Commission (TWC) in partnership with DISH Network LLC.

Resource Person: Steven Smith

Item passed.

6.4 Discussion and action on the acceptance of a five-year sub grant from the University of Texas at El Paso under the National Institute of Health (NIH) Bridges to the Baccalaureate Program in the amount of \$310,157.

Note: To provide structural biomedical research activities, mentoring, and career development to prepare trainees to bridge from a two-year to four-year institution.

Resource Person: Steven Smith

Item passed.

Exhibit 6.3
Page 58

Exhibit 6.4
Page 59

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|--------------------------|
| Dr. Carmen Olivas Graham |
| Mr. Brian J. Haggerty |
| Ms. Bonnie Soria Najera |
| Ms. Nina Piña |
| Mrs. Belen B. Robles |
| Ms. Christina R. Sanchez |
| Mr. John E. Uxer, Jr. |

6.0 CURRICULUM AND INSTRUCTION

Consent Docket

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6.5 Discussion and action on the acceptance of a grant from the Texas Workforce Commission in the amount of \$287,848.

Note: To increase workforce capacity in the El Paso area by offering training opportunities to local apprenticeship sponsors.

Resource Person: Steven Smith

Item passed.

6.6 Discussion and action on the acceptance of a grant award from the U.S. Department of Agriculture-National Institute of Food and Agriculture in the amount of \$185,474.

Note: To implement a four-year student emissary program that will provide training in leadership and social skills to culinary arts students.

Resource Person: Steven Smith

Item passed.

Exhibit 6.5
Page 60

Exhibit 6.6
Page 61

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|--------------------------|
| Dr. Carmen Olivas Graham |
| Mr. Brian J. Haggerty |
| Ms. Bonnie Soria Najera |
| Ms. Nina Piña |
| Mrs. Belen B. Robles |
| Ms. Christina R. Sanchez |
| Mr. John E. Uxer, Jr. |

7.0 STUDENT SERVICES

Consent Docket

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| Second | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Ayes | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
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7.1 Discussion and action on the approval of Continuing Education tuition rates for new courses.

Note: To approve the tuition rates for new CE courses. As new courses are brought into the inventory, the Board of Trustees approves the associated tuition rates.

Resource Person: Steven Smith

Motion to approve Items 7.1 and 7.2 was made by Dr. Graham and seconded by Mrs. Robles. Motion passed.

7.2 Discussion and action on the approval of Continuing Education tuition rates for revised courses.

Note: Workforce and Continuing Education is requesting approval for changes in tuition. The comments column describes reasons for each course.

Resource Person: Steven Smith

Item passed.

Exhibit 7.1
Pages 62-65

Exhibit 7.2
Pages 66-71

| |
|--------------------------|
| Dr. Carmen Olivas Graham |
| Mr. Brian J. Haggerty |
| Ms. Bonnie Soria Najera |
| Ms. Nina Piña |
| Mrs. Belen B. Robles |
| Ms. Christina R. Sanchez |
| Mr. John E. Uxer, Jr. |

8.0 COMMUNITY SERVICES

Consent Docket

| | | | | | | | | | | |
|---------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|
| Motion | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Second | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Ayes | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
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| Motion | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
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| Ayes | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Nays | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Abstain | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

8.0 COMMUNITY SERVICES - NONE

The Board of Trustees recessed into executive session at 7:43 p.m.

The meeting was reconvened at 8:12 p.m. All Trustees were present upon reconvening.

9.0 ADJOURNMENT and announcement of next Board of Trustees meeting.

Mr. Haggerty announced that the next regular Board meeting will be on October 27, 2020.

Motion to adjourn was made by Dr. Graham. The meeting was adjourned at 8:13 p.m. by unanimous consent.



Recommended Schedule for TASB (Local) Policy adoption

Oct. 2020: Six TASB Local Policies will be presented for FIRST READING, to address legislative requirements for having policies in place regarding First Amendment/Free Speech and Title IX/Sexual Harassment rights and protections.

Nov. 2020: the above policies will be presented for SECOND READING/POSSIBLE ADOPTION

Dec. 2020: no policies presented

Jan. 2021: TASB recommended Local Policies A, B, and G (23; addressing Basic District Foundations, Local Governance, and Community & Governmental Relations) presented for FIRST READING

Feb. 2021: policies presented in January presented here for SECOND READING/POSSIBLE ADOPTION

Mar. 2021: TASB recommended Local Policies E and F (32; addressing Instruction and Students) presented for FIRST READING

Apr. 2021: policies presented in March presented here for SECOND READING/POSSIBLE ADOPTION

May 2021: TASB recommended Local Policies C (12; addressing Business and Support Services) presented for FIRST READING

Jun 2021: policies presented in May presented here for SECOND READING/POSSIBLE ADOPTION

Jul 2021: TASB recommended Local Policies D (24; addressing Personnel) presented for FIRST READING

Aug. 2021: policies presented in July presented here for SECOND READING/POSSIBLE ADOPTION



Alternative Schedule for TASB (Local) Policy adoption

Oct. 2020: Six TASB Local Policies will be presented for FIRST READING, to address legislative requirements for having policies in place regarding First Amendment/Free Speech and Title IX/Sexual Harassment rights and protections.

Nov. 2020: the above policies will be presented for SECOND READING/POSSIBLE ADOPTION

Dec. 2020: no policies presented

Jan. 2021: TASB recommended Local Policies A-B (18; addressing Basic District Foundations and Local Governance) presented for FIRST READING

Feb. 2021: policies presented in January presented here for SECOND READING/POSSIBLE ADOPTION

Mar. 2021: TASB recommended Local Policies G (5; addressing Community and Governmental Relations) presented for FIRST READING

Apr. 2021: policies presented in March presented here for SECOND READING/POSSIBLE ADOPTION

May 2021: TASB recommended Local Policies E (12; addressing Instruction) presented for FIRST READING

Jun 2021: policies presented in May presented here for SECOND READING/POSSIBLE ADOPTION

Jul 2021: TASB recommended Local Policies F (20; addressing Students) presented for FIRST READING

Aug. 2021: policies presented in July presented here for SECOND READING/POSSIBLE ADOPTION

Sept. 2021: TASB recommended Local Policies C (32; addressing Business and Support Services) presented for FIRST READING

Oct. 2021: policies presented in September presented here for SECOND READING/POSSIBLE ADOPTION

Nov. 2021: TASB recommended Local Policies D (24; addressing Personnel) presented for FIRST READING

Dec. 2021: no policies presented

Jan. 2022: policies presented in November presented here for SECOND READING/POSSIBLE ADOPTION

BOARD POLICY ABSTRACT

| | | |
|---|--|--|
| Policy to be Considered: Employee Expression and Use of College Facilities. | | Policy #: DGC (Legal) and DGC (Local) |
| Policy Section: Personnel | <input checked="" type="checkbox"/> New | <input type="checkbox"/> Revision |
| Action: <input checked="" type="checkbox"/> For information only (<input checked="" type="checkbox"/> 1 st Reading) <input type="checkbox"/> For Adoption (<input type="checkbox"/> 2 nd Reading and/or Approval) | | |
| Resource Person: Julie Penley | | |
| <p>Purpose: To transition EPCC Board Policies to the Texas Association of School Boards (TASB) format and organizational system. EPCC's Board of Trustees authorized Dr. Serrata to begin this work and execute four TASB agreements at its October 2019 Regular Meeting, including the Community College Policy On-Line Service Agreement and the Community College Localization Agreement.</p> <p>Explanation: DGC (Legal) is the statutory context for the use of College facilities by employees. It is provided for information only, as no Board action is ever required for TASB Legal Policies.</p> <p>DGC (Local) is the College-specific supplement to DGC (Legal), addressing the College's requirements and obligations for allowing access to College facilities by employees.</p> <p>TASB Local Policies do require Board of Trustees action. DGC (Local) is submitted to the Board of Trustees today for review and comment; it will be presented at a future Board of Trustees meeting for a 2nd Reading and possible approval and adoption. Should the Board of Trustees approve DGC (Local) at a future meeting, DGC (Local) would replace current EPCC Board Policies 3.37.01, <i>Academic Freedom</i> and 3.37.02, <i>Academic Responsibility</i>.</p> | | |
| Recommendation: Review and comment by the Board of Trustees – DGC (Local) only. | | |

Note: For information on student expression on campus, see FLA. For information on community expression on campus, see GD.

First Amendment

A governmental entity, including a college district, shall take no action respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the board for a redress of grievances. *U.S. Const. Amend. I, XIV*

College district employees do not shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.

However, neither an employee nor anyone else has an absolute constitutional right to use all parts of a school building or its immediate environs for unlimited expressive purposes. When a public employee makes statements pursuant to his or her official duties, the employee is not speaking as a citizen for First Amendment purposes, and the Constitution does not insulate the communications from employer discipline.

Garcetti v. Ceballos, 547 U.S. 410 (2006); *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503 (1969) [See also GD]

**Academic Freedom
Exception**

Expression related to academic scholarship or classroom instruction implicates additional constitutional interests that are not fully accounted for by the Supreme Court's customary employee-speech jurisprudence. We need not, and for that reason do not, decide whether the analyses we conduct today would apply in the same manner to a case through speech related to scholarship or teaching.

Garcetti v. Ceballos, 547 U.S. 410 (2006)

**Protected
Expression on
Campus Under State
Law**

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

1. Ensure that the common outdoor areas of the institution's campus are deemed traditional public forums; and
2. Permit any person to engage in expressive activities in those areas of the institution's campus freely, as long as the person's conduct is not unlawful, and does not materially and substantially disrupt the functioning of the institution.

Education Code 51.9315(c)

Education Code 51.9315(c) and (d) do not limit the right of student expression at other campus locations or prohibit faculty members

from maintaining order in the classroom. *Education Code 51.9315(e)*

Time, Place, and
Manner Restrictions

An institution of higher education may adopt a policy that imposes reasonable restrictions on the time, place, and manner of expressive activities in the common outdoor areas of the institution's campus if those restrictions:

1. Are narrowly tailored to serve a significant institutional interest;
2. Employ clear, published, content-neutral, and viewpoint-neutral criteria;
3. Provide for ample alternative means of expression; and
4. Allow members of the university community to assemble or distribute written material without a permit or other permission from the institution.

Education Code 51.9315(d)

Policy Required

By August 1, 2020, each institution of higher education shall adopt a policy detailing students' rights and responsibilities regarding expressive activities at the institution. The policy must:

1. Allow any person to, subject to reasonable restrictions adopted under Education Code 51.9315(d), engage in expressive activities on campus, including by responding to the expressive activities of others, and student organizations and faculty to, subject to Education Code 51.9315(h), invite speakers to speak on campus;
2. Establish disciplinary sanctions for students, student organizations, or faculty who unduly interfere with the expressive activities of others on campus;
3. Include a grievance procedure for addressing complaints of a violation of this section;
4. Be approved by a majority vote of the institution's governing board before final adoption; and
5. Be posted on the institution's internet website.

Education Code 51.9315(f)

Approval of
Speaker or
Determination of
Fee

In determining whether to approve a speaker to speak on campus or in determining the amount of a fee to be charged for use of the institution's facilities for purposes of engaging in expressive activities, an institution of higher education:

1. May consider only content-neutral and viewpoint-neutral criteria related to the needs of the event, such as:
 - a. The proposed venue and the expected size of the audience;
 - b. Any anticipated need for campus security;
 - c. Any necessary accommodations; and
 - d. Any relevant history of compliance or noncompliance by the requesting student organization or faculty member with the institution's policy adopted under Education Code 51.9315(f) and any other relevant policies; and
2. May not consider any anticipated controversy related to the event.

*Education Code 51.9315(h)*Employee
Awareness

Each institution of higher education shall develop materials, programs, and procedures to ensure that the institution's employees responsible for educating or disciplining students understand the requirements of this section and all policies adopted by the institution in accordance with this section. *Education Code 51.9315(j)*

Publication

Each institution of higher education shall make the institution's policies adopted in accordance with this section available to students enrolled at and employees of the institution by including the policies in the institution's student handbook and personnel handbook, providing a copy of each policy to students during the institution's freshman or transfer student orientation, and posting the policies on the institution's internet website. *Education Code 51.9315(i)*

Report

Not later than December 1, 2020, each institution of higher education shall prepare, post on the institution's internet website, and submit to the governor and the members of the legislature a report regarding the institution's implementation of the requirements under this section. *Education Code 51.9315(k)*

Note: For expression and use of College District facilities and grounds by students and registered student organizations, see FLA. For expression and use of College District facilities and grounds by the community, including by nonstudents and organizations that are not registered student organizations, see GD. For use of the College District's internal mail system, see CHE.

Academic Freedom

Faculty members are entitled to academic freedom in the conduct of research and teaching and are tasked with the associated responsibilities. To this end, the College District endorses the academic freedom principles set forth in the [Statement of Principles on Academic Freedom and Tenure \(PDF\)](#)¹ published by the Association of American Colleges and Universities and the American Association of University Professors.

The Board shall address faculty academic freedom and the associated responsibilities in appropriate College District publications.

Complaints regarding alleged violations of the right to academic freedom shall be filed in accordance with DGBA(LOCAL).

Distribution of Literature

Written or printed materials, handbills, photographs, pictures, films, tapes, or other visual or auditory materials not sponsored by the College District shall not be sold, circulated, distributed, or posted on any College District premises by any employee or employee organization, except in accordance with this policy.

The College District shall not be responsible for, nor shall the College District endorse, the contents of any materials distributed by an employee or employee organization.

Limitations on Content

Materials shall not be distributed by an employee or employee organization on College District property if:

1. The materials are obscene;
2. The materials contain defamatory statements about public figures or others;
3. The materials advocate imminent lawless or disruptive action and are likely to incite or produce such action;
4. The materials are considered prohibited harassment [see DIA series and FFD series];
5. The materials constitute nonpermissible solicitation; or
6. The materials infringe upon intellectual property rights of the College District [see CT].

**Time, Place, and
Manner Restrictions**

Distribution of materials shall be conducted in a manner that:

1. Is not disruptive to College District operations;
2. Does not impede reasonable access to College District facilities;
3. Does not result in damage to College District property;
4. Does not interfere with the rights of others; and
5. Does not violate local, state, or federal laws or College District policies and procedures.

The distributor shall clean the area around which the literature was distributed of any materials that were discarded or leftover.

The ASC events coordinator for events held at the Administrative Services Center, or campus dean for events held at an EPCC campus shall designate times, locations, and means by which materials that are appropriate for distribution, as provided in this policy, may be made available or distributed by employees or employee organizations to employees or others in College District facilities and areas that are not considered common outdoor areas.

**Use of Facilities and
Grounds**

The facilities and grounds of the College District shall be made available to employees or employee organizations when such use does not conflict with use by, or any of the policies and procedures of, the College District. The requesting employees or employee organization shall pay all expenses incurred by their use of the facilities in accordance with a fee schedule developed by the Board.

An "employee organization" is an organization composed only of College District faculty and staff or an employee professional organization.

Requests

To request permission to meet or host a speaker in College District facilities, interested employees or employee organizations shall file a written request with the ASC events coordinator/campus dean in accordance with administrative procedures.

The employees or the employee organization making the request shall indicate that they have read and understand the policies and rules governing use of College District facilities and that they will abide by those rules.

Approval

The ASC events coordinator/campus dean shall approve or reject the request in accordance with provisions and deadlines set out in this policy and administrative procedures, without regard to the religious, political, philosophical, ideological, academic viewpoint, or

other content of the speech likely to be associated with the employees' or employee organization's use of the facility.

Approval shall not be granted when the official has reasonable grounds to believe that:

1. The College District facility requested is unavailable, inadequate, or inappropriate to accommodate the proposed use at the time requested;
2. The applicant is under a disciplinary penalty or sanction prohibiting the use of the facility;
3. The proposed use includes nonpermissible solicitation;
4. The proposed use would constitute an immediate and actual danger to the peace or security of the College District that available law enforcement officials could not control with reasonable efforts;
5. The applicant owes a monetary debt to the College District and the debt is considered delinquent;
6. The proposed activity would disrupt or disturb the regular academic program;
7. The proposed use would result in damage to or defacement of property or the applicant has previously damaged College District property; or
8. The proposed activity would constitute an unauthorized joint sponsorship with an outside group.

The ASC events coordinator/campus dean shall provide the applicant a written statement of the grounds for rejection if a request is denied.

*Common
Outdoor Area
Exception*

Common outdoor areas are traditional public forums and are not subject to the approval procedures. Employees and employee organizations may engage in expressive activities in common outdoor areas, unless:

1. The person's conduct is unlawful;
2. The use would constitute an immediate and actual danger to the peace or security of the College District that available law enforcement officials could not control with reasonable efforts;
3. The use would materially or substantially disrupt or disturb the regular academic program; or
4. The use would result in damage to or defacement of property.

EMPLOYEE RIGHTS AND PRIVILEGES
EMPLOYEE EXPRESSION AND USE OF COLLEGE FACILITIES

DGC
(LOCAL)

Employee
Solicitation

“Employee solicitation” shall mean the sale or offer for sale of any property or service, whether for immediate or future delivery, and the receipt of or request for any gift or contribution by an employee or employee organization. The term does not include activities engaged in to conduct College District business.

*Permitted
Solicitation*

Employee solicitation shall be permitted in or on premises owned or controlled by the College District only if the solicitation does not violate a sole-source vendor contract clause and the solicitation is:

1. The sale or offer for sale of any publication, merchandise, food, or nonalcoholic beverages in an area designated for the conduct of such activity;
2. The collection of membership fees or dues by employee organizations at the organizations’ meetings scheduled in accordance with this policy and associated procedures;
3. The collection of admission fees for the exhibition of movies, performances, or other programs that are sponsored by an employee or employee organization and scheduled in accordance with this policy and associated procedures;
4. The sale of raffle tickets by an employee organization that can present written evidence from the Internal Revenue Service that the organization has been granted an exemption from taxation under 26 U.S.C. 501(c)(3);
5. The collection of donations by an employee organization; or
6. The sale of items by an employee organization to its members.

Any solicitations by an employee organization must be on behalf of or for the benefit of an employee organization or an organization granted an exemption from taxation under 26 U.S.C. 501(c)(3).

Employee solicitation must comply with law and College District policies and procedures, including procedures addressing time limits for employee solicitation. No solicitation shall be conducted on the grounds, sidewalks, or streets of any property either owned or controlled by the College District, except as approved by the **ASC events coordinator/campus dean**.

Employees may not engage in solicitation during work hours and may not disrupt the educational environment or the work of other employees.

Announcements
and Publicity

In accordance with administrative procedures, all employees and employee organizations shall be given access on the same basis

for making announcements and publicizing their meetings and activities.

Identification

Employees and employee organizations using College District facilities must provide identification when requested to do so by a College District representative.

Violations

Failure to comply with this policy and associated procedures shall result in appropriate administrative action, including but not limited to, suspension of an employee's or employee organization's use of College District facilities and/or other disciplinary action in accordance with the College District's policies and procedures and the employee handbook.

Interference with
Expression

Faculty, students, or student organizations that interfere with the expressive activities permitted by this policy shall be subject to disciplinary action in accordance with the College District's discipline policies and procedures. [See DH, FM, and FMA]

Appeals

Decisions made by the administration under this policy may be appealed in accordance with DGBA(LOCAL) and FLD(LOCAL) as applicable.

Publication

This policy and associated procedures must be posted on the College District's website and distributed in the employee and student handbooks and other appropriate publications.

¹ 1940 Statement of Principles on Academic Freedom and Tenure (PDF): <https://www.aaup.org/file/1940%20Statement.pdf>

BOARD POLICY ABSTRACT

| | | |
|---|--|--|
| Policy to be Considered: Sex and Sexual Violence. | | Policy #: DIAA (Legal) and DIAA (Local) |
| Policy Section: Personnel | <input checked="" type="checkbox"/> New | <input type="checkbox"/> Revision |
| Action: <input checked="" type="checkbox"/> For information only (<input checked="" type="checkbox"/> 1 st Reading) <input type="checkbox"/> For Adoption (<input type="checkbox"/> 2 nd Reading and/or Approval) | | |
| Resource Person: Julie Penley | | |
| <p>Purpose: To transition EPCC Board Policies to the Texas Association of School Boards (TASB) format and organizational system. EPCC's Board of Trustees authorized Dr. Serrata to begin this work and execute four TASB agreements at its October 2019 Regular Meeting, including the Community College Policy On-Line Service Agreement and the Community College Localization Agreement.</p> <p>Explanation: DIAA (Legal) is the statutory context for employee complaints of sex discrimination, sexual harassment, sexual assault, dating violence, stalking, and retaliation targeting employees. It is provided for information only, as no Board action is ever required for TASB Legal Policies.</p> <p>DIAA (Local) is the College-specific supplement to DIAA (Legal), addressing the College's requirements and obligations for responding to such complaints.</p> <p>TASB Local Policies do require Board of Trustees action. DIAA (Local) is submitted to the Board of Trustees today for review and comment; it will be presented at a future Board of Trustees meeting for a 2nd Reading and possible approval and adoption. Should the Board of Trustees approve DIAA (Local) at a future meeting, DIAA (Local) would replace current EPCC Board Policy 3.01.09, <i>Sexual Harassment</i>.</p> | | |
| Recommendation: Review and comment by the Board of Trustees – DIAA (Local) only. | | |

Note: This policy addresses employee complaints of sex discrimination, sexual harassment, sexual assault, dating violence, domestic violence, stalking, and retaliation targeting employees. For additional legally referenced material relating to this subject matter, see DAA(LEGAL). For sex discrimination, sexual harassment, sexual assault, dating violence, domestic violence, stalking, and retaliation targeting students, see FFDA.

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FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION
SEX AND SEXUAL VIOLENCE

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(LEGAL)

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Section I: Title IX

Definitions

Complainant

“Complainant” means an individual who is alleged to be the victim of conduct that could constitute sexual harassment. *34 C.F.R. 106.30(a)*

Respondent

“Respondent” means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment. *34 C.F.R. 106.30(a)*

Education Program or Activity

For the purposes of 34 C.F.R. 106.44, 34 C.F.R. 106.30, and 34 C.F.R. 106.45, “education program or activity” includes locations, events, or circumstances over which the recipient exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by a postsecondary institution. *34 C.F.R. 106.44(a)*

Sexual Harassment

Sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

1. An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual’s participation in unwelcome sexual conduct;
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient’s education program or activity; or
3. “Sexual assault” as defined in 20 U.S.C. 1092(f)(6)(A)(v), “dating violence” as defined in 34 U.S.C. 12291(a)(10), “domestic violence” as defined in 34 U.S.C. 12291(a)(8), or “stalking” as defined in 34 U.S.C. 12291(a)(30).

34 C.F.R. 106.30(a)

Formal Complaint

“Formal complaint” means a document filed by a complainant or signed by the Title IX coordinator alleging sexual harassment against a respondent and requesting that the recipient investigate the allegation of sexual harassment.

The phrase “document filed by a complainant” means a document or electronic submission, such as by electronic mail or through an online portal provided for this purpose by the recipient, that contains the complainant’s physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint.

34 C.F.R. 106.30(a)

*Actual
Knowledge*

“Actual knowledge” means notice of sexual harassment or allegations of sexual harassment to a recipient’s Title IX coordinator or any official of the recipient who has authority to institute corrective measures on behalf of the recipient, or to any employee of an elementary and secondary school. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge. This standard is not met when the only official of the recipient with actual knowledge is the respondent. The mere ability or obligation to report sexual harassment or to inform a student about how to report sexual harassment, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of the recipient.

“Notice” as used in this paragraph includes, but is not limited to, a report of sexual harassment to the Title IX coordinator as described in 34 C.F.R. 106.8(a).

34 C.F.R. 106.30(a)

*Supportive
Measures*

“Supportive measures” means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the recipient’s education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the recipient’s educational environment, or deter sexual harassment.

Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

The recipient must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the recipient to provide the supportive measures. The Title IX coordinator is responsible for coordinating the effective implementation of supportive measures.

34 C.F.R. 106.30(a)

*Notice of
Nondiscrimination*

Each recipient must notify persons entitled to a notification under 34 C.F.R. 106.8(a) that the recipient does not discriminate on the basis of sex in the education program or activity that it operates,

and that it is required by Title IX and 34 C.F.R. Part 106 not to discriminate in such a manner. Such notification must state that the requirement not to discriminate in the education program or activity extends to admission and employment, unless 34 C.F.R. Part 106, Subpart C does not apply, and that inquiries about the application of Title IX and 34 C.F.R. Part 106 to such recipient may be referred to the recipient's Title IX coordinator, to the Assistant Secretary, or both. *34 C.F.R. 106.8(b)(1)*

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| Title IX Coordinator | Each recipient must designate and authorize at least one employee to coordinate its efforts to comply with its responsibilities under 34 C.F.R. Part 106, which employee must be referred to as the "Title IX coordinator." <i>34 C.F.R. 106.8(a)</i> |
| Grievance Procedures | A recipient must adopt and publish grievance procedures that provide for the prompt and equitable resolution of student and employee complaints alleging any action that would be prohibited by 34 C.F.R. Part 106 and a grievance process that complies with 34 C.F.R. 106.45 for formal complaints. These requirements apply only to sex discrimination occurring against a person in the United States. <i>34 C.F.R. 106.8(c-d); <u>North Haven Bd. of Educ. v. Bell</u>, 456 U.S. 512 (1982)</i> |
| <i>Process for Formal Complaints</i> | |
| Conflict of Interest Prohibited | A recipient's grievance process must require that any individual designated by a recipient as a Title IX coordinator, investigator, decision-maker, or any person designated by a recipient to facilitate an informal resolution process, not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. <i>34 C.F.R. 106.45(b)</i> |
| Training | <p>A recipient must ensure that Title IX coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, receive training on the definition of sexual harassment in 34 C.F.R. 106.30, the scope of the recipient's education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.</p> <p>A recipient must ensure that decision-makers receive training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, as set forth in 34 C.F.R. 106.45(b)(6).</p> |

A recipient also must ensure that investigators receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence, as set forth in 34 C.F.R. 106.45(b)(5)(vii).

Any materials used to train Title IX coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, must not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment.

34 C.F.R. 106.45(b)

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| Time Frames | A recipient's grievance process must include reasonably prompt time frames for conclusion of the grievance process, including reasonably prompt time frames for filing and resolving appeals and informal resolution processes if the recipient offers informal resolution processes, and a process that allows for the temporary delay of the grievance process or the limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities. <i>34 C.F.R. 106.45(b)</i> |
| Presumption of Responsibility Prohibited | A recipient's grievance process must include a presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process. <i>34 C.F.R. 106.45(b)</i> |
| Information Subject to Privilege | A recipient's grievance process must not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege. <i>34 C.F.R. 106.45(b)</i> |
| Evaluation of Evidence and Credibility Determinations | A recipient's grievance process must require an objective evaluation of all relevant evidence – including both inculpatory and exculpatory evidence – and provide that credibility determinations may not be based on a person's status as a complainant, respondent, or witness. <i>34 C.F.R. 106.45(b)</i> |
| Standard of Evidence | A recipient's grievance process must state whether the standard of evidence to be used to determine responsibility is the preponderance of the evidence standard or the clear and convincing evidence standard, apply the same standard of evidence for formal complaints against students as for formal complaints against em- |

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| | <p>ployees, including faculty, and apply the same standard of evidence to all formal complaints of sexual harassment. <i>34 C.F.R. 106.45(b)</i></p> |
| Supportive Measures | <p>A recipient's grievance process must describe the range of supportive measures available to complainants and respondents. <i>34 C.F.R. 106.45(b)</i></p> |
| Sanctions and Remedies | <p>A recipient's grievance process must treat complainants and respondents equitably by providing remedies to a complainant where a determination of responsibility for sexual harassment has been made against the respondent, and by following a grievance process that complies with 34 C.F.R. 106.45 before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a respondent. Remedies must be designed to restore or preserve equal access to the recipient's education program or activity. Such remedies may include the same individualized services described in 34 C.F.R. 106.30 as "supportive measures"; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the respondent.</p> <p>A recipient's grievance process must describe the range of possible disciplinary sanctions and remedies or list the possible disciplinary sanctions and remedies that the recipient may implement following any determination of responsibility.</p> <p><i>34 C.F.R. 106.45(b)</i></p> |
| Appeals | <p>A recipient's grievance process must include the procedures and permissible bases for the complainant and respondent to appeal. <i>34 C.F.R. 106.45(b)</i></p> |
| Additional Procedures | <p>Any provisions, rules, or practices other than those required by Section 106.45 that a recipient adopts as part of its grievance process for handling formal complaints of sexual harassment as defined in 34 C.F.R. 106.30, must apply equally to both parties. <i>34 C.F.R. 106.45(b)</i></p> |
| Reporting | <p>Any person may report sex discrimination, including sexual harassment, whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment, in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX coordinator, or by any other means that results in the Title IX coordinator receiving the person's verbal or written report. Such a report may be made at any time, including during non-business hours by using the telephone number or electronic mail address, or by mail to the office address, listed for the Title IX coordinator. <i>34 C.F.R. 106.8(a)</i></p> |

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| <i>Formal Complaint Filing</i> | <p>A formal complaint may be filed with the Title IX coordinator in person, by mail, or by electronic mail, by using the contact information required to be listed for the Title IX coordinator under 34 C.F.R. 106.8(a), and by any additional method designated by the recipient. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the recipient with which the formal complaint is filed.</p> <p>Where the Title IX coordinator signs a formal complaint, the Title IX coordinator is not a complainant or otherwise a party under 34 C.F.R. Part 106 or under 34 C.F.R. 106.45, and must comply with the requirements of 34 C.F.R. Part 106, including 34 C.F.R. 106.45(b)(1)(iii). <i>34 C.F.R. 106.30(a)</i></p> |
| Consolidation of Complaints | <p>A recipient may consolidate formal complaints as to allegations of sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances. <i>34 C.F.R. 106.45(b)(4)</i></p> |
| Notice of Allegations | <p>Upon receipt of a formal complaint, a recipient must provide the following written notice to the parties who are known:</p> <ol style="list-style-type: none"> 1. Notice of the recipient's grievance process that complies with 34 C.F.R. 106.45, including any informal resolution process. 2. Notice of the allegations of sexual harassment potentially constituting sexual harassment as defined in 34 C.F.R. 106.30, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting sexual harassment under Section 106.30, and the date and location of the alleged incident, if known. The written notice must include a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process. The written notice must inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney, under 34 C.F.R. 106.45(b)(5)(iv), and may inspect and review evidence under Section 106.45(b)(5)(vi). The written notice must inform the parties of any provision in the recipient's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process. |

If, in the course of an investigation, the recipient decides to investigate allegations about the complainant or respondent that are not included in the notice provided pursuant to item 2, above, the recipient must provide notice of the additional allegations to the parties whose identities are known.

34 C.F.R. 106.45(b)(2)

Response to Sexual Harassment

A recipient with actual knowledge of sexual harassment in an education program or activity of the recipient against a person in the United States, must respond promptly in a manner that is not deliberately indifferent. A recipient is deliberately indifferent only if its response to sexual harassment is clearly unreasonable in light of the known circumstances.

A recipient's response must treat complainants and respondents equitably by offering supportive measures to a complainant, and by following a grievance process that complies with 34 C.F.R. 106.45 before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a respondent. The Title IX coordinator must promptly contact the complainant to discuss the availability of supportive measures, consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint.

The U.S. Department of Education may not deem a recipient to have satisfied the recipient's duty to not be deliberately indifferent under 34 C.F.R. Part 106 based on the recipient's restriction of rights protected under the U.S. Constitution, including the First Amendment, Fifth Amendment, and Fourteenth Amendment. *34 C.F.R. 106.44(a)*

Response to Formal Complaint

In response to a formal complaint, a recipient must follow a grievance process that complies with 34 C.F.R. 106.45. With or without a formal complaint, a recipient must comply with 34 C.F.R. 106.44(a).

A recipient's treatment of a complainant or a respondent in response to a formal complaint of sexual harassment may constitute discrimination on the basis of sex under Title IX.

34 C.F.R. 106.44(b), .45(a)

Informal Resolution

A recipient may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment consistent with 34 C.F.R. 106.45. Similarly, a recipient may not require the

parties to participate in an informal resolution process under this section and may not offer an informal resolution process unless a formal complaint is filed. However, at any time prior to reaching a determination regarding responsibility, the recipient may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that the recipient:

1. Provides to the parties a written notice disclosing: the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;
2. Obtains the parties' voluntary, written consent to the informal resolution process; and
3. Does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

34 C.F.R. 106.45(9)

Investigation

When investigating a formal complaint and throughout the grievance process, a recipient must:

1. Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the recipient and not on the parties provided that the recipient cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the recipient obtains that party's voluntary, written consent to do so for a grievance process under this section.
2. Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.

3. Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.
4. Provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of an advisor for either the complainant or respondent in any meeting or grievance proceeding; however, the recipient 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.
5. Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate.
6. Provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the recipient does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. Prior to completion of the investigative report, the recipient must send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have at least ten days to submit a written response, which the investigator will consider prior to completion of the investigative report. The recipient must make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.
7. Create an investigative report that fairly summarizes relevant evidence and, at least ten days prior to a hearing, if a hearing is required under this section or otherwise provided, or other time of determination regarding responsibility, send to each party and the party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response.

34 C.F.R. 106.45(b)(5)

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| Hearings | <p>For postsecondary institutions, the recipient's grievance process must provide for a live hearing. <i>34 C.F.R. 106.45(b)(6)(i)</i></p> |
| <i>Conduct of Hearing</i> | <p>Live hearings pursuant to this section may be conducted with all parties physically present in the same geographic location or, at the recipient's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other.</p> <p>At the request of either party, the recipient must provide for the live hearing to occur with the parties located in separate rooms with technology enabling the decision-maker(s) and parties to simultaneously see and hear the party or the witness answering questions.</p> <p><i>34 C.F.R. 106.45(b)(6)(i)</i></p> |
| <i>Cross-Examination</i> | <p>At the live hearing, the decision-maker(s) must permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination at the live hearing must be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally, notwithstanding the discretion of the recipient under <i>34 C.F.R. 106.45(b)(5)(iv)</i> to otherwise restrict the extent to which advisors may participate in the proceedings.</p> <p>If a party does not have an advisor present at the live hearing, the recipient must provide without fee or charge to that party, an advisor of the recipient's choice, who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party.</p> <p><i>34 C.F.R. 106.45(b)(6)(i)</i></p> |
| Relevance | <p>Only relevant cross-examination and other questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a cross-examination or other question, the decision-maker(s) must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.</p> <p>Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.</p> <p><i>34 C.F.R. 106.45(b)(6)(i)</i></p> |

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| Refusal to Submit to Cross- Examination | If a party or witness does not submit to cross-examination at the live hearing, the decision-maker(s) must not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the decision-maker(s) cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions. 34 C.F.R. 106.45(b)(6)(i) |
| <i>Recording</i> | Recipients must create an audio or audiovisual recording, or transcript, of any live hearing and make it available to the parties for inspection and review. 34 C.F.R. 106.45(b)(6)(i) |
| Determination Regarding Responsibility | <p>The decision-maker(s), who cannot be the same person(s) as the Title IX coordinator or the investigator(s), must issue a written determination regarding responsibility. To reach this determination, the recipient must apply the standard of evidence described in 34 C.F.R. 106.45(b)(1)(vii). The written determination must include:</p> <ol style="list-style-type: none"> 1. Identification of the allegations potentially constituting sexual harassment as defined in 34 C.F.R. 106.30; 2. A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held; 3. Findings of fact supporting the determination; 4. Conclusions regarding the application of the recipient's code of conduct to the facts; 5. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the recipient imposes on the respondent, and whether remedies designed to restore or preserve equal access to the recipient's education program or activity will be provided by the recipient to the complainant; and 6. The recipient's procedures and permissible bases for the complainant and respondent to appeal. <p>The recipient must provide the written determination to the parties simultaneously.</p> <p>The determination regarding responsibility becomes final either on the date that the recipient provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an</p> |

appeal is not filed, the date on which an appeal would no longer be considered timely.

The Title IX coordinator is responsible for effective implementation of any remedies.

34 C.F.R. 106.45(b)(7)

Dismissal of
Complaint

The recipient must investigate the allegations in a formal complaint. If the conduct alleged in the formal complaint would not constitute sexual harassment as defined in 34 C.F.R. 106.30 even if proved, did not occur in the recipient's education program or activity, or did not occur against a person in the United States, then the recipient must dismiss the formal complaint with regard to that conduct for purposes of sexual harassment under Title IX or 34 C.F.R. Part 106; such a dismissal does not preclude action under another provision of the recipient's code of conduct.

The recipient may dismiss the formal complaint or any allegations therein, if at any time during the investigation or hearing: a complainant notifies the Title IX coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein; the respondent is no longer enrolled or employed by the recipient; or specific circumstances prevent the recipient from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon a dismissal required or permitted pursuant to this section, the recipient must promptly send written notice of the dismissal and reason(s) therefor simultaneously to the parties.

34 C.F.R. 106.45(b)(3)

Appeals

A recipient must offer both parties an appeal from a determination regarding responsibility, and from a recipient's dismissal of a formal complaint or any allegations therein, on the following bases:

1. Procedural irregularity that affected the outcome of the matter;
2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
3. The Title IX coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

A recipient may offer an appeal equally to both parties on additional bases. As to all appeals, the recipient must:

1. Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;
2. Ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX coordinator;
3. Ensure that the decision-maker(s) for the appeal complies with the standards set forth in 34 C.F.R. 106.45(b)(1)(iii);
4. Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
5. Issue a written decision describing the result of the appeal and the rationale for the result; and
6. Provide the written decision simultaneously to both parties.

34 C.F.R. 106.45(b)(8)

Confidentiality

The recipient must keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as may be permitted by the Family Educational Rights and Privacy Act (FERPA) statute, 20 U.S.C. 1232g, or FERPA regulations, 34 C.F.R. Part 99, or as required by law, or to carry out the purposes of 34 C.F.R. Part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder. *34 C.F.R. 106.71(a)*

Retaliation
Prohibited

No recipient or other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or 34 C.F.R. Part 106, 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 Part 106. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX or Part 106, constitutes retaliation. Complaints alleging retaliation may be filed according to the grievance procedures for sex discrimination required to be adopted under 34 C.F.R. 106.8(c).

The exercise of rights protected under the First Amendment does not constitute prohibited retaliation.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under 34 C.F.R. Part 106 does not constitute prohibited retaliation, provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

34 C.F.R. 106.71

Removal or Leave

Nothing in 34 C.F.R. Part 106 precludes a recipient from removing a respondent from the recipient's education program or activity on an emergency basis, provided that the recipient undertakes an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal. This provision may not be construed to modify any rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act.

Nothing in 34 C.F.R. Part 106, Subpart D precludes a recipient from placing a non-student employee respondent on administrative leave during the pendency of a grievance process that complies with 34 C.F.R. 106.45. This provision may not be construed to modify any rights under Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act.

34 C.F.R. 106.44(c)–(d)

Publication

*Title IX
Coordinator and
Notice of Non-
discrimination*

The recipient must notify applicants for admission and employment, students, parents, or legal guardians of elementary and secondary school students, employees, and all unions or professional organizations holding collective bargaining or professional agreements with the recipient, of the name or title, office address, electronic mail address, and telephone number of the employee or employees designated as the Title IX coordinator. *34 C.F.R. 106.8(a)*

Each recipient must prominently display the contact information required to be listed for the Title IX coordinator and the policy described in 34 C.F.R. 106.8(b)(1) on its website, if any, and in each handbook or catalog that it makes available to persons entitled to a notification under 34 C.F.R. 106.8(a).

A recipient must not use or distribute a publication stating that the recipient treats applicants, students, or employees differently on

the basis of sex except as such treatment is permitted by Title IX or 34 C.F.R. Part 106.

34 C.F.R. 106.8(b)(2)

*Grievance
Procedures and
Process*

A recipient must provide to persons entitled to a notification under 34 C.F.R. 106.8(a) notice of the recipient's grievance procedures and grievance process, including how to report or file a complaint of sex discrimination, how to report or file a formal complaint of sexual harassment, and how the recipient will respond. *34 C.F.R. 106.8(c)*

*Training
Materials*

A recipient must make the materials used to train Title IX coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process publicly available on its website, or if the recipient does not maintain a website, the recipient must make these materials available upon request for inspection by members of the public. *34 C.F.R. 106.45(b)(10)*

Recordkeeping

A recipient must maintain for a period of seven years records of:

1. Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under 34 C.F.R. 106.45 (b)(6)(i), any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to the recipient's education program or activity;
2. Any appeal and the result therefrom;
3. Any informal resolution and the result therefrom; and
4. All materials used to train Title IX coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process.

For each response required under 34 C.F.R. 106.44, a recipient must create, and maintain for a period of seven years, records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment. In each instance, the recipient must document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the recipient's education program or activity. If a recipient does not provide a complainant with supportive measures, then the recipient must document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The

documentation of certain bases or measures does not limit the recipient in the future from providing additional explanations or detailing additional measures taken.

34 C.F.R. 106.45(b)(10)

Section II: State Law

Definitions

*Dating Violence,
Sexual Assault,
and Stalking*

"Dating violence," "sexual assault," and "stalking" have the same meanings assigned by the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, 20 U.S.C. Section 1092(f)(6)(A). *Education Code 51.251(2); 19 TAC 3.3(c)*

*Sexual
Harassment*

"Sexual harassment" means unwelcome, sex-based verbal or physical conduct that:

1. In the employment context, unreasonably interferes with an employee's work performance or creates an intimidating, hostile, or offensive work environment; or
2. In the education context, is sufficiently severe, persistent, or pervasive that the conduct interferes with a student's ability to participate in or benefit from educational programs or activities.

Education Code 51.251(5); 19 TAC 3.3(e)

Employee

"Employee of a postsecondary educational institution" does not include a student enrolled at the institution. *Education Code 51.251(3)*

*Course and
Scope of
Employment*

"Course and scope of employment" means an employee performing duties in the furtherance of the institution's interests. *19 TAC 3.3(b)*

*Sexual Assault
Policy*

Each postsecondary educational institution, including each college district, shall adopt a policy on sexual harassment, sexual assault, dating violence, and stalking applicable to each enrolled student and each employee of the institution and have the policy approved by the institution's governing body. The policy must include:

1. Definitions of prohibited behavior.
2. Sanctions for violations.
3. Protocol for reporting and responding to reports of sexual harassment, sexual assault, dating violence, and stalking that complies with the electronic reporting requirement in 19 Administrative Code 3.7.

4. Interim measures to protect victims of sexual harassment, sexual assault, dating violence, or stalking pending the institution's disciplinary process, including protection from retaliation, and any other accommodations or supportive measures available to those victims at the institution. This section is not intended to limit an institution's ability to implement accommodations to others as needed.
5. A statement regarding:
 - a. The importance of a victim of sexual harassment, sexual assault, dating violence, or stalking going to a hospital for treatment and preservation of evidence, if applicable, as soon as practicable after the incident;
 - b. The right of a victim of sexual harassment, sexual assault, dating violence, or stalking to report the incident to the institution and to receive a prompt and equitable resolution of the report; and
 - c. The right of a victim of a crime to choose whether to report the crime to law enforcement, to be assisted by the institution in reporting the crime to law enforcement, or to decline to report the crime to law enforcement.

As part of the protocol for responding to reports of sexual harassment, sexual assault, dating violence, and stalking adopted under this section, each postsecondary educational institution shall:

1. To the greatest extent practicable based on the number of counselors employed by the institution, ensure that each alleged victim or alleged perpetrator of an incident of sexual harassment, sexual assault, dating violence, or stalking and any other person who reports such an incident are offered counseling provided by a counselor who does not provide counseling to any other person involved in the incident; and
2. Notwithstanding any other law, allow an alleged victim or alleged perpetrator of an incident of sexual harassment, sexual assault, dating violence, and stalking to drop a course in which both parties are enrolled without any academic penalty.

Education Code 51.282(a); 19 TAC 3.4(a), (d)(2)(C)

Review

Each postsecondary educational institution shall review its sexual harassment, sexual assault, dating violence, and stalking policy at least each biennium and revise the policy as necessary and obtain approval from the institution's governing board. *Education Code 51.282(f); 19 TAC 3.4(e)*

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| <i>Distribution</i> | <p>Each postsecondary educational institution shall make its policy on sexual harassment, sexual assault, dating violence, and stalking available to students, faculty, and staff members by:</p> <ol style="list-style-type: none"> 1. Including the policy in the student handbook and personnel handbook or the institution's equivalent(s); and 2. Creating and maintaining a web page dedicated solely to the policy that is easily accessible through a clearly identifiable link on the institution's homepage. <p><i>Education Code 51.282(b); 19 TAC 3.4(b)</i></p> |
| Responsible Employee | <p>Each postsecondary educational institution shall designate one or more employees to act as responsible employees for purposes of Title IX of the Education Amendments of 1972, 20 U.S.C. 1681, et seq and inform each student enrolled at the institution of the designated responsible employees. <i>Education Code 51.290(a); 19 TAC 3.14(a)</i></p> |
| Reporting <i>Employee Reporting Required</i> | <p>An employee of a postsecondary educational institution who, in the course and scope of employment, witnesses or receives information regarding the occurrence of an incident that the employee reasonably believes constitutes sexual harassment, sexual assault, dating violence, or stalking and is alleged to have been committed by or against a person who was a student enrolled at or an employee of the institution at the time of the incident shall promptly report the incident to the institution's Title IX coordinator or deputy Title IX coordinator.</p> <p>The employee is required to report an incident regardless of when or where the incident occurred.</p> <p>Institutions may establish additional reporting avenues to comply with this section provided that the reports are promptly routed to the Title IX coordinator or deputy Title IX coordinator.</p> <p><i>Education Code 51.252(a); 19 TAC 3.5(a)</i></p> |
| Exception from Reporting | <p>A person is not required to make a report under this section concerning:</p> <ol style="list-style-type: none"> 1. An incident in which the person was a victim of sexual harassment, sexual assault, dating violence, or stalking; 2. An incident of which the person received information due to a disclosure made at a sexual harassment, sexual assault, dating violence, or stalking public awareness event sponsored by a postsecondary educational institution or by a student organization affiliated with the institution; or |

3. A sexual harassment, sexual assault, dating violence, or stalking incident in which the person has either learned of the incident during the course of his or her institution's review or process or has confirmed with the person or office overseeing the review or process, that the incident has been previously reported.

Education Code 51.252(d); 19 TAC 3.5(d)

Contents of
Report

The report must include all information concerning the incident known to the reporting person that is relevant to the investigation and, if applicable, redress of the incident, including whether an alleged victim has expressed a desire for confidentiality in reporting the incident. *Education Code 51.252(b); 19 TAC 3.5(b)*

Limitations on
Reporting

*Designated
Confidential
Employees*

Each postsecondary educational institution shall designate one or more employees as persons to whom students enrolled at the institution may speak confidentially concerning sexual harassment, sexual assault, dating violence, and stalking and inform each student enrolled at the institution of the designated confidential employees.

A confidential employee designated under this section may not disclose any communication made by a student to the employee unless the student consents to the disclosure or the employee is required to make the disclosure under 19 Administrative Code 3.5(c), state law, or federal law.

Absent consent from the reporting student, an employee designated by the institution as a person with whom students may speak confidentially concerning sexual harassment, sexual assault, dating violence, or stalking shall only state the type of incident reported and may not include any information that would violate a student's expectation of privacy.

Education Code 51.252(c), .290(a), (c); 19 TAC 3.5(c), .14

*Confidential
Employees
Under Other
Law*

Absent consent from the reporting individual, an employee who receives information regarding an incident of sexual harassment, sexual assault, dating violence, or stalking under circumstances that render the employee's communications confidential or privileged under other law shall only state the type of incident reported and may not include any information that would violate an expectation of privacy. *Education Code 51.252(c); 19 TAC 3.5(c)*

*Medical
Providers*

Absent consent from the victim(s), an employee who receives information regarding an incident of sexual harassment, sexual assault, dating violence, or stalking in the course and scope of employment as a health-care provider, mental health-care provider, or other medical provider shall only state the type of incident reported

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| | and may not include any information that would violate an expectation of privacy. <i>Education Code 51.291(d); 19 TAC 3.5(c)</i> |
| <i>Multiple Confidential Employees</i> | When multiple confidential employees receive information about the same incident (e.g., student health center or counseling center), only a single report stating the type of incident is required. <i>19 TAC 3.5(c)</i> |
| <i>Reporting Under Other Law</i> | These limitations on disclosure do not affect the employee's duty to report an incident under any other law, including but not limited to, the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, 20 U.S.C. 1092(f), Family Code 261.101, or Health and Safety Code 611.004. <i>Education Code 51.290(c); 19 TAC 3.5(c)</i> |
| Failure to Report or False Report | A person commits an offense if the person is required to make a report under Education Code 51.252 and knowingly fails to make the report or with the intent to harm or deceive, knowingly makes a report under Education Code 51.252 that is false. A postsecondary educational institution shall terminate the employment of an employee whom the institution determines in accordance with the institution's disciplinary procedure to have committed the offense. <i>Education Code 51.255(a), (c); 19 TAC 3.8</i> |
| <i>Electronic Reporting</i> | Each postsecondary educational institution, including each college district, shall provide an option for electronic reporting to the institution by an enrolled student or an employee of the institution of an allegation of sexual harassment, sexual assault, dating violence, or stalking committed against or witnessed by the student or employee, regardless of the location at which the alleged offense occurred. The electronic reporting option must: 1. Allow for anonymous reporting; and 2. Be easily accessible through a clearly identifiable link on the institution's website home page. A protocol for reporting sexual assault adopted under Education Code 51.282 must comply with this section. <i>Education Code 51.283(a)–(c); 19 TAC 3.7</i> |
| <i>Reporting on Reports</i> Title IX Coordinator | Not less than once every three months, the Title IX coordinator of a postsecondary educational institution shall submit to the institution's chief executive officer a written report on the reports received for the institution's reporting period under 19 Administrative Code 3.5, including information regarding: |

1. The investigation of those reports;
2. The disposition, if any, of any disciplinary processes arising from those reports; and
3. The reports for which the institution determined not to initiate a disciplinary process, if any.

The Title IX coordinator or deputy Title IX coordinator of a postsecondary educational institution shall immediately report to the institution's chief executive officer an incident reported to the coordinator under Section 3.5 if the coordinator has cause to believe that the safety of any person is in imminent danger as a result of the incident.

Education Code 51.253(a)–(b); 19 TAC 3.6(a)–(b)

Chief Executive
Officer

At least once annually, during each fall or spring semester, the chief executive officer of a postsecondary educational institution shall submit to the institution's governing body and post on the institution's internet website a report concerning the reports received under 19 Administrative Code 3.5. The chief executive officer report may not identify any person and must include:

1. The number of reports received under Section 3.5;
2. The number of investigations conducted as a result of those reports;
3. The disposition, if any, of any disciplinary processes arising from those reports;
4. The number of those reports for which the institution determined not to initiate a disciplinary process, if any; and
5. Any disciplinary actions taken under 19 Administrative Code 3.8.

If for any semester a postsecondary educational institution has fewer than 1,500 enrolled students, the chief executive officer of the institution shall submit and post a report required for that semester only if more than five reports were received under 19 Administrative Code 3.5 during that semester.

Education Code 51.253(c)–(d); 19 TAC 3.6(c)–(d)

Investigations

*Request Not to
Investigate*

If an alleged victim of an incident of sexual harassment, sexual assault, dating violence, or stalking reported to a postsecondary educational institution requests the institution not to investigate the alleged incident, the institution may investigate the alleged incident in a manner that complies with the confidentiality requirements under Education Code 51.291 and 19 Administrative Code 3.17. In

determining whether to investigate the alleged incident, the institution shall consider:

1. The seriousness of the alleged incident;
2. Whether the institution has received other reports of sexual harassment, sexual assault, dating violence, or stalking committed by the alleged perpetrator or perpetrators;
3. Whether the alleged incident poses a risk of harm to others; and
4. Any other factors the institution determines relevant.

If a postsecondary educational institution decides not to investigate an alleged incident of sexual harassment, sexual assault, dating violence, or stalking based on the alleged victim's request not to investigate, the institution shall take any reasonable steps the institution determines necessary and consistent with the institution's policy and applicable law to protect the health and safety of the institution's community in relation to the alleged incident.

Education Code 51.285(a)–(b); 19 TAC 3.9(a)–(b)

*Notice of
Decision*

A postsecondary educational institution shall inform an alleged victim of an incident of sexual harassment, sexual assault, dating violence, or stalking who requests the institution not to investigate the alleged incident of the institution's decision whether to investigate the alleged incident. *Education Code 51.285(c); 19 TAC 3.9(c)*

Confidentiality

Unless waived in writing by the person, the identity of a person described below is confidential and not subject to disclosure under the Public Information Act (PIA) and may be disclosed only to:

1. Persons employed by or under contract with the postsecondary educational institution to which the report is made who are necessary to conduct an investigation or the report or any related hearings;
2. A law enforcement officer as necessary to conduct a criminal investigation of the report;
3. A health-care provider in an emergency, as determined necessary by the institution;
4. The person or persons alleged to have perpetrated the incident, to the extent required by other law; and
5. Potential witnesses to the incident as necessary to conduct an investigation of the report and to the extent required by other law.

The protections provided by this section apply to:

1. An alleged victim;
2. A person who reports an incident to an institution;
3. A person who sought guidance from the institution concerning an incident;
4. A person who participated in the institution's investigation of an incident; or
5. A person who is alleged in a report made to an institution to have committed or assisted in the commission of sexual harassment, sexual assault, dating violence, or stalking, if after completing an investigation, the institution determines the report to be unsubstantiated or without merit.

Education Code 51.256, .291(a), (c); 19 TAC 3.17

Retaliation
Prohibited
Employees

A postsecondary educational institution may not discipline or otherwise discriminate against an employee who in good faith makes a report as required by 19 Administrative Code 3.5 or cooperates with an investigation, a disciplinary process, or a judicial proceeding relating to a report made by the employee. *Education Code 51.257(a); 19 TAC 3.18*

Exception

The prohibition does not apply to an employee who:

1. Reports an incident of sexual harassment, sexual assault, dating violence, and stalking perpetrated by the employee; or
2. Cooperates with an investigation, a disciplinary process, or a judicial proceeding relating to an allegation that the employee perpetrated an incident described by Education Code 51.252(a).

Education Code 51.257(b); 19 TAC 3.18(b)

Any Person

A person acting in good faith who reports or assists in the investigation of a report of an incident described by 19 Administrative Code 3.5 or who testifies or otherwise participates in a disciplinary process or judicial proceeding arising from a report of such an incident may not be subjected to any disciplinary action by the postsecondary educational institution at which the person is enrolled or employed for any violation by the person of the institution's policy or code of conduct reasonably related to the incident for which suspension or expulsion from the institution is not a possible punishment. This provision does not apply to a person who perpetrates or

assists in the perpetration of the incident reported under Section 3.5.

Education Code 51.254; 19 TAC 3.5(e)–(f)

Awareness

*Orientation on
Policy*

Each postsecondary educational institution shall require each entering freshman or undergraduate transfer student to attend an orientation on the institution's sexual harassment, sexual assault, dating violence, and stalking policy before or during the first semester or term of enrollment at the institution. The institution shall establish the format and content of the orientation. The orientation may be provided online and must include the statements described by 19 Administrative Code 3.4(a)(5). *Education Code 51.282(c); 19 TAC 3.4(c)*

*Prevention and
Outreach
Program*

Each postsecondary educational institution shall develop and implement a comprehensive prevention and outreach program on sexual harassment, sexual assault, dating violence, and stalking for enrolled students and employees of the institution. The program must:

1. Address a range of strategies to prevent sexual harassment, sexual assault, dating violence, and stalking, including a public awareness campaign; a victim empowerment program; primary prevention; bystander intervention; and risk reduction; and
2. Provide students information regarding the protocol for reporting incidents of sexual harassment, sexual assault, dating violence, and stalking, including the name, office location, and contact information of the institution's Title IX coordinator, by:
 - a. Emailing the information to each student at the beginning of each semester or other academic term; and
 - b. Including the information in the institution's orientation, which may be provided online.).

Education Code 51.282(d); 19 TAC 3.4(d)

Equal Access

In implementing the requirements under 19 Administrative Code Chapter 3, Subchapter A, a postsecondary educational institution shall, to the greatest extent practicable, ensure equal access for students enrolled at or employees of the institution who are persons with disabilities. The institution shall make reasonable efforts to consult with a disability services office of the institution, advocacy groups for people with disabilities, and other relevant stakeholders to assist the institution with complying with the institution's duties under this section. *Education Code 51.293; 19 TAC 3.16*

Memoranda of
Understanding

To facilitate effective communication and coordination regarding allegations of sexual harassment, sexual assault, dating violence, and stalking at the institution, a postsecondary educational institution shall enter into one or more memoranda of understanding with an entity from one or more of the following categories:

1. Local law enforcement agencies;
2. Sexual harassment, sexual assault, dating violence, or stalking advocacy groups; and
3. Hospitals or other medical resource providers.

Education Code 51.289; 19 TAC 3.13

Compliance

The chief executive officer of each postsecondary educational institution shall annually certify in writing to the Coordinating Board, in October of each year, that the institution is in substantial compliance with Education Code Chapter 51, Subchapter E-2. The Coordinating Board shall make available to institutions a required template for the certification, which satisfies the requirements of this section.

If the Coordinating Board determines that a postsecondary educational institution is not in substantial compliance with Subchapter E-2 and Education Code Chapter 51, Subchapter E-3, the Coordinating Board may assess an administrative penalty against the institution in an amount not to exceed \$2 million. In determining the amount of the penalty, the Coordinating Board shall consider the nature of the violation and the number of students enrolled at the institution.

If the Coordinating Board assesses an administrative penalty against a postsecondary educational institution, the Coordinating Board shall provide to the institution written notice of the Coordinating Board's reasons for assessing the penalty. A postsecondary educational institution assessed an administrative penalty may appeal the penalty in the manner provided by Government Code Chapter 2001. A postsecondary educational institution may not pay the administrative penalty using state or federal money.

Education Code 51.258(a)–(e), .292(a)–(d); 19 TAC 3.19(a)–(e)

Note: This policy addresses complaints of sex and gender discrimination, sexual harassment, sexual violence, dating violence, domestic violence, stalking, and retaliation targeting employees. For additional legally referenced material relating to discrimination, harassment, and retaliation, see DAA(LEGAL). For sex discrimination, sexual harassment, sexual violence, dating violence, domestic violence, stalking, and retaliation targeting students, see FFDA.

**Statement of
Nondiscrimination**

The College District prohibits discrimination, including harassment, against any employee on the basis of sex. Retaliation against anyone involved in the complaint process is a violation of College District policy and is prohibited.

Definitions

Employee

Solely for purposes of this policy, the term “employee” includes former employees, applicants for employment, and unpaid interns.

Discrimination

Discrimination against an employee is defined as conduct directed at an employee on the basis of sex that adversely affects the employee’s employment.

In accordance with law, discrimination on the basis of sex includes discrimination on the basis of biological sex, gender identity, sexual orientation, gender stereotypes, or any other prohibited basis related to sex.

Sexual Harassment

Sexual harassment is a form of sex discrimination defined as unwelcome sexual advances; requests for sexual favors; sexually motivated physical, verbal, or nonverbal conduct; or other conduct or communication of a sexual nature when:

1. Submission to the conduct is either explicitly or implicitly a condition of an employee’s employment, or when submission to or rejection of the conduct is the basis for an employment action affecting the employee; or
2. The conduct is so severe, persistent, or pervasive that it has the purpose or effect of unreasonably interfering with the employee’s work performance or creates an intimidating, threatening, hostile, or offensive work environment.

Sexual Violence

Sexual violence is a form of sexual harassment. Sexual violence includes physical sexual acts perpetrated against a person’s will or where a person is incapable of giving consent due to the victim’s use of drugs or alcohol or due to an intellectual or other disability.

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| <i>Dating Violence</i> | <p>“Dating violence” means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party’s statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.</p> |
| <i>Domestic Violence</i> | <p>“Domestic violence” means violence committed by:</p> <ul style="list-style-type: none"> • A current or former spouse or intimate partner of the victim; • A person with whom the victim shares a child in common; • A person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner; • Any other member of the victim’s family as defined by state law; • Any other current or former member of the victim’s household as defined by state law; • A person in a dating relationship with the victim as defined by state law; or • Any other person who acts against the victim in violation of the family violence laws of this state or the jurisdiction where the conduct occurs. |
| <i>Stalking</i> | <p>“Stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or suffer substantial emotional distress.</p> <p>For the purposes of this definition:</p> <ol style="list-style-type: none"> 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. |
| <i>Examples</i> | <p>Examples of sexual harassment of an employee may include sexual advances; touching intimate body parts; coercing or forcing a sexual act on another; jokes or conversations of a sexual nature; sexual assault as defined by law; offensive or derogatory language</p> |

directed at another person's gender identity; and other sexually motivated conduct, communication, or contact.

Examples may also include forms of dating violence, domestic violence, or stalking, such as physical or sexual assaults; name-calling; put-downs; or threats directed at the employee, the employee's family members, or members of the employee's household; destroying the employee's property; threatening to commit suicide or homicide if the employee ends the relationship; tracking the employee; attempting to isolate the employee from friends and family; threatening an employee's spouse or partner; or encouraging others to engage in these behaviors.

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| Prohibited Conduct | In this policy, the term "prohibited conduct" includes discrimination, sexual harassment, dating violence, domestic violence, stalking, and retaliation as described by this policy, even if the behavior does not rise to the level of unlawful conduct. |
| Complainant | In this policy, the term "complainant" refers to an employee who is alleged to have experienced prohibited conduct. |
| Respondent | In this policy, the term "respondent" refers to a person who is alleged to have committed prohibited conduct. |
| Confidential Employee | A "confidential employee" is a person who holds a professional license requiring confidentiality, such as a counselor or medical provider, who is supervised by such a person, or a person who is a nonprofessional counselor or advocate designated in administrative procedures as a confidential source. |
| Reporting Procedures | A victim of prohibited conduct has the right to report the incident to the College District and to receive a prompt and equitable resolution of the report. |
| Reporting by Alleged Victim | An employee who believes that he or she has experienced prohibited conduct may report the alleged acts to his or her immediate supervisor, to the Title IX coordinator, or to the College President or designee. |
| | Reports against the Title IX coordinator may be directed to the College President . A report against the College President may be made directly to the Board. If a report is made directly to the Board, the Board shall appoint an appropriate person to conduct an investigation. An employee shall not be required to report prohibited conduct to the person alleged to have committed the conduct. |
| | Alternatively, the employee may report electronically through the College District's website. |

A victim of a crime has the right to choose whether to report the crime to law enforcement, to be assisted by the College District in reporting the crime to law enforcement, or to decline to report the crime to law enforcement.

It is important that a victim of prohibited conduct go to a hospital for treatment and preservation of evidence, if applicable, as soon as practicable after the incident.

**Reporting by Other
Employees**

Any employee who believes that another employee has experienced prohibited conduct, regardless of when or where the incident occurred, shall immediately report the alleged acts to the Title IX coordinator. Additionally, the employee may report to the **College President** or designee.

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

Exceptions

**Disclosure at
Event**

A person who received the information solely from a disclosure at a sexual harassment, sexual assault, dating violence, or stalking public awareness event sponsored by a postsecondary educational institution or by an employee organization affiliated with the institution is not required to report the prohibited conduct unless the person has authority to institute corrective measures on behalf of the College District.

**Employee
Subject to
Confidentiality
Rules**

Absent the employee's consent, or unless required by law, a confidential employee shall only be required to disclose the type of incident reported and may not disclose information that would violate the employee's expectation of privacy. If multiple confidential employees receive information about the same alleged incident, then only one report disclosing the type of incident must be submitted.

Prior Report

A person who has either learned of an incident of prohibited conduct during the course of the College District's review or process, or has confirmed with the person or office overseeing the review or process that the incident has been previously reported, is not required to report the prohibited conduct.

Title IX Coordinator

Reports of discrimination based on sex, including sexual harassment, may be directed to the Title IX coordinator. The College District designates the following person to coordinate its efforts to comply with Title IX of the Education Amendments of 1972, as amended, and related state and federal laws:

Title IX
Coordinator: **Ms. Maria E.(Malena) Field, employee relations
advisor**

FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION
SEX AND SEXUAL VIOLENCE

DIAA
(LOCAL)

Address: PO Box 20500
El Paso Texas 79998-0500

Telephone: 915-831-6458

Email: mfield5@epcc.edu

Webpage: [Title IX/Sexual Misconduct webpage¹](#)

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| Responsible Employees | All employees, with the exception of confidential employees, are designated as responsible employees for purposes of compliance with Title IX. |
| Timely Reporting | A failure to immediately report prohibited conduct may impair the College District's ability to investigate and address the conduct. |
| Consolidate Reports | When the allegations underlying two or more complaints arise out of the same facts or circumstances, the College District may consolidate the complaints. |
| Advisor | Each party to a complaint may be assisted by an advisor of the party's choice who may participate in the proceedings in a manner consistent with College District procedures. |
| Conflict of Interest Prohibited | No person designated as the Title IX coordinator, a deputy Title IX coordinator, an investigator, a decision-maker, or a facilitator of an informal resolution process shall have a conflict of interest or bias. |
| Training | A person designated as the Title IX coordinator, a deputy Title IX coordinator, an investigator, a decision-maker, or a facilitator of an informal resolution process shall receive training as required by law and College District procedures. |
| Days | "Days" shall mean College District business days, unless otherwise noted. In calculating timelines under this policy, the day a document is filed is "day zero." The following business day is "day one." |
| Extension of Timelines | Timelines established by this policy and associated procedures may be subject to a limited extension if good cause, as defined in this policy and College District regulations, exists. The College District shall promptly provide written notice to the parties of an extension and the reason for the extension. A limited delay determined to be necessary so as not to impede a criminal or regulatory investigation shall constitute good cause for an extension of timelines established by this policy and associated procedures. |
| Investigation of the Report | The College District may request, but shall not insist upon, a written report. If a report is made orally, the Title IX coordinator or designee shall reduce the report to written form. |

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| Initial Assessment | <p>Upon receipt or notice of a report, the Title IX coordinator shall determine whether the allegations, if proven, would constitute prohibited conduct as defined by this policy. If so, the Title IX coordinator shall promptly offer supportive measures to the complainant. The Title IX coordinator shall explain the process for filing a formal complaint and assess any request not to investigate. If the College District moves forward with the investigation, the Title IX coordinator shall immediately provide notice to the known parties to the complaint.</p> <p>If the Title IX coordinator determines that the allegations, if proven, would not constitute prohibited conduct as defined by this policy but may constitute a violation of other College District rules or regulations, the Title IX coordinator shall refer the complaint for consideration under the appropriate policy.</p> |
| <i>Request Not to Investigate</i> | <p>The complainant may request that the College District not investigate the allegations. If the complainant requests that the allegations not be investigated, in deciding whether to initiate the investigation, the College District must consider the factors described by law and any other factors the College District considers relevant.</p> <p>The College District shall promptly notify the complainant of the decision regarding whether it will conduct the investigation. If the College District decides not to investigate the allegations, the College District shall take reasonable steps to protect the health and safety of the College District community.</p> |
| Formal Complaint | To be considered a formal complaint under Title IX, the complainant or the Title IX coordinator must sign the written report. |
| Notice to Parties | <p>The notice to the parties must describe the allegations and the formal and informal options for resolution of the complaint. The notice must state that the respondent is presumed not responsible until a determination regarding responsibility is made. The notice must also include information regarding the option to select an advisor, the opportunity to inspect and review evidence, and the prohibition on knowingly making false statements or submitting false information during the investigation and any ensuing proceedings.</p> <p>If the allegations are subsequently amended, the College District shall provide an updated notice reflecting the new allegations.</p> |
| Informal Resolution | The College District may offer to the parties a process for the informal resolution of a formal complaint as defined by law. If the parties voluntarily agree in writing to participate in informal resolution of a formal complaint, the Title IX coordinator shall determine within three days if informal resolution is appropriate for the complaint. If |

the Title IX coordinator determines that informal resolution is appropriate, then the Title IX coordinator or designee may facilitate that resolution within ten days. If the Title IX coordinator does not determine informal resolution to be appropriate, then the complaint will be subject to the formal resolution process.

Formal Resolution

If the complaint is not subject to the informal resolution process, the Title IX coordinator shall authorize or undertake an investigation.

Supportive Measures

If appropriate and regardless of whether a criminal or regulatory investigation regarding the alleged conduct is pending, the Title IX coordinator shall promptly provide supportive measures intended to prevent prohibited conduct, protect the safety of the parties and others, and protect the parties from retaliation prior to the completion of the investigation. Examples of possible supportive measures include work accommodations, such as leaves of absence or administrative leave; mutual restrictions on contact between the parties; counseling and health services; and increased security and monitoring of certain areas of the campus.

College District Investigation

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

The investigation may consist of personal interviews with the complainant, the respondent, and others with knowledge of the circumstances surrounding the allegations. The investigation may also include analysis of other information or documents related to the allegations.

The parties shall be provided an equal opportunity to present witnesses and evidence and to inspect and review any directly related evidence obtained by the College District so that the parties may meaningfully respond during the investigation process. The parties expected to participate in an investigative interview or other meeting shall be provided written notice in enough time to prepare to participate.

At least ten days prior to the completion of the investigation report, the College District must send each party and the party's advisor evidence subject to inspection and review. The parties may submit a written response for consideration by the investigator.

Concluding the Investigation

The investigation shall be completed within a reasonable time, not to exceed 30 days from the date of the report.

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| | <p>The investigator shall prepare a written report of the investigation. The investigation report shall be filed with the Title IX coordinator within five days following the completion of the investigation.</p> |
| Notification of the Report | <p>The Title IX coordinator shall provide the investigation report, within the extent permitted by law, to the complainant and the respondent promptly following receipt. The parties shall be given ten days to respond to the report.</p> |
| College District Action | <p>The Title IX coordinator shall submit the investigation report to the College District's arbitration attorney promptly after receipt of the parties' response but no later than the expiration of the parties' deadline to respond.</p> <p>The College District's arbitration attorney or designee shall summon the parties for a hearing to be held within a reasonable time, not to exceed ten days. The hearing shall be conducted in accordance with law and College District procedures.</p> <p>After the hearing, the College District's arbitration attorney or designee shall determine whether each individual allegation of prohibited conduct occurred using a preponderance of evidence standard and determine the appropriate disciplinary or corrective action. In making the determination, the College District's arbitration attorney or designee shall evaluate all relevant evidence objectively and shall not make credibility assessments based on a person's status as the complainant, the respondent, or a witness. The College District's arbitration attorney or designee shall create a written determination regarding responsibility in accordance with law and College District procedures within five days following the hearing and submit the determination to the parties simultaneously.</p> |
| Disciplinary or Corrective Action | <p>If the College District's arbitration attorney or designee determines that prohibited conduct occurred, the College District shall promptly respond by taking appropriate disciplinary or corrective action reasonably calculated to address the conduct.</p> <p>The College District may take action based on the results of an investigation, even if the conduct did not rise to the level of prohibited or unlawful conduct.</p> <p>Examples of disciplinary or corrective action may include:</p> <ul style="list-style-type: none"> • Implementing the disciplinary measures described in DH and the DM series for employees or FM for students; • Providing a training program for those involved in the complaint; |

- Providing a comprehensive education program for the College District community;
- Providing counseling for the victim and the student who engaged in prohibited conduct;
- Permitting the victim or student engaged in the prohibited conduct to drop a course in which they both are enrolled without penalty;
- Conducting follow-up inquiries to determine if any new incidents or any instances of retaliation have occurred;
- Involving employees in efforts to identify problems and improve the College District climate;
- Increasing staff monitoring of areas where prohibited conduct has occurred;
- Reaffirming the College District's policy against discrimination and harassment; and
- Taking other actions described in College District regulations.

Exception

The College District shall minimize attempts to require a complainant to resolve the problem directly with the person who engaged in the harassment; however, if that is the most appropriate resolution method, the College District shall be involved in an appropriate manner.

Improper Conduct

If the College District's arbitration attorney or designee determines that improper conduct occurred that did not rise to the level of prohibited conduct, the College District may take disciplinary action in accordance with College District policy and procedures or other corrective action reasonably calculated to address the conduct.

Dismissal of Complaint**Mandatory Dismissal**

An allegation presented as a formal complaint under Title IX is subject to the mandatory dismissal procedures under law.

Permissive Dismissal

Any complaint may be dismissed at any time on request of a complainant. The Title IX coordinator must first assess the request in accordance with this policy at Request Not to Investigate, above.

A complaint may also be dismissed if specific circumstances prevent the College District from gathering evidence sufficient to reach a determination as to the complaint or allegations.

Notice of Dismissal

Upon dismissal of a complaint, the Title IX coordinator or the College District's arbitration attorney or designee shall provide the parties written notice of the dismissal.

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| Confidentiality | To the greatest extent possible, consistent with law, the College District shall respect the privacy of the complainant or the respondent or a person who makes a report or serves as a witness. Limited disclosures may be necessary to carry out the purposes of this policy and associated regulations and to comply with applicable law. |
| Retaliation | <p>The College District prohibits retaliation against any person for the purpose of interfering with a right or privilege under this policy; the complainant; or a person who, in good faith, makes a report or complaint, serves as a witness, or otherwise participates or refuses to participate in an investigation, proceeding, or hearing under this policy. This prohibition does not apply to discipline of a person who perpetrated or assists in the perpetration of the prohibited conduct.</p> <p>A person who is alleged to have experienced retaliation may pursue a claim under this policy or policy FFDA, as appropriate.</p> |
| Examples | Examples of retaliation may include termination, refusal to hire, demotion, and denial of promotion. Retaliation may also include threats, unjustified negative evaluations, unjustified negative references, or increased surveillance. |
| Failure to Report and False Claims | An employee who fails to make a required report or an employee or student who intentionally makes a false claim, offers a false statement, or refuses to cooperate with a College District investigation regarding prohibited conduct shall be subject to appropriate disciplinary action. |
| Appeal | If the College District's arbitration attorney or designee determines that a contract employee committed prohibited conduct that warrants suspension without pay or termination mid-contract, the College District's arbitration attorney or designee shall inform the employee in writing of the determination, and a Board hearing shall be scheduled in accordance with DMAA. |
| Discipline or Corrective Action <i>Employees</i> Suspension Without Pay or Termination of Contract Employees Other Action | <p>If the College District's arbitration attorney or designee determines that the employee committed prohibited conduct that warrants other discipline or corrective action, the College District's arbitration attorney or designee shall inform the employee that the employee may appeal the determination within ten days in accordance with DGBA beginning at Level Three.</p> |
| <i>Students</i> Suspension | If the College District's arbitration attorney or designee determines that a student committed prohibited conduct that warrants a suspension, the official shall forward the determination and all evidence collected during the investigation and hearing to the College |

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| | President. A conference shall be scheduled within ten days of the notice of determination in accordance with FMA, beginning at Appeal to College District Administration. |
| Expulsion | If the College District's arbitration attorney or designee determines that the student committed prohibited conduct that warrants expulsion, the official shall forward the determination and all evidence collected during the investigation and hearing to the College President to schedule an expulsion hearing before the Board in accordance with FMA. |
| Other Action | If the College District's arbitration attorney or designee determines that the student committed prohibited conduct that warrants other discipline or corrective action, the College District's arbitration attorney or designee shall inform the student that the student may appeal the determination within ten days in accordance with FMA, beginning at Appeal to College District Administration. |
| Other Appeals | All other appeals related to this policy may be submitted through the applicable grievance policy beginning at the appropriate level. [See DGBA(LOCAL) for employees, FLD(LOCAL) for students, and GB(LOCAL) for community members] |
| Complaints Filed with State or Federal Agencies | A party shall be informed of any right to file a complaint with appropriate state or federal agencies. |
| Records Retention | Retention of records shall be in accordance with the College District's records retention procedures. [See CIA] |
| Access to Policy, Procedures, and Related Materials | Information regarding this policy and any accompanying procedures, as well as relevant educational and resource materials concerning the topics discussed in this policy, shall be distributed to applicants for admission and employment and annually to College District employees, students, and parents or guardians of dual credit students in compliance with law and in a manner calculated to provide easy access and wide distribution, such as through electronic distribution and inclusion in the employee and student handbooks and other major College District publications. Information regarding the policy, procedures, and related materials and any materials used to train a person designated as the Title IX coordinator, a deputy Title IX coordinator, an investigator, a decision-maker, or a facilitator shall also be prominently published on the College District's website on a dedicated page accessible through a clear link on the homepage, taking into account applicable legal requirements. Copies of the policy and procedures shall be readily available at the College District's administrative offices and shall be distributed to an employee who makes a report. |

¹ Title IX/Sexual Misconduct webpage: [\[C T9 \(employees\) webpage\]](#)

BOARD POLICY ABSTRACT

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| Policy to be Considered: Sex and Sexual Violence. | | Policy #: FFDA (Legal) and FFDA (Local) |
| Policy Section: Students | <input checked="" type="checkbox"/> New | Revision |
| Action: <input checked="" type="checkbox"/> For information only (<input checked="" type="checkbox"/> 1 st Reading) <input type="checkbox"/> For Adoption (<input type="checkbox"/> 2 nd Reading and/or Approval) | | |
| Resource Person: Julie Penley | | |
| Purpose: To transition EPCC Board Policies to the Texas Association of School Boards (TASB) format and organizational system. EPCC's Board of Trustees authorized Dr. Serrata to begin this work and execute four TASB agreements at its October 2019 Regular Meeting, including the Community College Policy On-Line Service Agreement and the Community College Localization Agreement. | | |
| Explanation: FFDA (Legal) is the statutory context for student complaints of sex discrimination, sexual harassment, sexual assault, dating violence, stalking, and retaliation targeting employees. It is provided for information only, as no Board action is ever required for TASB Legal Policies. FFDA (Local) is the College-specific supplement to FFDA (Legal), addressing the College's requirements and obligations for responding to such complaints. TASB Local Policies do require Board of Trustees action. FFDA (Local) is submitted to the Board of Trustees today for review and comment; it will be presented at a future Board of Trustees meeting for a 2 nd Reading and possible approval and adoption. Should the Board of Trustees approve FFDA (Local) at a future meeting, FFDA (Local) would replace current EPCC Board Policy 3.01.09, <i>Sexual Harassment</i> . | | |
| Recommendation: Review and comment by the Board of Trustees – FFDA (Local) only. | | |

Note: This policy addresses complaints of sex discrimination, sexual harassment, sexual assault, dating violence, domestic violence, stalking, and retaliation targeting students. For additional legally referenced material relating to discrimination, harassment, and retaliation, including the Clery Act, see FA(LEGAL). For sex discrimination, sexual harassment, sexual assault, dating violence, domestic violence, stalking, and retaliation targeting employees, see DIAA.

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FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION
SEX AND SEXUAL VIOLENCE

FFDA
(LEGAL)

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Section I: Title IX

Definitions

Complainant

“Complainant” means an individual who is alleged to be the victim of conduct that could constitute sexual harassment. 34 C.F.R. 106.30(a)

Respondent

“Respondent” means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment. 34 C.F.R. 106.30(a)

Education Program or Activity

For the purposes of 34 C.F.R. 106.44, 34 C.F.R. 106.30, and 34 C.F.R. 106.45, “education program or activity” includes locations, events, or circumstances over which the recipient exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by a postsecondary institution. 34 C.F.R. 106.44(a)

Sexual Harassment

“Sexual harassment” means conduct on the basis of sex that satisfies one or more of the following:

1. An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual’s participation in unwelcome sexual conduct;
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient’s education program or activity; or
3. “Sexual assault” as defined in 20 U.S.C. 1092(f)(6)(A)(v), “dating violence” as defined in 34 U.S.C. 12291(a)(10), “domestic violence” as defined in 34 U.S.C. 12291(a)(8), or “stalking” as defined in 34 U.S.C. 12291(a)(30).

34 C.F.R. 106.30(a)

Formal Complaint

“Formal complaint” means a document filed by a complainant or signed by the Title IX coordinator alleging sexual harassment against a respondent and requesting that the recipient investigate the allegation of sexual harassment.

The phrase “document filed by a complainant” means a document or electronic submission, such as by electronic mail or through an online portal provided for this purpose by the recipient, that contains the complainant’s physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint.

34 C.F.R. 106.30(a)

*Actual
Knowledge*

“Actual knowledge” means notice of sexual harassment or allegations of sexual harassment to a recipient’s Title IX coordinator or any official of the recipient who has authority to institute corrective measures on behalf of the recipient. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge. This standard is not met when the only official of the recipient with actual knowledge is the respondent. The mere ability or obligation to report sexual harassment or to inform a student about how to report sexual harassment, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of the recipient.

“Notice” as used in this paragraph includes, but is not limited to, a report of sexual harassment to the Title IX coordinator as described in 34 C.F.R. 106.8(a).

34 C.F.R. 106.30(a)

*Supportive
Measures*

“Supportive measures” means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the recipient’s education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the recipient’s educational environment, or deter sexual harassment.

Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

The recipient must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the recipient to provide the supportive measures. The Title IX coordinator is responsible for coordinating the effective implementation of supportive measures.

34 C.F.R. 106.30(a)

*Notice of
Nondiscrimination*

Each recipient must notify persons entitled to a notification under 34 C.F.R. 106.8(a) that the recipient does not discriminate on the basis of sex in the education program or activity that it operates,

and that it is required by Title IX and 34 C.F.R. Part 106 not to discriminate in such a manner. Such notification must state that the requirement not to discriminate in the education program or activity extends to admission and employment, unless 34 C.F.R. Part 106, Subpart C does not apply, and that inquiries about the application of Title IX and 34 C.F.R. Part 106 to such recipient may be referred to the recipient's Title IX coordinator, to the Assistant Secretary, or both. *34 C.F.R. 106.8(b)(1)*

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| Title IX Coordinator | Each recipient must designate and authorize at least one employee to coordinate its efforts to comply with its responsibilities under 34 C.F.R. Part 106, which employee must be referred to as the "Title IX coordinator." <i>34 C.F.R. 106.8(a)</i> |
| Grievance Procedures | A recipient must adopt and publish grievance procedures that provide for the prompt and equitable resolution of student and employee complaints alleging any action that would be prohibited by 34 C.F.R. Part 106 and a grievance process that complies with 34 C.F.R. 106.45 for formal complaints. These requirements apply only to sex discrimination occurring against a person in the United States. <i>34 C.F.R. 106.8(c)–(d)</i> |
| <i>Process for Formal Complaints</i> | A recipient's grievance process must require that any individual designated by a recipient as a Title IX coordinator, investigator, decision-maker, or any person designated by a recipient to facilitate an informal resolution process, not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. <i>34 C.F.R. 106.45(b)</i> |
| Conflict of Interest Prohibited | |
| Training | A recipient must ensure that Title IX coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, receive training on the definition of sexual harassment in 34 C.F.R. 106.30, the scope of the recipient's education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. A recipient must ensure that decision-makers receive training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, as set forth in 34 C.F.R. 106.45(b)(6). |

A recipient also must ensure that investigators receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence, as set forth in 34 C.F.R. 106.45(b)(5)(vii).

Any materials used to train Title IX coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, must not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment.

34 C.F.R. 106.45(b)

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| Time Frames | A recipient's grievance process must include reasonably prompt time frames for conclusion of the grievance process, including reasonably prompt time frames for filing and resolving appeals and informal resolution processes if the recipient offers informal resolution processes, and a process that allows for the temporary delay of the grievance process or the limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities. <i>34 C.F.R. 106.45(b)</i> |
| Presumption of Responsibility Prohibited | A recipient's grievance process must include a presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process. <i>34 C.F.R. 106.45(b)</i> |
| Information Subject to Privilege | A recipient's grievance process must not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege. <i>34 C.F.R. 106.45(b)</i> |
| Evaluation of Evidence and Credibility Determinations | A recipient's grievance process must require an objective evaluation of all relevant evidence – including both inculpatory and exculpatory evidence – and provide that credibility determinations may not be based on a person's status as a complainant, respondent, or witness. <i>34 C.F.R. 106.45(b)</i> |
| Standard of Evidence | A recipient's grievance process must state whether the standard of evidence to be used to determine responsibility is the preponderance of the evidence standard or the clear and convincing evidence standard, apply the same standard of evidence for formal complaints against students as for formal complaints against em- |

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| | <p>ployees, including faculty, and apply the same standard of evidence to all formal complaints of sexual harassment. <i>34 C.F.R. 106.45(b)</i></p> |
| Supportive Measures | <p>A recipient's grievance process must describe the range of supportive measures available to complainants and respondents. <i>34 C.F.R. 106.45(b)</i></p> |
| Sanctions and Remedies | <p>A recipient's grievance process must treat complainants and respondents equitably by providing remedies to a complainant where a determination of responsibility for sexual harassment has been made against the respondent, and by following a grievance process that complies with 34 C.F.R. 106.45 before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a respondent. Remedies must be designed to restore or preserve equal access to the recipient's education program or activity. Such remedies may include the same individualized services described in 34 C.F.R. 106.30 as "supportive measures"; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the respondent.</p> <p>A recipient's grievance process must describe the range of possible disciplinary sanctions and remedies or list the possible disciplinary sanctions and remedies that the recipient may implement following any determination of responsibility.</p> <p><i>34 C.F.R. 106.45(b)</i></p> |
| Appeals | <p>A recipient's grievance process must include the procedures and permissible bases for the complainant and respondent to appeal. <i>34 C.F.R. 106.45(b)</i></p> |
| Additional Procedures | <p>Any provisions, rules, or practices other than those required by Section 106.45 that a recipient adopts as part of its grievance process for handling formal complaints of sexual harassment, as defined in 34 C.F.R. 106.30, must apply equally to both parties. <i>34 C.F.R. 106.45(b)</i></p> |
| Reporting | <p>Any person may report sex discrimination, including sexual harassment, whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment, in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX coordinator, or by any other means that results in the Title IX coordinator receiving the person's verbal or written report. Such a report may be made at any time, including during non-business hours by using the telephone number or electronic mail address, or by mail to the office address, listed for the Title IX coordinator. <i>34 C.F.R. 106.8(a)</i></p> |

*Formal Complaint
Filing*

A formal complaint may be filed with the Title IX coordinator in person, by mail, or by electronic mail, by using the contact information required to be listed for the Title IX coordinator under 34 C.F.R. 106.8(a), and by any additional method designated by the recipient. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the recipient with which the formal complaint is filed.

Where the Title IX coordinator signs a formal complaint, the Title IX coordinator is not a complainant or otherwise a party under 34 C.F.R. Part 106 or under 34 C.F.R. 106.45, and must comply with the requirements of 34 C.F.R. Part 106, including 34 C.F.R. 106.45(b)(1)(iii).

*34 C.F.R. 106.30(a)*Consolidation of
Complaints

A recipient may consolidate formal complaints as to allegations of sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances. *34 C.F.R. 106.45(b)(4)*

Notice of
Allegations

Upon receipt of a formal complaint, a recipient must provide the following written notice to the parties who are known:

1. Notice of the recipient's grievance process that complies with 34 C.F.R. 106.45, including any informal resolution process.
2. Notice of the allegations of sexual harassment potentially constituting sexual harassment as defined in 34 C.F.R. 106.30, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting sexual harassment under Section 106.30, and the date and location of the alleged incident, if known. The written notice must include a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process. The written notice must inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney, under 34 C.F.R. 106.45(b)(5)(iv), and may inspect and review evidence under Section 106.45(b)(5)(vi). The written notice must inform the parties of any provision in the recipient's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

If, in the course of an investigation, the recipient decides to investigate allegations about the complainant or respondent that are not included in the notice provided pursuant to item 2, above, the recipient must provide notice of the additional allegations to the parties whose identities are known.

34 C.F.R. 106.45(b)(2)

Response to Sexual Harassment

A recipient with actual knowledge of sexual harassment in an education program or activity of the recipient against a person in the United States, must respond promptly in a manner that is not deliberately indifferent. A recipient is deliberately indifferent only if its response to sexual harassment is clearly unreasonable in light of the known circumstances.

A recipient's response must treat complainants and respondents equitably by offering supportive measures to a complainant, and by following a grievance process that complies with 34 C.F.R. 106.45 before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a respondent. The Title IX coordinator must promptly contact the complainant to discuss the availability of supportive measures, consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint.

The U.S. Department of Education may not deem a recipient to have satisfied the recipient's duty to not be deliberately indifferent under 34 C.F.R. Part 106 based on the recipient's restriction of rights protected under the U.S. Constitution, including the First Amendment, Fifth Amendment, and Fourteenth Amendment.

34 C.F.R. 106.44(a)

Response to Formal Complaint

In response to a formal complaint, a recipient must follow a grievance process that complies with 34 C.F.R. 106.45. With or without a formal complaint, a recipient must comply with 34 C.F.R. 106.44(a).

A recipient's treatment of a complainant or a respondent in response to a formal complaint of sexual harassment may constitute discrimination on the basis of sex under Title IX.

34 C.F.R. 106.44(b), .45(a)

Informal Resolution

A recipient may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment consistent

with 34 C.F.R. 106.45. Similarly, a recipient may not require the parties to participate in an informal resolution process under this section and may not offer an informal resolution process unless a formal complaint is filed. However, at any time prior to reaching a determination regarding responsibility, the recipient may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that the recipient:

1. Provides to the parties a written notice disclosing: the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;
2. Obtains the parties' voluntary, written consent to the informal resolution process; and
3. Does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

34 C.F.R. 106.45(9)

Investigation

When investigating a formal complaint and throughout the grievance process, a recipient must:

1. Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the recipient and not on the parties provided that the recipient cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the recipient obtains that party's voluntary, written consent to do so for a grievance process under this section.
2. Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.

3. Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.
4. Provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor for either the complainant or respondent in any meeting or grievance proceeding; however, the recipient 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.
5. Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate.
6. Provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the recipient does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. Prior to completion of the investigative report, the recipient must send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have at least ten days to submit a written response, which the investigator will consider prior to completion of the investigative report. The recipient must make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.
7. Create an investigative report that fairly summarizes relevant evidence and, at least ten days prior to a hearing, if a hearing is required under this section or otherwise provided, or other time of determination regarding responsibility, send to each party and the party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response.

34 C.F.R. 106.45(b)(5)

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| Hearings | <p>For postsecondary institutions, the recipient's grievance process must provide for a live hearing. <i>34 C.F.R. 106.45(b)(6)(i)</i></p> |
| <i>Conduct of Hearing</i> | <p>Live hearings pursuant to this section may be conducted with all parties physically present in the same geographic location or, at the recipient's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other.</p> <p>At the request of either party, the recipient must provide for the live hearing to occur with the parties located in separate rooms with technology enabling the decision-maker(s) and parties to simultaneously see and hear the party or the witness answering questions.</p> <p><i>34 C.F.R. 106.45(b)(6)(i)</i></p> |
| <i>Cross-Examination</i> | <p>At the live hearing, the decision-maker(s) must permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination at the live hearing must be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally, notwithstanding the discretion of the recipient under <i>34 C.F.R. 106.45(b)(5)(iv)</i> to otherwise restrict the extent to which advisors may participate in the proceedings.</p> <p>If a party does not have an advisor present at the live hearing, the recipient must provide without fee or charge to that party, an advisor of the recipient's choice, who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party.</p> <p><i>34 C.F.R. 106.45(b)(6)(i)</i></p> |
| Relevance | <p>Only relevant cross-examination and other questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a cross-examination or other question, the decision-maker(s) must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.</p> <p>Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.</p> <p><i>34 C.F.R. 106.45(b)(6)(i)</i></p> |

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| Refusal to Submit to Cross- Examination | If a party or witness does not submit to cross-examination at the live hearing, the decision-maker(s) must not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the decision-maker(s) cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions. 34 C.F.R. 106.45(b)(6)(i) |
| <i>Recording</i> | Recipients must create an audio or audiovisual recording, or transcript, of any live hearing and make it available to the parties for inspection and review. 34 C.F.R. 106.45(b)(6)(i) |
| Determination Regarding Responsibility | <p>The decision-maker(s), who cannot be the same person(s) as the Title IX coordinator or the investigator(s), must issue a written determination regarding responsibility. To reach this determination, the recipient must apply the standard of evidence described in 34 C.F.R. 106.45(b)(1)(vii). The written determination must include:</p> <ol style="list-style-type: none"> 1. Identification of the allegations potentially constituting sexual harassment as defined in 34 C.F.R. 106.30; 2. A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held; 3. Findings of fact supporting the determination; 4. Conclusions regarding the application of the recipient's code of conduct to the facts; 5. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the recipient imposes on the respondent, and whether remedies designed to restore or preserve equal access to the recipient's education program or activity will be provided by the recipient to the complainant; and 6. The recipient's procedures and permissible bases for the complainant and respondent to appeal. <p>The recipient must provide the written determination to the parties simultaneously.</p> <p>The determination regarding responsibility becomes final either on the date that the recipient provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an</p> |

appeal is not filed, the date on which an appeal would no longer be considered timely.

The Title IX coordinator is responsible for effective implementation of any remedies.

34 C.F.R. 106.45(b)(7)

Dismissal of
Complaint

The recipient must investigate the allegations in a formal complaint. If the conduct alleged in the formal complaint would not constitute sexual harassment as defined in 34 C.F.R. 106.30 even if proved, did not occur in the recipient's education program or activity, or did not occur against a person in the United States, then the recipient must dismiss the formal complaint with regard to that conduct for purposes of sexual harassment under Title IX or 34 C.F.R. Part 106; such a dismissal does not preclude action under another provision of the recipient's code of conduct.

The recipient may dismiss the formal complaint or any allegations therein, if at any time during the investigation or hearing: a complainant notifies the Title IX coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein; the respondent is no longer enrolled or employed by the recipient; or specific circumstances prevent the recipient from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon a dismissal required or permitted pursuant to this section, the recipient must promptly send written notice of the dismissal and reason(s) therefor simultaneously to the parties.

34 C.F.R. 106.45(b)(3)

Appeals

A recipient must offer both parties an appeal from a determination regarding responsibility, and from a recipient's dismissal of a formal complaint or any allegations therein, on the following bases:

1. Procedural irregularity that affected the outcome of the matter;
2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
3. The Title IX coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

A recipient may offer an appeal equally to both parties on additional bases. As to all appeals, the recipient must:

1. Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;
2. Ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX coordinator;
3. Ensure that the decision-maker(s) for the appeal complies with the standards set forth in 34 C.F.R. 106.45(b)(1)(iii);
4. Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
5. Issue a written decision describing the result of the appeal and the rationale for the result; and
6. Provide the written decision simultaneously to both parties.

34 C.F.R. 106.45(b)(8)

Confidentiality

The recipient must keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as may be permitted by the Family Educational Rights and Privacy Act (FERPA) statute, 20 U.S.C. 1232g, or FERPA regulations, 34 C.F.R. Part 99, or as required by law, or to carry out the purposes of 34 C.F.R. Part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder. *34 C.F.R. 106.71(a)*

Retaliation
Prohibited

No recipient or other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or 34 C.F.R. Part 106, 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 Part 106. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX or Part 106, constitutes retaliation. Complaints alleging retaliation may be filed according to the grievance procedures for sex discrimination required to be adopted under 34 C.F.R. 106.8(c).

The exercise of rights protected under the First Amendment does not constitute prohibited retaliation.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under 34 C.F.R. Part 106 does not constitute prohibited retaliation, provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

34 C.F.R. 106.71

Removal or Leave

Nothing in 34 C.F.R. Part 106 precludes a recipient from removing a respondent from the recipient's education program or activity on an emergency basis, provided that the recipient undertakes an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal. This provision may not be construed to modify any rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act.

Nothing in 34 C.F.R. Part 106, Subpart D precludes a recipient from placing a non-student employee respondent on administrative leave during the pendency of a grievance process that complies with 34 C.F.R. 106.45. This provision may not be construed to modify any rights under Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act.

34 C.F.R. 106.44(c)–(d)

Publication

*Title IX
Coordinator and
Notice of Non-
discrimination*

The recipient must notify applicants for admission and employment, students, parents or legal guardians of elementary and secondary school students, employees, and all unions or professional organizations holding collective bargaining or professional agreements with the recipient, of the name or title, office address, electronic mail address, and telephone number of the employee or employees designated as the Title IX coordinator. *34 C.F.R. 106.8(a)*

Each recipient must prominently display the contact information required to be listed for the Title IX coordinator and the policy described in 34 C.F.R. 106.8(b)(1) on its website, if any, and in each handbook or catalog that it makes available to persons entitled to a notification under 34 C.F.R. 106.8(a).

A recipient must not use or distribute a publication stating that the recipient treats applicants, students, or employees differently on

the basis of sex except as such treatment is permitted by Title IX or 34 C.F.R. Part 106.

34 C.F.R. 106.8(b)(2)

*Grievance
Procedures and
Process*

A recipient must provide to persons entitled to a notification under 34 C.F.R. 106.8(a) notice of the recipient's grievance procedures and grievance process, including how to report or file a complaint of sex discrimination, how to report or file a formal complaint of sexual harassment, and how the recipient will respond. *34 C.F.R. 106.8(c)*

*Training
Materials*

A recipient must make the materials used to train Title IX coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process publicly available on its website, or if the recipient does not maintain a website, the recipient must make these materials available upon request for inspection by members of the public. *34 C.F.R. 106.45(b)(10)*

Recordkeeping

A recipient must maintain for a period of seven years records of:

1. Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under 34 C.F.R. 106.45(b)(6)(i), any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to the recipient's education program or activity;
2. Any appeal and the result therefrom;
3. Any informal resolution and the result therefrom; and
4. All materials used to train Title IX coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process.

For each response required under 34 C.F.R. 106.44, a recipient must create, and maintain for a period of seven years, records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment. In each instance, the recipient must document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the recipient's education program or activity. If a recipient does not provide a complainant with supportive measures, then the recipient must document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The

documentation of certain bases or measures does not limit the recipient in the future from providing additional explanations or detailing additional measures taken.

34 C.F.R. 106.45(b)(10)

Section II: State Law

Definitions

*Dating Violence,
Sexual Assault,
and Stalking*

"Dating violence," "sexual assault," and "stalking" have the same meanings assigned by the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, 20 U.S.C. 1092(f)(6)(A). *Education Code 51.251(2), .281(2); 19 TAC 3.3(c)*

*Sexual
Harassment*

"Sexual harassment" means unwelcome, sex-based verbal or physical conduct that:

1. In the employment context, unreasonably interferes with a person's work performance or creates an intimidating, hostile, or offensive work environment; or
2. In the education context, is sufficiently severe, persistent, or pervasive that the conduct interferes with a student's ability to participate in or benefit from educational programs or activities.

Education Code 51.251(5), .281(4); 19 TAC 3.3(e)

Employee

"Employee of a postsecondary educational institution" does not include a student enrolled at the institution. *Education Code 51.251(3)*

*Course and
Scope of
Employment*

"Course and scope of employment" means an employee performing duties in the furtherance of the institution's interests. *19 TAC 3.3(b)*

Sexual Assault
Policy

Each postsecondary educational institution, including each college district, shall adopt a policy on sexual harassment, sexual assault, dating violence, and stalking applicable to each enrolled student and each employee of the institution and have the policy approved by the institution's governing body. The policy must include:

1. Definitions of prohibited behavior;
2. Sanctions for violations;
3. Protocol for reporting and responding to reports of sexual harassment, sexual assault, dating violence, and stalking that complies with the electronic reporting requirement in 19 Administrative Code 3.7;

4. Interim measures to protect victims of sexual harassment, sexual assault, dating violence, or stalking pending the institution's disciplinary process, including protection from retaliation, and any other accommodations or supportive measures available to those victims at the institution. This section is not intended to limit an institution's ability to implement accommodations to others as needed; and
5. A statement regarding:
 - a. The importance of a victim of sexual harassment, sexual assault, dating violence, or stalking going to a hospital for treatment and preservation of evidence, if applicable, as soon as practicable after the incident;
 - b. The right of a victim of sexual harassment, sexual assault, dating violence, or stalking to report the incident to the institution and to receive a prompt and equitable resolution of the report; and
 - c. The right of a victim of a crime to choose whether to report the crime to law enforcement, to be assisted by the institution in reporting the crime to law enforcement, or to decline to report the crime to law enforcement.

As part of the protocol for responding to reports of sexual harassment, sexual assault, dating violence, and stalking adopted under this section, each postsecondary educational institution shall:

1. To the greatest extent practicable based on the number of counselors employed by the institution, ensure that each alleged victim or alleged perpetrator of an incident of a sexual harassment, sexual assault, dating violence, and stalking and any other person who reports such an incident are offered counseling provided by a counselor who does not provide counseling to any other person involved in the incident; and
2. Notwithstanding any other law, allow an alleged victim or alleged perpetrator of an incident of sexual harassment, sexual assault, dating violence, and stalking to drop a course in which both parties are enrolled without any academic penalty.

Education Code 51.282(a), (e); 19 TAC 3.4(a), (d)(2)(C)

Review

Each postsecondary educational institution shall review its sexual harassment, sexual assault, dating violence, and stalking policy at least each biennium and revise the policy as necessary and obtain approval from the institution's governing board. *Education Code 51.282(f); 19 TAC 3.4(e)*

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| <i>Distribution</i> | <p>Each postsecondary educational institution shall make its policy on sexual harassment, sexual assault, dating violence, and stalking available to students, faculty, and staff members by:</p> <ol style="list-style-type: none"> 1. Including the policy in the student handbook and personnel handbook or the institution's equivalent(s); and 2. Creating and maintaining a web page dedicated solely to the policy that is easily accessible through a clearly identifiable link on the institution's homepage. <p><i>Education Code 51.282(b); 19 TAC 3.4(b)</i></p> |
| Responsible Employee | <p>Each postsecondary educational institution shall designate one or more employees to act as responsible employees for purposes of Title IX of the Education Amendments of 1972, 20 U.S.C. 1681, et seq and inform each student enrolled at the institution of the designated responsible employees. <i>Education Code 51.290(a); 19 TAC 3.14(a)</i></p> |
| Reporting <i>Employee Reporting Required</i> | <p>An employee of a postsecondary educational institution who, in the course and scope of employment, witnesses or receives information regarding the occurrence of an incident that the employee reasonably believes constitutes sexual harassment, sexual assault, dating violence, or stalking and is alleged to have been committed by or against a person who was a student enrolled at or an employee of the institution at the time of the incident shall promptly report the incident to the institution's Title IX coordinator or deputy Title IX coordinator.</p> <p>The employee is required to report an incident regardless of when or where the incident occurred.</p> <p>Institutions may establish additional reporting avenues to comply with this section provided that the reports are promptly routed to the Title IX coordinator or deputy Title IX coordinator.</p> <p><i>Education Code 51.252(a); 19 TAC 3.5(a)</i></p> |
| Exception from Reporting | <p>A person is not required to make a report under this section concerning:</p> <ol style="list-style-type: none"> 1. An incident in which the person was a victim of sexual harassment, sexual assault, dating violence, or stalking; 2. An incident of which the person received information due to a disclosure made at a sexual harassment, sexual assault, dating violence, or stalking public awareness event sponsored by a postsecondary educational institution or by a student organization affiliated with the institution; or |

3. A sexual harassment, sexual assault, dating violence, or stalking incident in which the person has either learned of the incident during the course of his or her institution's review or process or has confirmed with the person or office overseeing the review or process, that the incident has been previously reported.

Education Code 51.252(d); 19 TAC 3.5(d)

Contents of
Report

The report must include all information concerning the incident known to the reporting person that is relevant to the investigation and, if applicable, redress of the incident, including whether an alleged victim has expressed a desire for confidentiality in reporting the incident. *Education Code 51.252(b); 19 TAC 3.5(b)*

Limitations on
Reporting

*Designated
Confidential
Employees*

Each postsecondary educational institution shall designate one or more employees as persons to whom students enrolled at the institution may speak confidentially concerning sexual harassment, sexual assault, dating violence, and stalking and inform each student enrolled at the institution of the designated confidential employees.

A confidential employee designated under this section may not disclose any communication made by a student to the employee unless the student consents to the disclosure or the employee is required to make the disclosure under 19 Administrative Code 3.5(c), state law, or federal law.

Absent consent from the reporting student, an employee designated by the institution as a person with whom students may speak confidentially concerning sexual harassment, sexual assault, dating violence, or stalking shall only state the type of incident reported and may not include any information that would violate a student's expectation of privacy.

Education Code 51.252(c), .290(a), (c); 19 TAC 3.5(c), .14

*Confidential
Employees
Under Other
Law*

Absent consent from the reporting individual, an employee who receives information regarding an incident of sexual harassment, sexual assault, dating violence, or stalking under circumstances that render the employee's communications confidential or privileged under other law shall only state the type of incident reported and may not include any information that would violate an expectation of privacy. *Education Code 51.252(c); 19 TAC 3.5(c)*

*Medical
Providers*

Absent consent from the victim(s), an employee who receives information regarding an incident of sexual harassment, sexual assault, dating violence, or stalking in the course and scope of employment as a health-care provider, mental health-care provider, or other medical provider shall only state the type of incident reported

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| | and may not include any information that would violate an expectation of privacy. <i>Education Code 51.291(d); 19 TAC 3.5(c)</i> |
| <i>Multiple Confidential Employees</i> | When multiple confidential employees receive information about the same incident (e.g., student health center or counseling center), only a single report stating the type of incident is required. <i>19 TAC 3.5(c)</i> |
| <i>Reporting Under Other Law</i> | These limitations on disclosure do not affect the employee's duty to report an incident under any other law, including but not limited to, the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, 20 U.S.C. 1092(f), Family Code 261.101, or Health and Safety Code 611.004. <i>Education Code 51.290(c); 19 TAC 3.5(c)</i> |
| Failure to Report or False Report | A person commits an offense if the person is required to make a report under Education Code 51.252 and knowingly fails to make the report or with the intent to harm or deceive, knowingly makes a report under Education Code 51.252 that is false. A postsecondary educational institution shall terminate the employment of an employee whom the institution determines in accordance with the institution's disciplinary procedure to have committed the offense. <i>Education Code 51.255(a), (c); 19 TAC 3.8</i> |
| <i>Student Advocate</i> | A postsecondary educational institution may designate one or more students enrolled at the institution as student advocates to whom other students enrolled at the institution may speak confidentially concerning sexual harassment, sexual assault, dating violence, and stalking. The institution shall notify each student enrolled at the institution of the student advocate(s) designated under this section. A student advocate designated under this section may not disclose any communication made by a student to the advocate unless the student consents to the disclosure or the advocate is required to make the disclosure under state or federal law. <i>Education Code 51.290(b)–(c); 19 TAC 3.15</i> |
| <i>Electronic Reporting</i> | Each postsecondary educational institution shall provide an option for a student enrolled at or an employee of the institution to electronically report to the institution an allegation of sexual harassment, sexual assault, dating violence, or stalking committed against or witnessed by the student or employee, regardless of the location at which the alleged offense occurred. The electronic reporting option must: 1. Allow for anonymous reporting; and |

2. Be easily accessible via a clearly identifiable link on the institution's website home page.

A protocol for reporting sexual assault adopted under Education Code 51.282 must comply with this section.

Education Code 51.283(a)–(c); 19 TAC 3.7

*Reporting on
Reports*

Title IX
Coordinator

Not less than once every three months, the Title IX coordinator of a postsecondary educational institution shall submit to the institution's chief executive officer a written report on the reports received for the institution's reporting period under 19 Administrative Code 3.5, including information regarding:

1. The investigation of those reports;
2. The disposition, if any, of any disciplinary processes arising from those reports; and
3. The reports for which the institution determined not to initiate a disciplinary process, if any.

The Title IX coordinator or deputy Title IX coordinator of a postsecondary educational institution shall immediately report to the institution's chief executive officer an incident reported to the coordinator under Section 3.5 if the coordinator has cause to believe that the safety of any person is in imminent danger as a result of the incident.

Education Code 51.253(a)–(b); 19 TAC 3.6(a)–(b)

Chief Executive
Officer

At least once annually, during each fall or spring semester, the chief executive officer of a postsecondary educational institution shall submit to the institution's governing body and post on the institution's internet website a report concerning the reports received under 19 Administrative Code 3.5. The chief executive officer report may not identify any person and must include:

1. The number of reports received under Section 3.5;
2. The number of investigations conducted as a result of those reports;
3. The disposition, if any, of any disciplinary processes arising from those reports;
4. The number of those reports for which the institution determined not to initiate a disciplinary process, if any; and
5. Any disciplinary actions taken under 19 Administrative Code 3.8.

If for any semester a postsecondary educational institution has fewer than 1,500 enrolled students, the chief executive officer of the institution shall submit and post a report required for that semester only if more than five reports were received under 19 Administrative Code 3.5 during that semester.

Education Code 51.253(c)–(d); 19 TAC 3.6(c)–(d)

Investigations

Request Not to Investigate

If an alleged victim of an incident of sexual harassment, sexual assault, dating violence, or stalking reported to a postsecondary educational institution requests the institution not to investigate the alleged incident, the institution may investigate the alleged incident in a manner that complies with the confidentiality requirements under Education Code 51.291 and 19 Administrative Code 3.17. In determining whether to investigate the alleged incident, the institution shall consider:

1. The seriousness of the alleged incident;
2. Whether the institution has received other reports of sexual harassment, sexual assault, dating violence, or stalking committed by the alleged perpetrator or perpetrators;
3. Whether the alleged incident poses a risk of harm to others; and
4. Any other factors the institution determines relevant.

If a postsecondary educational institution decides not to investigate an alleged incident of sexual harassment, sexual assault, dating violence, or stalking based on the alleged victim's request not to investigate, the institution shall take any reasonable steps the institution determines necessary and consistent with the institution's policy and applicable law to protect the health and safety of the institution's community in relation to the alleged incident.

Education Code 51.285(a)–(b); 19 TAC 3.9(a)–(b)

Notice of Decision

A postsecondary educational institution shall inform an alleged victim of an incident of sexual harassment, sexual assault, dating violence, or stalking who requests the institution not to investigate the alleged incident of the institution's decision whether to investigate the alleged incident. *Education Code 51.285(c); 19 TAC 3.9(c)*

Confidentiality

Unless waived in writing by the person, the identity of a person described below is confidential and not subject to disclosure under the Public Information Act (PIA) and may be disclosed only to:

1. Persons employed by or under contract with the postsecondary educational institution to which the report is made who are

necessary to conduct an investigation or the report or any related hearings;

2. A law enforcement officer as necessary to conduct a criminal investigation of the report;
3. A health-care provider in an emergency, as determined necessary by the institution;
4. The person or persons alleged to have perpetrated the incident, to the extent required by other law; and
5. Potential witnesses to the incident as necessary to conduct an investigation of the report and to the extent required by other law.

The protections provided by this section apply to:

1. An alleged victim;
2. A person who reports an incident to an institution;
3. A person who sought guidance from the institution concerning an incident;
4. A person who participated in the institution's investigation of an incident; or
5. A person who is alleged in a report made to an institution to have committed or assisted in the commission of sexual harassment, sexual assault, dating violence, or stalking, if after completing an investigation, the institution determines the report to be unsubstantiated or without merit.

Education Code 51.256, .291(a), (c); 19 TAC 3.17

Retaliation
Prohibited
Employees

A postsecondary educational institution may not discipline or otherwise discriminate against an employee who in good faith makes a report as required by 19 Administrative Code 3.5 or cooperates with an investigation, a disciplinary process, or a judicial proceeding relating to a required report made by the employee. *Education Code 51.257(a); 19 TAC 3.18(a)*

Exception

The prohibition does not apply to an employee who:

1. Reports an incident of sexual harassment, sexual assault, dating violence, and stalking perpetrated by the employee; or
2. Cooperates with an investigation, a disciplinary process, or a judicial proceeding relating to an allegation that the employee perpetrated an incident of sexual harassment, sexual assault, dating violence, and stalking.

Education Code 51.257(b); 19 TAC 3.18(b)

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| <i>Any Person</i> | A person acting in good faith who reports or assists in the investigation of a report of an incident described by 19 Administrative Code 3.5 or who testifies or otherwise participates in a disciplinary process or judicial proceeding arising from a report of such an incident may not be subjected to any disciplinary action by the postsecondary educational institution at which the person is enrolled or employed for any violation by the person of the institution's policy or code of conduct reasonably related to the incident for which suspension or expulsion from the institution is not a possible punishment. This provision does not apply to a person who perpetrates or assists in the perpetration of the incident reported under Section 3.5. <i>Education Code 51.254; 19 TAC 3.5(e)–(f)</i> |
| <i>Awareness Orientation on Policy</i> | Each postsecondary educational institution shall require each entering freshman or undergraduate transfer student to attend an orientation on the institution's sexual harassment, sexual assault, dating violence, and stalking policy before or during the first semester or term of enrollment at the institution. The institution shall establish the format and content of the orientation. The orientation may be provided online and must include the statements described by 19 Administrative Code 3.4(a)(5). <i>Education Code 51.282(c); 19 TAC 3.4(c)</i> |
| <i>Prevention and Outreach Program</i> | <p>Each postsecondary educational institution shall develop and implement a comprehensive prevention and outreach program on sexual harassment, sexual assault, dating violence, and stalking for enrolled students and employees of the institution. The program must:</p> <ol style="list-style-type: none"> 1. Address a range of strategies to prevent sexual harassment, sexual assault, dating violence, and stalking, including a public awareness campaign; a victim empowerment program; primary prevention; bystander intervention; and risk reduction; and 2. Provide students with information regarding the protocol for reporting incidents of sexual harassment, sexual assault, dating violence, and stalking, including the name, office location, and contact information of the institution's Title IX coordinator, by: <ol style="list-style-type: none"> a. Emailing the information to each student at the beginning of each semester or other academic term; and b. Including the information in the institution's orientation, which may be provided online. <p><i>Education Code 51.282(d); 19 TAC 3.4(d)</i></p> |

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| Equal Access | <p>In implementing the requirements under 19 Administrative Code Chapter 3, Subchapter A, a postsecondary educational institution shall, to the greatest extent practicable, ensure equal access for students enrolled at or employees of the institution who are persons with disabilities. The institution shall make reasonable efforts to consult with a disability services office of the institution, advocacy groups for people with disabilities, and other relevant stakeholders to assist the institution with complying with the institution's duties under this section. <i>Education Code 51.293; 19 TAC 3.16</i></p> |
| Memoranda of Understanding | <p>To facilitate effective communication and coordination regarding allegations of sexual harassment, sexual assault, dating violence, and stalking at the institution, a postsecondary educational institution shall enter into one or more memoranda of understanding with an entity from one or more of the following categories:</p> <ol style="list-style-type: none"> 1. Local law enforcement agencies; 2. Sexual harassment, sexual assault, dating violence, or stalking advocacy groups; and 3. Hospitals or other medical resource providers. <p><i>Education Code 51.289; 19 TAC 3.13</i></p> |
| Compliance | <p>The chief executive officer of each postsecondary educational institution shall annually certify in writing to the Coordinating Board, in October of each year, that the institution is in substantial compliance with Education Code Chapter 51, Subchapter E-2. The Coordinating Board shall make available to institutions a required template for the certification, which satisfies the requirements of this section.</p> <p>If the Coordinating Board determines that a postsecondary educational institution is not in substantial compliance with Subchapter E-2 and Education Code Chapter 51, Subchapter E-3, the Coordinating Board may assess an administrative penalty against the institution in an amount not to exceed \$2 million. In determining the amount of the penalty, the Coordinating Board shall consider the nature of the violation and the number of students enrolled at the institution.</p> <p>If the Coordinating Board assesses an administrative penalty against a postsecondary educational institution, the Coordinating Board shall provide to the institution written notice of the Coordinating Board's reasons for assessing the penalty. A postsecondary educational institution assessed an administrative penalty may appeal the penalty in the manner provided by Government Code Chapter 2001. A postsecondary educational institution may not pay the administrative penalty using state or federal money.</p> <p><i>Education Code 51.258(a)–(e), .292(a)–(d); 19 TAC 3.19(a)–(e)</i></p> |

Note: This policy addresses complaints of sex discrimination, sexual harassment, sexual assault, dating violence, domestic violence, stalking, and retaliation targeting students. For additional legally referenced material relating to discrimination, harassment, and retaliation, see FA(LEGAL). For sex discrimination, sexual harassment, sexual assault, dating violence, domestic violence, stalking, and retaliation targeting employees, see DIAA.

**Statement of
Nondiscrimination**

The College District prohibits discrimination, including harassment, against any student on the basis of sex or gender. Retaliation against anyone involved in the complaint process is a violation of College District policy and is prohibited.

Definitions

Discrimination

Discrimination against a student is defined as conduct directed at a student on the basis of sex or gender that adversely affects the student.

Sexual Harassment
By an Employee

Sexual harassment of a student by a College District employee includes unwelcome sexual advances; requests for sexual favors; sexually motivated physical, verbal, or nonverbal conduct; or other conduct or communication of a sexual nature when:

1. A College District employee causes the student to believe that the student must submit to the conduct to participate in a college program or activity, or that the employee will make an educational decision based on whether or not the student submits to the conduct; or
2. The conduct is so severe, persistent, or pervasive that it limits or denies the student's ability to participate in or benefit from the College District's educational program or activities.

By Others

Sexual harassment of a student, including harassment committed by another student, includes unwelcome sexual advances; requests for sexual favors; or sexually motivated physical, verbal, or nonverbal conduct when the conduct is so severe, persistent, or pervasive that it limits or denies a student's ability to participate in or benefit from the College District's educational program or activities.

Sexual Violence

Sexual violence is a form of sexual harassment. Sexual violence includes physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the victim's use of drugs or alcohol or due to an intellectual or other disability.

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.

*Domestic
Violence*

“Domestic violence” means violence committed by:

- A current or former spouse or intimate partner of the victim;
- A person with whom the victim shares a child in common;
- A person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
- Any other member of the victim’s family as defined by state law;
- Any other current or former member of the victim’s household as defined by state law;
- A person in a dating relationship with the victim as defined by state law; or
- Any other person who acts against the victim in violation of the family violence laws of this state or the jurisdiction where the conduct occurs.

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.

Examples

Examples of sexual harassment of a student may include sexual advances; touching intimate body parts or coercing physical contact that is sexual in nature; jokes or conversations of a sexual nature; rape; sexual assault as defined by law; sexual battery; sexual coercion; and other sexually motivated conduct, communications, or contact.

Examples may also include forms of dating violence, domestic violence, or stalking, such as physical or sexual assaults; name-calling; put-downs; or threats directed at the student, the student's family members, or members of the student's household; destroying the student's property; threatening to commit suicide or homicide if the student ends the relationship; tracking the student; attempting to isolate the student from friends and family; threatening a student's spouse or partner; or encouraging others to engage in these behaviors.

Gender-Based Harassment

Gender-based harassment includes physical, verbal, or nonverbal conduct based on the student's gender, the student's expression of characteristics perceived as stereotypical for the student's gender, or the student's failure to conform to stereotypical notions of masculinity or femininity. For purposes of this policy, gender-based harassment is considered prohibited harassment if the conduct is so severe, persistent, or pervasive that the conduct limits or denies a student's ability to participate in or benefit from the College District's educational program.

Acts of gender-based harassment may also be considered sex discrimination or sexual harassment.

Examples

Examples of gender-based harassment directed against a student, regardless of the student's or the harasser's actual or perceived sexual orientation or gender identity, may include offensive jokes, name-calling, slurs, or rumors; physical aggression or assault; threatening or intimidating conduct; or other kinds of aggressive conduct such as theft or damage to property.

Prohibited Conduct

In this policy, the term "prohibited conduct" includes discrimination, harassment, dating violence, domestic violence, stalking, and retaliation as described by this policy, even if the behavior does not rise to the level of unlawful conduct.

Complainant

In this policy, the term "complainant" refers to an applicant for admission or a student who is alleged to have experienced prohibited conduct. The term also includes a former student who is alleged to have experienced prohibited conduct while participating, or attempting to participate, in the College District's educational program or activity.

Respondent

In this policy, the term "respondent" refers to a person who is alleged to have committed prohibited conduct.

Confidential Employee

A "confidential employee" is a person who holds a professional license requiring confidentiality, such as a counselor or medical provider, who is supervised by such a person, or a person who is a

nonprofessional counselor or advocate designated in administrative procedures as a confidential source.

Reporting Procedures

Student Report

A victim of prohibited conduct has the right to report the incident to the College District and to receive a prompt and equitable resolution of the report.

Any student who believes that he or she has experienced prohibited conduct or believes that another student has experienced prohibited conduct should immediately report the alleged acts to the Title IX coordinator, the College President, or another employee. A report against the College President may be made directly to the Board. If a report is made directly to the Board, the Board shall appoint an appropriate person to conduct an investigation. A student shall not be required to report prohibited conduct to the person alleged to have committed the conduct.

Alternatively, a student may submit the report electronically through the College District's website. The submission of an anonymous electronic report may impair the College District's ability to investigate and address the prohibited conduct.

A victim of a crime has the right to choose whether to report the crime to law enforcement, to be assisted by the College District in reporting the crime to law enforcement, or to decline to report the crime to law enforcement.

It is important that a victim of prohibited conduct go to a hospital for treatment and preservation of evidence, if applicable, as soon as practicable after the incident.

Exception

Absent consent or unless required by law, a student designated in administrative regulations as a student advocate to whom another student may speak confidentially concerning prohibited conduct may not disclose any communication made by the other student.

Employee Report

Any College District employee who suspects or receives notice that a student or group of students has or may have experienced prohibited conduct, regardless of when or where the incident occurred, shall immediately notify the Title IX coordinator and shall take any other steps required by this policy. Additionally, the employee may report to the College President or designee.

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

Exceptions

Disclosure at Event

A person who received the information solely from a disclosure at a sexual harassment, sexual assault, dating violence, or stalking public awareness event sponsored by a postsecondary educational

institution or by a student organization affiliated with the institution is not required to report the prohibited conduct unless the person has the authority to institute corrective measures on behalf of the College District.

Employee
Subject to
Confidentiality
Rules

Absent the student's consent, or unless required by law, a confidential employee shall only be required to disclose the type of incident reported and may not disclose information that would violate the student's expectation of privacy. If multiple confidential employees receive information about the same alleged incident, then only one report disclosing the type of incident must be submitted.

Prior Report

A person who has either learned of an incident of prohibited conduct during the course of the College District's review or process, or has confirmed with the person or office overseeing the review or process that the incident has been previously reported, is not required to report the prohibited conduct.

Title IX Coordinator

Reports of discrimination based on sex, including sexual harassment and gender-based harassment, may be directed to the Title IX coordinator. The College District designates the following person to coordinate its efforts to comply with Title IX of the Education Amendments of 1972, as amended, and related state and federal laws:

Title IX Coordinator: [Dr. Kenneth Gonzalez, vice president of student & enrollment services](#)

Address: [PO Box 20500](#)
[El Paso texas 79998-0500](#)

Telephone: [915-831-2640](#)

Email: kgonz179@epcc.edu

Webpage: [Title IX/Sexual Misconduct webpage¹](#)

Responsible Employees

All employees, with the exception of confidential employees, are designated as responsible employees for purposes of compliance with Title IX.

Timely Reporting

A failure to immediately report prohibited conduct may impair the College District's ability to investigate and address the conduct.

Consolidate Reports

When the allegations underlying two or more reports arise out of the same facts or circumstances, the College District may consolidate the reports.

Advisor

Each party to the complaint may be assisted by an advisor of the party's choice who may participate in the proceedings in a manner consistent with College District procedures.

Conflict of Interest Prohibited

No person designated as the Title IX coordinator, a deputy Title IX coordinator, an investigator, a decision-maker, or a facilitator of an informal resolution process shall have a conflict of interest or bias.

Training

A person designated as the Title IX coordinator, a deputy Title IX coordinator, an investigator, a decision-maker, or a facilitator of an informal resolution process shall receive training as required by law and College District procedures.

Days

"Days" shall mean College District business days, unless otherwise noted. In calculating timelines under this policy, the day a document is filed is "day zero." The following business day is "day one."

Extension of Timelines

Timelines established by this policy and associated procedures may be subject to a limited extension if good cause, as defined in this policy and College District regulations, exists. The College District shall promptly provide written notice to the parties of an extension and the reason for the extension.

Investigation of the Report

The College District may request, but shall not require, a written report. If a report is made orally, the Title IX coordinator or designee shall reduce the report to written form.

Initial Assessment

Upon receipt or notice of a report, the Title IX coordinator shall determine whether the allegations, if proven, would constitute prohibited conduct as defined by this policy. If so, the Title IX coordinator shall promptly offer supportive measures to the complainant. The Title IX coordinator shall explain the process for filing a formal complaint and assess any request not to investigate. If the College District moves forward with the investigation, the Title IX coordinator shall immediately provide notice to the known parties to the complaint.

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

Request Not to Investigate

The complainant may request that the College District not investigate the allegations. If the complainant requests that the allegations not be investigated, in deciding whether to initiate the investigation, the College District must consider the factors described by law and any other factors the College District considers relevant.

The College District shall promptly notify the complainant of the decision regarding whether it will conduct the investigation. If the College District decides not to investigate the allegations, the College District shall take reasonable steps to protect the health and safety of the College District community.

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| Formal Complaint | To be considered a formal complaint under Title IX, the complainant or the Title IX coordinator must sign the written report. |
| Notice to Parties | <p>The notice to the parties must describe the allegations and the formal and informal options for resolution of the complaint. The notice must state that the respondent is presumed not responsible until a determination regarding responsibility is made. The notice must also include information regarding the option to select an advisor, the opportunity to inspect and review evidence, and the prohibition on knowingly making false statements or submitting false information during the investigation and any ensuing proceedings.</p> <p>If the allegations are subsequently amended, the College District shall provide an updated notice reflecting the new allegations.</p> |
| Informal Resolution | The College District may offer to the parties a process for the informal resolution of a formal complaint as defined by law. If the parties voluntarily agree in writing to participate in informal resolution of the complaint, the Title IX coordinator shall determine within three days if informal resolution is appropriate for the complaint. If the Title IX coordinator determines that informal resolution is appropriate, then the Title IX coordinator or designee may facilitate that resolution within ten days. If the Title IX coordinator does not determine informal resolution to be appropriate, then the complaint will be subject to the formal resolution process. This process is not available in situations where an employee is alleged to have sexually harassed a student. |
| Formal Resolution | If the complaint is not subject to the informal resolution process, the Title IX coordinator shall authorize or undertake an investigation, except as provided below at Criminal or Regulatory Investigation. |
| Supportive Measures | If appropriate and regardless of whether a criminal or regulatory investigation regarding the alleged conduct is pending, the Title IX coordinator shall promptly provide supportive measures intended to address prohibited conduct, protect the safety of the parties and others, and protect the parties from retaliation prior to the completion of the investigation. Examples of possible supportive measures include academic accommodations, such as extensions of deadlines or other course-related adjustments and modifications of class schedules; housing and dining modifications; temporary removal from an education program or activity in accordance with |

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| College District Investigation | law; counseling; health services; campus escort services; mutual restrictions on contact between the parties; and increased security and monitoring of certain areas of the campus. |
| | The investigation may be conducted by the Title IX coordinator or designee or by a third party designated by the College District, such as an attorney. |
| | The investigation may consist of personal interviews with the complainant, the respondent, and others with knowledge of the circumstances surrounding the allegations. The investigation may also include analysis of other information or documents related to the allegations. |
| | The parties shall be provided an equal opportunity to present witnesses and evidence and to inspect and review any directly related evidence obtained by the College District so that the parties may meaningfully respond during the investigation process. The parties expected to participate in an investigative interview or other meeting shall be provided written notice in enough time to prepare to participate. |
| | At least ten days prior to the completion of the investigation report, the College District must send each party and the party's advisor evidence subject to inspection and review. The parties may submit a written response for consideration by the investigator. |
| Criminal or Regulatory Investigation | If a law enforcement or regulatory agency notifies the College District that a criminal or regulatory investigation has been initiated, the College District shall confer with the agency to determine if the College District's investigation would impede the criminal or regulatory investigation. The College District shall proceed with its investigation only to the extent that it does not impede the ongoing criminal or regulatory investigation. After the law enforcement or regulatory agency has completed gathering its evidence, the College District shall promptly resume its investigation. Any delay under this provision shall constitute good cause for an extension of timelines established by this policy and associated procedures. |
| Concluding the Investigation | The investigation shall be completed within a reasonable time, not to exceed 30 days from the date of the report. |
| | The investigator shall prepare a written report of the investigation. The investigation report shall be filed with the Title IX coordinator within five days following the completion of the investigation. |
| Notification of the Report | The Title IX coordinator shall provide the investigation report, within the extent permitted by the Family Educational Rights and Privacy Act (FERPA) or other law, to the complainant and the respondent |

promptly following receipt. The parties shall be given ten days to respond to the report.

**College District
Action**

The Title IX coordinator shall submit the investigation report and any response from the parties to the College District's arbitration attorney promptly after receipt of the parties' response but no later than the expiration of the parties' deadline to respond.

The College District's arbitration attorney or designee shall summon the parties for a hearing to be held within a reasonable time, not to exceed ten days, following the receipt of the investigation report. The hearing shall be conducted in accordance with law and College District procedures.

After the hearing, the College District's arbitration attorney or designee shall determine whether each individual allegation of prohibited conduct occurred using a preponderance of the evidence standard and determine the appropriate disciplinary or corrective action. In making the determination, the College District's arbitration attorney or designee shall evaluate all relevant evidence objectively and shall not make credibility assessments based on a person's status as the complainant, the respondent, or a witness. The College District's arbitration attorney or designee shall create a written determination regarding responsibility in accordance with law and College District procedures within five days following the hearing and submit the determination to the parties simultaneously.

**Disciplinary or
Corrective Action**

If the College District's arbitration attorney or designee determines that prohibited conduct occurred, the College District shall promptly respond by taking appropriate disciplinary or corrective action reasonably calculated to address the conduct.

Examples of disciplinary or corrective action may include:

- Implementing the disciplinary measures described in FM for students or DH and DM series for employees;
- Providing a training program for those involved in the complaint;
- Providing a comprehensive education program for the College District community;
- Providing counseling for the victim and the party who engaged in prohibited conduct;
- Permitting the victim or student who engaged in the prohibited conduct to drop a course in which they both are enrolled without penalty;

- Conducting follow-up inquiries to determine if any new incidents or any instances of retaliation have occurred;
- Involving students in efforts to identify problems and improve the College District climate;
- Increasing staff monitoring of areas where prohibited conduct has occurred;
- Reaffirming the College District's policy against discrimination and harassment; and
- Taking other actions described in College District regulations.

Exception

The College District shall minimize attempts to require a complainant to resolve the problem directly with the person who engaged in the harassment; however, if that is the most appropriate resolution method, the College District shall be involved in an appropriate manner. In no event may a student be required to resolve a complaint of sexual harassment by an employee directly with the employee.

Improper Conduct

If the College District's arbitration attorney or designee determines that improper conduct occurred that did not rise to the level of prohibited conduct, the College District may take disciplinary action in accordance with College District policy and procedures or other corrective action reasonably calculated to address the conduct.

Dismissal of Complaint

Mandatory Dismissal

An allegation presented as a formal complaint under Title IX is subject to the mandatory dismissal procedures under law.

Permissive Dismissal

Any complaint may be dismissed at any time on request of a complainant. The Title IX coordinator must first assess the request in accordance with this policy at Request Not to Investigate, above.

A complaint may also be dismissed if specific circumstances prevent the College District from gathering evidence sufficient to reach a determination as to the complaint or allegations.

Notice of Dismissal

Upon dismissal of a complaint, the Title IX coordinator or the College District's arbitration attorney or designee shall provide the parties written notice of the dismissal.

Confidentiality

To the greatest extent possible, consistent with law, the College District shall respect the privacy of the complainant or the respondent or a person who makes a report or serves as a witness. Limited disclosures may be necessary to carry out the purposes of this policy and associated regulations and to comply with applicable law.

Retaliation

The College District prohibits retaliation against any person for the purpose of interfering with a right or privilege under this policy; the complainant; or a person who, in good faith, makes a report or complaint, serves as a witness, or otherwise participates or refuses to participate in an investigation, proceeding, or hearing under this policy. This prohibition does not apply to discipline of a person who perpetrated or assists in the perpetration of the prohibited conduct.

A person who is alleged to have experienced retaliation may pursue a claim under this policy or policy DIAA, as appropriate.

Examples

Examples of retaliation may include threats, rumor spreading, ostracism, assault, destruction of property, unjustified punishments, or unwarranted grade reductions. Unlawful retaliation does not include petty slights or annoyances.

Failure to Report and False Claims

An employee who fails to make a required report or a student or employee who intentionally makes a false claim, offers a false statement, or refuses to cooperate with a College District investigation regarding prohibited conduct shall be subject to appropriate disciplinary action.

Appeal**Discipline or
Corrective Action****Students****Suspension**

If the College District's arbitration attorney or designee determines that a student committed prohibited conduct that warrants a suspension, the official shall forward the determination and all evidence collected during the investigation and hearing to the College President. A conference shall be scheduled within ten days of the notice of determination in accordance with FMA, beginning at Appeal to College District Administration.

Expulsion

If the College District's arbitration attorney or designee determines that the student committed prohibited conduct that warrants expulsion, the official shall forward the determination and all evidence collected during the investigation and hearing to the College President to schedule an expulsion hearing before the Board in accordance with FMA.

Other Action

If the College District's arbitration attorney or designee determines that the student committed prohibited conduct that warrants other discipline or corrective action, the College District's arbitration attorney or designee shall inform the student that the student may appeal the determination within ten days in accordance with FMA, beginning at Appeal to College District Administration.

FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION
SEX AND SEXUAL VIOLENCE

FFDA
(LOCAL)

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| <i>Employee</i> | If the College District's arbitration attorney or designee determines that a contract employee committed prohibited conduct that warrants suspension without pay or termination mid-contract, the College District's arbitration attorney or designee shall inform the employee in writing of the determination, and a Board hearing shall be scheduled in accordance with DMAA. |
| Suspension Without Pay or Termination of Contract Employees | |
| Other Action | If the College District's arbitration attorney or designee determines that the employee committed prohibited conduct that warrants other discipline or corrective action, the College District's arbitration attorney or designee shall inform the employee that the employee may appeal the determination within ten days in accordance with DGBA, beginning at Level Three. |
| Other Appeals | All other appeals related to this policy may be submitted through the applicable grievance policy beginning at the appropriate level. [See DGBA(LOCAL) for employees, FLD(LOCAL) for students, and GB(LOCAL) for community members] |
| Complaints Filed with OCR | A party shall be informed of his or her right to file a complaint with the U.S. Department of Education Office for Civil Rights (OCR). |
| Records Retention | Retention of records shall be in accordance with the College District's records retention procedures. [See CIA] |
| Access to Policy, Procedures, and Related Materials | Information regarding this policy and any accompanying procedures, as well as relevant educational and resource materials concerning the topics discussed in this policy, shall be distributed to applicants for admission and employment and annually to College District employees, students, and parents or guardians of dual credit students in compliance with law and in a manner calculated to provide easy access and wide distribution, such as through electronic distribution and inclusion in the employee and student handbooks and other major College District publications. Information regarding the policy, procedures, and related materials and any materials used to train a person designated as the Title IX coordinator, a deputy Title IX coordinator, an investigator, a decision-maker, or a facilitator shall also be prominently published on the College District's website on a dedicated page accessible through a clear link on the homepage, taking into account applicable legal requirements. Copies of the policy and procedures shall be readily available at the College District's administrative offices and shall be distributed to a student who makes a report. |

¹ Title IX/Sexual Misconduct webpage: [\[C T9 \(students\) webpage\]](#)

BOARD POLICY ABSTRACT

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| Policy to be Considered: Registered Student Organizations. | | Policy #: FKC (Legal) and FKC (Local) |
| Policy Section: Students | <input checked="" type="checkbox"/> New | <input type="checkbox"/> Revision |
| Action: <input checked="" type="checkbox"/> For information only (<input checked="" type="checkbox"/> 1 st Reading) <input type="checkbox"/> For Adoption (<input type="checkbox"/> 2 nd Reading and/or Approval) | | |
| Resource Person: Julie Penley | | |
| Purpose: To transition EPCC Board Policies to the Texas Association of School Boards (TASB) format and organizational system. EPCC's Board of Trustees authorized Dr. Serrata to begin this work and execute four TASB agreements at its October 2019 Regular Meeting, including the Community College Policy On-Line Service Agreement and the Community College Localization Agreement. | | |
| Explanation: FKC (Legal) is the statutory context for requiring post-secondary educational institutions to provide a risk management program to registered student organizations. It is provided for information only, as no Board action is ever required for TASB Legal Policies. FKC (Local) is the College-specific supplement to FKC (Legal), addressing the College's process for students to register and seek College recognition for their organization. TASB Local Policies do require Board of Trustees action. FKC (Local) is submitted to the Board of Trustees today for review and comment; it will be presented at a future Board of Trustees meeting for a 2 nd Reading and possible approval and adoption. | | |
| Recommendation: Review and comment by the Board of Trustees – FKC (Local) only. | | |

STUDENT ACTIVITIES
REGISTERED STUDENT ORGANIZATIONS

FKC
(LEGAL)

**Risk Management
Programs for
Student
Organizations**

This section applies only to a student organization that is registered at a postsecondary educational institution, including a college district, and that is composed mostly of students enrolled at the institution. Notwithstanding Education Code 1.001(a), this section applies to each postsecondary educational institution at which one or more student organizations is registered.

At least once during each academic year, a postsecondary educational institution shall provide a risk management program for members of student organizations registered at the institution. Any member of a student organization who is not otherwise required to attend may attend the program.

Unless a postsecondary educational institution requires each student organization registered at the institution to have representatives attend a program under this section, the institution shall adopt a policy that specifies one or more student organizations or types of student organizations that are required to have representatives attend. The selection of student organizations or types of student organizations must be based on the institution's determination that those organizations could particularly benefit from risk management guidance.

Education Code 51.9361(b)–(d)

**Mandatory
Attendance**

Each adviser who has not previously attended a program under this section and each person serving in a designated officer position of a student organization that is required to have representatives attend a program shall attend the program. An institution may allow an adviser, other than a faculty or staff member of the institution, to satisfy the attendance requirements prescribed by this subsection through completion of an appropriate computer-based risk assessment program. "Adviser" means a person who serves in an advisory capacity to a student organization to provide guidance to the organization and its members; is older than 21 years of age; and is not a student of the postsecondary educational institution at which the student organization is registered.

The institution may designate not more than four officer positions of a student organization, such as the president, membership chair, risk management chair, social chair, or pledge class or new member chair, to attend the program. If a student organization does not have an officer position described above or if such an officer position is vacant, the institution shall, to the extent practicable, identify and designate an equivalent officer position, and the person serving in that officer position shall attend the program.

Education Code 51.9361(a)(1), (d)–(e)

STUDENT ACTIVITIES
REGISTERED STUDENT ORGANIZATIONSFKC
(LEGAL)

Report at Meeting Each adviser or officer required to attend a program shall report on the program's contents at a meeting of the full membership of the student organization the adviser or officer represented at the program. *Education Code 51.9361(f)*

Program Content A program under this section may address any issue determined appropriate by the postsecondary educational institution and must address:

1. Possession and use of alcoholic beverages and illegal drugs, including penalties that may be imposed for possession or use;
2. Hazing;
3. Sexual abuse and harassment;
4. Fire and other safety issues, including the possession and use of a firearm or other weapon or of an explosive device;
5. Travel to a destination outside the area in which the institution is located;
6. Behavior at parties and other events held by a student organization;
7. Adoption by a student organization of a risk management policy; and
8. Issues regarding persons with disabilities, including a review of applicable requirements of federal and state law, and any related policies of the institution, for providing reasonable accommodations and modifications to address the needs of students with disabilities, including access to the activities of the student organization.

Education Code 51.9361(g)

Notice and Attendance The postsecondary educational institution shall provide notice of a program under this section to student organizations in the manner determined by the institution. The postsecondary educational institution shall take attendance at the program in the manner determined appropriate by the institution and may, as provided by a policy adopted by an institution, impose reasonable sanctions on a person who is required to attend the program and fails to attend.

The institution shall, until at least the third anniversary of the date of the program, maintain in an appropriate location at the institution a record of that attendance and of the provided notice.

Education Code 51.9361(h)–(i)

**Overdose
Awareness and
Response Training**

A public or private institution of higher education, including a college district, that imposes any mandatory training requirements on officers of student organizations must ensure that overdose awareness and appropriate response training is included with that training.

"Student organization" includes any organization that is composed mostly of students enrolled at a public or private institution of higher education and that is registered with the institution; receives student organization resource fee revenues or other funding from the institution; or is otherwise recognized as a student organization by the institution.

Education Code 51.9362

Recognition

Recognition of student groups shall not be denied on the basis of the views expressed by the group. Recognition of student groups may be denied if they violate reasonable campus rules, interrupt classes, substantially interfere with the opportunity of other students to obtain an education, or if it is reasonable to believe that the group poses a substantial threat of material disruption to the campus. Recognition may be withdrawn if the organization refuses to comply with any valid campus rules. *Healy v. James, 408 U.S. 169 (1972)*

**Discrimination on
the Basis of
Disability**

A recipient, including a college district, of federal funding that provides significant assistance to fraternities, sororities, or similar organizations shall assure itself that the membership practices of such organizations do not permit discrimination otherwise prohibited by 34 C.F.R. Part 104, Subpart E. *34 C.F.R. 104.47(c)*

Sales**Sales Tax
Exemption**

A taxable item sold by a qualified student organization and for which the sales price is \$5,000 or less, is exempted from the taxes imposed by Tax Code Chapter 151, Subchapter C, except that a taxable item manufactured by or donated to the organization is exempt from the taxes imposed by Tax Code Chapter 151, Subchapter C regardless of sales price unless sold to the donor, if the student organization:

1. Sells the items at a sale that may last for one day only and the primary purpose of which is to raise funds for the organization; and
2. Holds not more than one sale described above each month for which the exemption is claimed for an item sold.

In each calendar year, the first \$5,000 of a qualified student organization's total receipts from sales of taxable items not otherwise exempt is exempt from the taxes imposed by Tax Code Chapter 151, Subchapter C.

Tax Code 151.321(a)-(b)

STUDENT ACTIVITIES
REGISTERED STUDENT ORGANIZATIONS

FKC
(LEGAL)

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| <i>To Qualify</i> | <p>A student organization qualifies for the exemptions if the student organization:</p> <ol style="list-style-type: none"> 1. Is affiliated with an institution of higher education or a private or independent college or university that is located in this state and that is accredited by a recognized accrediting agency; 2. Has as its primary purpose a purpose other than engaging in business or performing an activity designed to make a profit; and 3. Files a certification with the comptroller as described below. <p><i>Tax Code 151.321(c)</i></p> |
| Use Tax Exemption | <p>The storage, use, or consumption of a taxable item acquired tax-free under this section is exempted from the use tax imposed by Tax Code Chapter 151, Subchapter D until the item is resold or subsequently transferred. <i>Tax Code 151.321(e)</i></p> |
| Certification | <p>A student organization must file with the comptroller a certification issued by the institution showing that the organization is affiliated with the institution. <i>Tax Code 151.321(d)</i></p> |
| Raffles | <p>An institution of higher education shall allow a qualified organization that is a student organization recognized by the institution to sell raffle tickets at any facility of the institution, subject to reasonable restrictions on the time, place, and manner of the sale. [See FI] <i>Occupations Code 2002.057</i></p> |

An organization in which membership is limited to students, staff, and faculty may become a registered student organization by complying with the registration procedures established by the director of student leadership and campus life.

Registered student organizations shall abide by College District policies and procedures and applicable law. Registered status shall not imply that the College District endorses a student organization's opinions and activities.

**Registration
Required**

An eligible group of students shall be entitled to register as a student organization. Approval for registration of an organization on any one campus or center shall be effective College District-wide.

Eligibility

A group shall be eligible for registration if:

1. Its membership consists of seven or more students.
2. It does not deny membership to anyone on the basis of sex, disability, age, color, race, nationality, or religion.
3. It has an adviser who is a member of the faculty or the staff.
4. It is not under a disciplinary penalty prohibiting registration.
5. It conducts its affairs in accordance with College District policies, procedures, rules, and regulations; as well as with local, state, and federal laws.
6. Its membership is limited only to students, staff, and faculty of the College District.

Regardless of the above criteria, the College District shall not deny an application for registration based on a political, religious, philosophical, ideological, or academic viewpoint expressed by the organization or any expressive activities of the organization.

**Rejection of
Application**

If the director of student leadership and campus life does not approve the application for registration, he or she shall provide the applicant with a copy of a written statement of the reasons for refusal, and the applicant may appeal to the College President.

The College President may take one of the following actions:

1. Affirm the director of student leadership and campus life's decision.
2. Reverse the director of student leadership and campus life's decision.

3. Appoint a committee to conduct a hearing and report its findings to the applicant and the **College President**, who shall then take final action.

The **College President's** decision may be appealed to the Board.

Rights and Duties

Each registered student organization shall adopt a written charter, constitution, or other governing document. A copy shall be filed with the College District.

A registered student organization may conduct meetings, events, performances, and similar activities in accordance with College District facilities use policies and procedures. [See FLA] The organization shall not advertise, promote, or represent that an event or activity is associated with the College District unless prior approval is obtained in accordance with applicable procedures. [See FK]

A registered student organization may distribute written or printed materials or other visual or auditory materials in accordance with College District literature distribution policies and procedures. [See FLA] The organization may not represent that visual or auditory materials are sponsored by the College District unless prior approval is obtained in accordance with applicable procedures. [See FKA]

In accordance with state law, officers of a registered student organization shall attend a risk management program provided by the College District.

Required Submissions

Each registered student organization shall submit the following:

1. At the beginning of each semester, a complete list of officers or other representatives of the organization who are authorized to receive official notices, directives, or information from the College District on behalf of the organization. The list shall be kept current and accurate by the organization.
2. At the beginning of each semester, an affidavit stating that the organization or group does not, and will not, accept any member who is not a student or a member of the faculty or staff of the College District.
3. A financial statement form supplied by the business office to be filed on the first workday of July and January.

Loss of Registration

Upon written notice, a student organization's registered status may be revoked by the **director of student leadership and campus life** if it:

1. No longer meets the eligibility requirements; or

2. Violates College District policies and procedures or local, state, or federal law.

A student organization whose registered status has been revoked may appeal to the College President, who may take appropriate action regarding the issue. If the organization is not satisfied with the decision, it may appeal that decision to the Board.

A student organization whose registered status has been revoked shall be prohibited from reapplying for registered status for a period described in the revocation notice. The prohibition shall be for a period of not less than four months following the date of the notice and may be permanent. The revocation shall be effective College District-wide.

Disciplinary Violations

In addition to the revocation of registered status, violations of College District policies and procedures or local, state, or federal law shall subject the student organization and its individual members to disciplinary action in accordance with policies FM and FMA.

BOARD POLICY ABSTRACT

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| Policy to be Considered: Student Expression and Use of College Facilities. | Policy #: FLA (Legal) and FLA (Local) |
| Policy Section: Students | <input checked="" type="checkbox"/> New <input type="checkbox"/> Revision |
| Action: <input checked="" type="checkbox"/> For information only (<input checked="" type="checkbox"/> 1 st Reading) <input type="checkbox"/> For Adoption (<input type="checkbox"/> 2 nd Reading and/or Approval) | |
| Resource Person: Julie Penley | |
| <p>Purpose: To transition EPCC Board Policies to the Texas Association of School Boards (TASB) format and organizational system. EPCC's Board of Trustees authorized Dr. Serrata to begin this work and execute four TASB agreements at its October 2019 Regular Meeting, including the Community College Policy On-Line Service Agreement and the Community College Localization Agreement.</p> <p>Explanation: FLA (Legal) is the statutory context for student expression in District facilities. It is provided for information only, as no Board action is ever required for TASB Legal Policies.</p> <p style="padding-left: 40px;">FLA (Local) is the College-specific supplement to FLA (Legal), addressing the College's process to request access to facilities and restrictions on student expression.</p> <p style="padding-left: 40px;">TASB Local Policies do require Board of Trustees action. FLA (Local) is submitted to the Board of Trustees today for review and comment; it will be presented at a future Board of Trustees meeting for a 2nd Reading and possible approval and adoption.</p> | |
| Recommendation: Review and comment by the Board of Trustees – FLA (Local) only. | |

Note: For information on employee expression on campus, see DGC. For information on community expression on campus, see GD. For use of the college district's mail system, see CHE.

First Amendment

A governmental entity, including a college district, shall take no action respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the board for a redress of grievances. *U.S. Const. Amend. I, XIV*

Forum Analysis

Traditional Public Forum

A "traditional public forum" includes locations, such as sidewalks and parks, where members of the public have historically been permitted to gather and speak on any topic. *Cornelius v. NAACP Legal Def. & Educ. Fund, Inc.*, 473 U.S. 788 (1985). An institution's property is not a traditional public forum, with the exception of sidewalks, streets, and parks that are indistinguishable from surrounding city property. *Widmar v. Vincent*, 454 U.S. 263 (1981); *Brister v. Faulkner*, 214 F.3d 675 (2000)

If an institution's property is deemed a traditional public forum, the entity may exclude particular content if that entity can assert a compelling governmental interest that is narrowly tailored to address that interest, a standard referred to as the "strict scrutiny" standard. The institution can also enforce viewpoint-neutral time, place, and manner restrictions to meet a compelling governmental interest if a sufficient number of alternative communication channels are available. *Perry Educ. Ass'n v. Perry Local Educators' Ass'n*, 460 U.S. 37 (1983)

Designated Public Forum

A "designated public forum" is a forum that a college or university intentionally opens to the general public to discuss matters of public concern. *Cornelius v. NAACP Legal Def. and Educ. Fund, Inc.*, 473 U.S. 788 (1985). Once designated, an institution may enforce reasonable time, place, and manner restrictions. *Widmar v. Vincent*, 454 U.S. 263 (1981). Any content limitations are subject to the strict scrutiny standard described above. *Chiu v. Plano Indep. School Dist.*, 260 F.3d 330 (5th Cir. 2001)

Limited Public Forum

A "limited public forum" is a forum that an institution opens to a particular group of speakers or for discussion regarding a particular topic. *Christian Legal Society v. Martinez*, 130 S.Ct. 2971 (2010); *Rosenberger v. Rector & Visitors of Univ. of Va.*, 515 U.S. 819 (1995). Within a limited public forum, limits on expression must be viewpoint-neutral and reasonable in light of the purpose of the forum. The government may impose reasonable time, place, and

manner restrictions, as long as these restrictions do not relate to the content of the expression. *Cornelius v. NAACP Legal Def. and Educ. Fund, Inc.*, 473 U.S. 788 (1985)

To distinguish between a designated public forum and a limited public forum, courts consider two factors: (1) the intent of the institution regarding the forum, and (2) the forum's nature and compatibility with particular speech. *Justice for All v. Faulkner*, 410 F.3d 760 (5th Cir. 2005); *Chiu v. Plano Indep. School Dist.*, 260 F.3d 330 (5th Cir. 2001)

Nonpublic Forum

If an institution has not opened a public forum, it remains a "non-public forum." Although limits on expression must be reasonable and viewpoint neutral even within a nonpublic forum, an institution will have greater discretion to control the content of speech within such a forum. *Cornelius v. NAACP Legal Def. and Educ. Fund, Inc.*, 473 U.S. 788 (1985)

Time, Place, and
Manner Restrictions

The mere dissemination of ideas on the campus of an institution of higher education may not be restricted on the basis of conventions of decency, regardless of how offensive those ideas are to good taste. However, an institution has the authority to enforce reasonable regulations as to the time, place, and manner of speech and its dissemination. *Papish v. Bd. of Curators*, 410 U.S. 667 (1973); *Healy v. James*, 408 U.S. 169 (1972)

**Protected
Expression on
Campus Under State
Law**

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

1. Ensure that the common outdoor areas of the institution's campus are deemed traditional public forums; and
2. Permit any person to engage in expressive activities in those areas of the institution's campus freely, as long as the person's conduct is not unlawful, and does not materially and substantially disrupt the functioning of the institution.

Education Code 51.9315(c)

Education Code 51.9315(c) and (d) do not limit the right of student expression at other campus locations or prohibit faculty members from maintaining order in the classroom. *Education Code 51.9315(e)*

Time, Place, and
Manner Restrictions

An institution of higher education may adopt a policy that imposes reasonable restrictions on the time, place, and manner of expressive activities in the common outdoor areas of the institution's campus if those restrictions:

1. Are narrowly tailored to serve a significant institutional interest;

2. Employ clear, published, content-neutral, and viewpoint-neutral criteria;
3. Provide for ample alternative means of expression; and
4. Allow members of the university community to assemble or distribute written material without a permit or other permission from the institution.

Education Code 51.9315(d)

Policy Required

By August 1, 2020, each institution of higher education shall adopt a policy detailing students' rights and responsibilities regarding expressive activities at the institution. The policy must:

1. Allow any person to, subject to reasonable restrictions adopted under Education Code 51.9315(d), engage in expressive activities on campus, including by responding to the expressive activities of others, and student organizations and faculty to, subject to Education Code 51.9315(h), invite speakers to speak on campus;
2. Establish disciplinary sanctions for students, student organizations, or faculty who unduly interfere with the expressive activities of others on campus;
3. Include a grievance procedure for addressing complaints of a violation of this section;
4. Be approved by a majority vote of the institution's governing board before final adoption; and
5. Be posted on the institution's internet website.

*Education Code 51.9315(f)*Discrimination
Prohibited

An institution of higher education may not take action against a student organization or deny the organization any benefit generally available to other student organizations at the institution on the basis of a political, religious, philosophical, ideological, or academic viewpoint expressed by the organization or of any expressive activities of the organization. *Education Code 51.9315(g)*

Approval of
Speaker or
Determination of
Fee

In determining whether to approve a speaker to speak on campus or in determining the amount of a fee to be charged for use of the institution's facilities for purposes of engaging in expressive activities, an institution of higher education:

1. May consider only content-neutral and viewpoint-neutral criteria related to the needs of the event, such as:

- a. The proposed venue and the expected size of the audience;
 - b. Any anticipated need for campus security;
 - c. Any necessary accommodations; and
 - d. Any relevant history of compliance or noncompliance by the requesting student organization or faculty member with the institution's policy adopted under Education Code 51.9315(f) and any other relevant policies; and
2. May not consider any anticipated controversy related to the event.

*Education Code 51.9315(h)*Employee
Awareness

Each institution of higher education shall develop materials, programs, and procedures to ensure that the institution's employees responsible for educating or disciplining students understand the requirements of this section and all policies adopted by the institution in accordance with this section. *Education Code 51.9315(j)*

Publication

Each institution of higher education shall make the institution's policies adopted in accordance with this section, available to students enrolled at and employees of the institution by including the policies in the institution's student handbook and personnel handbook, providing a copy of each policy to students during the institution's freshman or transfer student orientation, and posting the policies on the institution's internet website. *Education Code 51.9315(i)*

Report

Not later than December 1, 2020, each institution of higher education shall prepare, post on the institution's internet website, and submit to the governor and the members of the legislature a report regarding the institution's implementation of the requirements under this section. *Education Code 51.9315(k)*

Note: For expression and use of College District facilities and grounds by employees and employee organizations, see DGC. For expression and use of College District facilities and grounds by the community, including by nonstudents and organizations that are not registered student organizations, see GD.

Distribution of Literature

Written or printed materials, handbills, photographs, pictures, films, tapes, or other visual or auditory materials not sponsored by the College District shall not be sold, circulated, distributed, or posted on any College District premises by any College District student or registered student organization [see FKC], except in accordance with this policy.

The College District shall not be responsible for, nor shall the College District endorse, the contents of any materials distributed by students or registered student organizations that is not sponsored by the College District.

Materials distributed under the supervision of instructional personnel as a part of instruction or other authorized classroom activities shall not be governed by this policy.

Limitations on Content

Materials shall not be distributed by students or registered student organizations on College District property if:

1. The materials are obscene.
2. The materials contain defamatory statements about public figures or others.
3. The materials advocate imminent lawless or disruptive action and are likely to incite or produce such action.
4. The materials are considered prohibited harassment. [See DIAA, DIAB, FFDA, and FFDB]
5. The materials constitute nonpermissible solicitation. [See FI]
6. The materials infringe upon intellectual property rights of the College District. [See CT]

Time, Place, and Manner Restrictions

Distribution of the materials shall be conducted in a manner that:

1. Is not disruptive; [See FLB]
2. Does not impede reasonable access to College District facilities;
3. Does not result in damage to College District property;

4. Does not coerce, badger, or intimidate a person;
5. Does not interfere with the rights of others; and
6. Does not violate local, state, or federal laws or College District policies and procedures.

The distributor shall clean the area around which the literature was distributed of any materials that were discarded or leftover.

The **director of student leadership and campus life** shall designate times, locations, and means by which materials that are appropriate for distribution, as provided in this policy, may be made available or distributed by students or registered student organizations to students or others in College District facilities and in areas that are not considered common outdoor areas.

Posting of Signs

For the purposes of this policy, "sign" shall be defined as a billboard, decal, notice, placard, poster, banner, or any kind of hand-held sign; and "posting" shall be defined as any means used for displaying a sign.

Except for signs that violate the restrictions in this policy and administrative procedures, a student or registered student organization may publicly post a sign on College District property in common outdoor areas and in areas or locations designated by the **director of student leadership and campus life**. No object other than a sign may be posted on College District property.

Restrictions

A sign shall not be larger than 22 inches by 28 inches, unless authorized by the **director of student leadership and campus life**. A sign shall not be attached or posted:

1. To a shrub or plant;
2. To a tree, except by string to its trunk;
3. To a permanent sign installed for another purpose;
4. To a fence or chain or its supporting structure;
5. To a brick, concrete, or masonry structure;
6. To a statue, monument, or similar structure;
7. On or adjacent to a fire hydrant; or
8. In a College District building, except on a bulletin board designated for that purpose.

Removal

A student or registered student organization shall remove each sign not later than 14 days after posting or, if it relates to an event,

not longer than 24 hours after the event to which it relates has ended.

A sign posted in accordance with this section shall not be removed without permission from the director of student leadership and campus life, the student, or the registered student organization.

Disclaimer

Materials distributed by a registered student organization must include a disclaimer indicating that the materials are not sponsored by the College District and do not represent the views of the College District or College District officials, faculty, or staff.

Use of Facilities and Grounds

The facilities and grounds of the College District shall be made available to students or registered student organizations [see FKC] when such use does not conflict with use by, or any of the policies and procedures of, the College District. The requesting students or student organization shall pay all expenses incurred by their use of facilities in accordance with a fee schedule developed by the Board.

Requests

To request permission to meet or host a speaker in College District facilities, interested students or registered student organizations shall file a written request with the ASC events coordinator for events held at the Administrative Services Center, or with the campus dean for events held at an EPCC campus in accordance with administrative procedures.

The students or the registered student organization making the request shall indicate that they have read and understand the policies and rules governing use of College District facilities and that they will abide by those rules.

Approval

The ASC events coordinator/campus dean shall approve or reject the request in accordance with provisions and deadlines set out in this policy and administrative procedures, without regard to the religious, political, philosophical, ideological, academic viewpoint, or other content of the speech likely to be associated with the student's or registered student organization's use of the facility.

Approval shall not be granted when the official has reasonable grounds to believe that:

1. The College District facility requested is unavailable, inadequate, or inappropriate to accommodate the proposed use at the time requested;
2. The applicant is under a disciplinary penalty or sanction prohibiting the use of the facility;

STUDENT RIGHTS AND RESPONSIBILITIES
STUDENT EXPRESSION AND USE OF COLLEGE FACILITIES

FLA
(LOCAL)

3. The proposed use includes nonpermissible solicitation [see FI];
4. The proposed use would constitute an immediate and actual danger to the peace or security of the College District that available law enforcement officials could not control with reasonable efforts;
5. The applicant owes a monetary debt to the College District and the debt is considered delinquent;
6. The proposed activity would disrupt or disturb the regular academic program;
7. The proposed use would result in damage to or defacement of property or the applicant has previously damaged College District property; or
8. The proposed activity would constitute an unauthorized joint sponsorship with an outside group.

The ASC events coordinator/campus dean shall provide the applicant a written statement of the grounds for rejection if a request is denied.

*Common
Outdoor Area
Exception*

Common outdoor areas are traditional public forums and are not subject to the approval procedures. Students and student organizations may engage in expressive activities in common outdoor areas, unless:

1. The person's conduct is unlawful;
2. The use would constitute an immediate and actual danger to the peace or security of the College District that available law enforcement officials could not control with reasonable efforts;
3. The use would materially or substantially disrupt or disturb the regular academic program; or
4. The use would result in damage to or defacement of property.

Announcements
and Publicity

In accordance with administrative procedures, all students and registered student organizations shall be given access on the same basis for making announcements and publicizing their meetings and activities.

Identification

Students or registered student organizations distributing materials on campus or using College District facilities shall provide identification when requested to do so by a College District representative.

Violations of Policy

STUDENT RIGHTS AND RESPONSIBILITIES
STUDENT EXPRESSION AND USE OF COLLEGE FACILITIES

FLA
(LOCAL)

Failure to comply with this policy and associated procedures shall result in appropriate administrative action, including but not limited to, confiscation of nonconforming materials, suspension of a student's or registered student organization's use of College District facilities, and/or other disciplinary action in accordance with the College District's discipline policies and procedures [see FM and FMA].

Interference with
Expression

Faculty members, students, or student organizations that interfere with the expressive activities permitted by this policy shall be subject to disciplinary action in accordance with the College District's discipline policies and procedures [see DH, FM, and FMA].

Appeals

Decisions made by the administration in accordance with this policy may be appealed in accordance with DGBA(LOCAL) or FLD(LOCAL), as applicable.

Publication

This policy and associated procedures must be posted on the College District's website and distributed in the student and employee handbooks and other appropriate publications. They must also be distributed to students at orientation.

BOARD POLICY ABSTRACT

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| Policy to be Considered: Community Expression and Use of College Facilities. | | Policy #: GD (Legal) and GD (Local) |
| Policy Section: Community and Governmental Relations | <input checked="" type="checkbox"/> New | <input type="checkbox"/> Revision |
| Action: <input checked="" type="checkbox"/> For information only (<input checked="" type="checkbox"/> 1 st Reading) <input type="checkbox"/> For Adoption (<input type="checkbox"/> 2 nd Reading and/or Approval) | | |
| Resource Person: Julie Penley | | |
| <p>Purpose: To transition EPCC Board Policies to the Texas Association of School Boards (TASB) format and organizational system. EPCC's Board of Trustees authorized Dr. Serrata to begin this work and execute four TASB agreements at its October 2019 Regular Meeting, including the Community College Policy On-Line Service Agreement and the Community College Localization Agreement.</p> <p>Explanation: GD (Legal) is the statutory context for the use of College facilities by members of the community. It is provided for information only, as no Board action is ever required for TASB Legal Policies.</p> <p>GD (Local) is the College-specific supplement to GD (Legal), addressing the College's requirements and obligations for allowing access to College facilities by members of the community.</p> <p>TASB Local Policies do require Board of Trustees action. GD (Local) is submitted to the Board of Trustees today for review and comment; it will be presented at a future Board of Trustees meeting for a 2nd Reading and possible approval and adoption. Should the Board of Trustees approve GD (Local) at a future meeting, GD (Local) would replace current EPCC Board Policies 5.01.01, <i>Use of College Facilities for Non College Sponsored Activities</i> and 5.02.02, <i>Use of College Facilities for College Sponsored Activities</i>.</p> | | |
| Recommendation: Review and comment by the Board of Trustees – GD (Local) only. | | |

Note: For information on employee expression on campus, see DGC. For information on student expression on campus, see FLA. For use of the college district's mail system, see CHE.

Prohibited Acts

An officer or employee of the state or of a political subdivision of the state, including a college district, who is acting or purporting to act in an official capacity may not, because of a person's race, religion, color, sex, or national origin:

1. Refuse to permit the person to use facilities open to the public and owned, operated, or managed by or on behalf of the state or of a political subdivision of the state;
2. Refuse to permit the person to participate in a program owned, operated, or managed by or on behalf of the state or of a political subdivision of the state;
3. Refuse to grant a benefit to the person; or
4. Impose an unreasonable burden on the person.

Civ. Prac. and Rem. Code 106.001(a)

First Amendment

A governmental entity, including a college district, shall take no action respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the board for a redress of grievances. *U.S. Const. Amend. I, XIV*

Forum Analysis

Traditional Public Forum

A "traditional public forum" includes locations, such as sidewalks and parks, where members of the public have historically been permitted to gather and speak on any topic. *Cornelius v. NAACP Legal Def. & Educ. Fund, Inc.*, 473 U.S. 788 (1985) An institution's property is not a traditional public forum, with the exception of sidewalks, streets, and parks that are indistinguishable from surrounding city property. *Widmar v. Vincent*, 454 U.S. 263 (1981); *Brister v. Faulkner*, 214 F.3d 675 (2000)

If an institution's property is deemed a traditional public forum, the entity may exclude particular content if that entity can assert a compelling governmental interest that is narrowly tailored to address that interest, a standard referred to as the "strict scrutiny" standard. The institution can also enforce viewpoint-neutral time, place, and manner restrictions to meet a compelling governmental interest if a sufficient number of alternative communication channels are available. *Perry Educ. Ass'n v. Perry Local Educators' Ass'n*, 460 U.S. 37 (1983)

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| <i>Designated Public Forum</i> | A “designated public forum” is a forum that a college or university intentionally opens to the general public to discuss matters of public concern. <u>Cornelius v. NAACP Legal Def. and Educ. Fund, Inc.</u> , 473 U.S. 788 (1985). Once designated, an institution may enforce reasonable time, place, and manner restrictions. <u>Widmar v. Vincent</u> , 454 U.S. 263 (1981). Any content limitations are subject to the strict scrutiny standard described above. <u>Chiu v. Plano Indep. School Dist.</u> , 260 F.3d 330 (5th Cir. 2001) |
| <i>Limited Public Forum</i> | A “limited public forum” is a forum that an institution opens to a particular group of speakers or for discussion regarding a particular topic. <u>Christian Legal Society v. Martinez</u> , 130 S.Ct. 2971 (2010); <u>Rosenberger v. Rector & Visitors of Univ. of Va.</u> , 515 U.S. 819 (1995). Within a limited public forum, limits on expression must be viewpoint-neutral and reasonable in light of the purpose of the forum. The government may impose reasonable time, place, and manner restrictions, as long as these restrictions do not relate to the content of the expression. <u>Cornelius v. NAACP Legal Def. and Educ. Fund, Inc.</u> , 473 U.S. 788 (1985) To distinguish between a designated public forum and a limited public forum, courts consider two factors: (1) the intent of the institution regarding the forum, and (2) the forum’s nature and compatibility with particular speech. <u>Justice for All v. Faulkner</u> , 410 F.3d 760 (5th Cir. 2005); <u>Chiu v. Plano Indep. School Dist.</u> , 260 F.3d 330 (5th Cir. 2001) |
| <i>Nonpublic Forum</i> | If an institution has not opened a public forum, it remains a “nonpublic forum.” Although limits on expression must be reasonable and viewpoint neutral even within a nonpublic forum, an institution will have greater discretion to control the content of speech within such a forum. <u>Cornelius v. NAACP Legal Def. and Educ. Fund, Inc.</u> , 473 U.S. 788 (1985) |
| Time, Place, and Manner Restrictions | The mere dissemination of ideas on the campus of an institution of higher education may not be restricted on the basis of conventions of decency, regardless of how offensive those ideas are to good taste. However, an institution has the authority to enforce reasonable regulations as to the time, place, and manner of speech and its dissemination. <u>Papish v. Bd. of Curators</u> , 410 U.S. 667 (1973); <u>Healy v. James</u> , 408 U.S. 169 (1972) |
| Protected Expression on Campus Under State Law | An institution of higher education, including a college district, shall: 1. Ensure that the common outdoor areas of the institution’s campus are deemed traditional public forums; and |

2. Permit any person to engage in expressive activities in those areas of the institution's campus freely, as long as the person's conduct is not unlawful, and does not materially and substantially disrupt the functioning of the institution.

Education Code 51.9315(c)

Education Code 51.9315(c) and (d) do not limit the right of student expression at other campus locations or prohibit faculty members from maintaining order in the classroom. *Education Code 51.9315(e)*

Time, Place, and
Manner Restrictions

An institution of higher education may adopt a policy that imposes reasonable restrictions on the time, place, and manner of expressive activities in the common outdoor areas of the institution's campus if those restrictions:

1. Are narrowly tailored to serve a significant institutional interest;
2. Employ clear, published, content-neutral, and viewpoint-neutral criteria;
3. Provide for ample alternative means of expression; and
4. Allow members of the university community to assemble or distribute written material without a permit or other permission from the institution.

Education Code 51.9315(d)

Policy Required

By August 1, 2020, each institution of higher education shall adopt a policy detailing students' rights and responsibilities regarding expressive activities at the institution. The policy must:

1. Allow any person to, subject to reasonable restrictions adopted under Education Code 51.9315(d), engage in expressive activities on campus, including by responding to the expressive activities of others; and student organizations and faculty to, subject to Education Code 51.9315(h), invite speakers to speak on campus;
2. Establish disciplinary sanctions for students, student organizations, or faculty who unduly interfere with the expressive activities of others on campus;
3. Include a grievance procedure for addressing complaints of a violation of this section;
4. Be approved by a majority vote of the institution's governing board before final adoption; and
5. Be posted on the institution's internet website.

Education Code 51.9315(f)

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| Discrimination Prohibited | An institution of higher education may not take action against a student organization or deny the organization any benefit generally available to other student organizations at the institution on the basis of a political, religious, philosophical, ideological, or academic viewpoint expressed by the organization or of any expressive activities of the organization. <i>Education Code 51.9315(g)</i> |
| Approval of Speaker or Determination of Fee | <p>In determining whether to approve a speaker to speak on campus or in determining the amount of a fee to be charged for use of the institution's facilities for purposes of engaging in expressive activities, an institution of higher education:</p> <ol style="list-style-type: none"> 1. May consider only content-neutral and viewpoint-neutral criteria related to the needs of the event, such as: <ol style="list-style-type: none"> a. The proposed venue and the expected size of the audience; b. Any anticipated need for campus security; c. Any necessary accommodations; and d. Any relevant history of compliance or noncompliance by the requesting student organization or faculty member with the institution's policy adopted under Education Code 51.9315(f) and any other relevant policies; and 2. May not consider any anticipated controversy related to the event. <p><i>Education Code 51.9315(h)</i></p> |
| Employee Awareness | Each institution of higher education shall develop materials, programs, and procedures to ensure that the institution's employees responsible for educating or disciplining students understand the requirements of this section and all policies adopted by the institution in accordance with this section. <i>Education Code 51.9315(j)</i> |
| Publication | Each institution of higher education shall make the institution's policies adopted in accordance with this section available to students enrolled at and employees of the institution by including the policies in the institution's student handbook and personnel handbook, providing a copy of each policy to students during the institution's freshman or transfer student orientation, and posting the policies on the institution's internet website. <i>Education Code 51.9315(i)</i> |
| Report | Not later than December 1, 2020, each institution of higher education shall prepare, post on the institution's internet website, and submit to the governor and the members of the legislature a report regarding the institution's implementation of the requirements under this section. <i>Education Code 51.9315(k)</i> |

Fees for Use

The governing board of each junior college district shall be authorized to fix and collect rentals, rates, charges, and/or fees from students and others for the occupancy, use, or availability of all or any of its property, buildings, structures, activities, operations, or facilities, in such amounts and in such manner as may be determined by such board. *Education Code 130.123(c)*

Facilities as Polling Places

The entity, including a college district, that owns or controls a public building shall make the building available for use as a polling place in any election that covers territory in which the building is located. If more than one authority requests the use of the building for the same day and simultaneous use is impractical, the entity that owns or controls the building shall determine which authority may use the building. *Election Code 43.031(c)*

No charge, including a charge for personnel, utilities, or other expenses incurred before or after regular business hours, may be made for the use of a public building for a polling place if the day of the election is a day on which the building is normally open for business. If the day of an election is a day on which the building is not normally open for business, a charge may be made only for reimbursement of the actual expenses resulting from use of the building in the election. *Election Code 43.033(a)*

Electioneering

“Electioneering” includes the posting, use, or distribution of political signs or literature. The term does not include the distribution of a notice of a party convention authorized under Election Code 172.1114. *Election Code 61.003(b)(1), 85.036(f)(2)*

During the Regular Voting Period

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

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

Election Code 61.003(a)–(a-1)

During Early Voting

During the time an early voting polling place is open for the conduct of early voting, a person may not electioneer for or against any candidate, measure, or political party in or within 100 feet of an outside door through which a voter may enter the building or structure in which the early voting polling place is located. A person

commits an offense if the person electioneers in violation of this provision.

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

Election Code 85.036(a)–(b), (d)

**Political Party
Conventions**

No charge may be made for the use of a public building for a precinct, county, or senatorial district convention except for reimbursement for the actual expenses resulting from use of the building for the convention. The reimbursing authority is entitled to an itemized statement of expenses before making remittance. A person commits an offense if the person assesses a charge for the use of a public building for a precinct, county, or senatorial district convention in violation of this provision. *Election Code 174.0631*

**Search and Rescue
Dogs**

“Search and rescue dogs” mean canines that are trained or being trained to assist a nationally recognized search and rescue agency in search and rescue activities. *Health and Safety Code 785.001(4)*

Public Facility

The owner, manager, or operator of a public facility, or an employee or other agent of the owner, manager, or operator, may not deny a search and rescue dog admittance to the facility. The owner, manager, or operator of a public facility, or an employee or other agent of the owner, manager, or operator, may not deny a search and rescue dog's handler admittance to the facility because of the presence of the handler's search and rescue dog. The discrimination prohibited by this section includes:

1. Refusing to allow a search and rescue dog or the dog's handler to use or be admitted to a public facility;
2. A ruse or subterfuge calculated to prevent or discourage a search and rescue dog or the dog's handler from using or being admitted to a public facility; and
3. Failing to make a reasonable accommodation in a policy, practice, or procedure to allow a search and rescue dog or the dog's handler to be admitted to a public facility.

Health and Safety Code 785.002(a)–(b), (d)

Transportation

The owner, manager, or operator of a common carrier, airplane, railroad train, motor bus, streetcar, boat, or other public conveyance or mode of transportation operating within this state, or an

employee or other agent of the owner, manager, or operator, may not:

1. Refuse to accept as a passenger a search and rescue dog or the dog's handler; or
2. Require the dog's handler to pay an additional fare because of the search and rescue dog.

Health and Safety Code 785.002(c)

| | |
|-------------------------|---|
| Housing | A search and rescue dog's handler is entitled to full and equal access, in the same manner as other members of the general public, to all housing accommodations offered for rent, lease, or compensation in this state, subject to any condition or limitation established by law that applies to all persons, except that the handler may not be required to pay an extra fee or charge or security deposit for the search and rescue dog. <i>Health and Safety Code 785.002(f)</i> |
| Handler | "Handler" means a person who handles a search and rescue dog and who is certified by the National Association for Search and Rescue or another state or nationally recognized search and rescue agency. <i>Health and Safety Code 785.001(1)</i> |
| <i>Credentials</i> | A person may ask a search and rescue dog handler to display proof that the handler is a person with a certification issued by the National Association for Search and Rescue or another state or nationally recognized search and rescue agency. <i>Health and Safety Code 785.005</i> |
| <i>Responsibilities</i> | A handler who accompanies a search and rescue dog shall keep the dog properly harnessed or leashed. A person may maintain a cause of action against a dog's handler for personal injury, property damage, or death resulting from the failure of the dog's handler to properly harness or leash the dog under the same law applicable to other causes brought for the redress of injuries caused by animals. The handler of a search and rescue dog is liable for any property damage caused by the search and rescue dog to a public facility or to housing accommodations. <i>Health and Safety Code 785.004(a)–(b)</i> |
| Policy | A policy relating to the use of a public facility by a designated class of persons from the general public may not prohibit the use of the particular public facility by a search and rescue dog or the dog's handler. <i>Health and Safety Code 785.002(e)</i> |
| Penalty | A person who violates Health and Safety Code 785.002 commits an offense. An offense under this subsection is a misdemeanor punishable by a fine of not less than \$300 or more than \$1,000. It is a defense to prosecution that the actor requested the search and |

rescue dog handler's credentials under Health and Safety Code 785.005 and the handler failed to provide the actor with the credentials. *Health and Safety Code 785.003*

Note: For expression and use of College District facilities and distribution of literature by students and registered student organizations, see FLA. For expression and use of College District facilities by employees and employee organizations, see DGC. For use of the College District's internal mail system, see CHE.

**Use of College
District Facilities**

The grounds and facilities of the College District shall be made available to members of the College District community and community organizations, including College District support organizations, when such use is for educational, recreational, civic, or social activities and the use does not conflict with use by, or any of the policies and procedures of, the College District.

Requests

To request permission to meet in College District facilities, interested community members or organizations shall file a written request with the ASC events coordinator for events held at the Administrative Service Center, or with the campus dean for events held at an EPCC campus in accordance with administrative procedures.

The community members or organization making the request shall indicate that they have read and understand the policies and rules governing use of College District facilities and that they will abide by those rules.

Approval

Requests for community use of College District facilities shall be considered on a first-come, first-served basis.

The ASC events coordinator/campus dean shall approve or reject the request in accordance with provisions of and deadlines set out in this policy and administrative procedures, without regard to the religious, political, philosophical, ideological, academic viewpoint, or other content of the speech likely to be associated with the community members' or organization's use of the facility.

Approval shall not be granted when the official has reasonable grounds to believe that:

1. The College District facility requested is unavailable, inadequate, or inappropriate to accommodate the proposed use at the time requested;
2. The applicant is subject to a sanction [see Violations of Policy, below] prohibiting the use of the facility;
3. The proposed use would constitute an immediate and actual danger to the peace or security of the College District that

available law enforcement officials could not control with reasonable efforts;

4. The applicant owes a monetary debt to the College District and the debt is considered delinquent;
5. The proposed activity would disrupt or disturb the regular academic program; or
6. The proposed use would result in damage to or defacement of property or the applicant has previously damaged College District property.

*Common
Outdoor Area
Exception*

Common outdoor areas are traditional public forums and are not subject to the approval procedures. Community members and organizations may engage in expressive activities in common outdoor areas, unless:

1. The person's conduct is unlawful;
2. The use would constitute an immediate and actual danger to the peace or security of the College District that available law enforcement officials could not control with reasonable efforts;
3. The use would materially or substantially disrupt or disturb the regular academic program; or
4. The use would result in damage to or defacement of property.

For-Profit Use

The College District shall not permit individuals or for-profit organizations to use its facilities for financial gain; however, the College District shall permit private academic instruction, as well as public performances or presentations so long as no admission fee is charged, when these activities do not conflict with College District use or with this policy.

Nonprofit Use

The College District shall permit nonprofit organizations to conduct fundraising events on College District property when these activities do not conflict with College District use or with this policy.

*Campaign-
Related Use*

Except to the extent a College District facility is used as an official polling place, College District facilities shall not be available for use by individuals or groups for political advertising, campaign communications, or electioneering, as those terms are used in state law.

*No Approval
Required*

No approval shall be required for nonschool-related recreational use of the College District's unlocked, outdoor recreational facilities, such as the track, tennis courts, and the like, when the facilities are not in use by the College District or for another scheduled purpose.

COMMUNITY EXPRESSION AND USE OF COLLEGE FACILITIES

GD
(LOCAL)

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|---|---|
| <i>Written Notice if Request Rejected</i> | The ASC events coordinator/campus dean shall provide the applicant a written statement of the grounds for rejection if a request is denied. |
| Emergency Use | In case of emergencies or disasters, the College President may authorize the use of College District facilities by civil defense, health, or emergency service authorities. |
| Repeated Use | The College District shall permit repeated use by any community member or organization in accordance with administrative procedures. |
| <i>Exception</i> | Any limitations on repeated use by a community member or organization shall not apply to any group or organization when the primary participants in the activities are College District students, faculty, or staff. |
| Scheduling | Academic and extracurricular activities sponsored by the College District shall always have priority when any use is scheduled. The ASC events coordinator/campus dean shall have authority to cancel a scheduled use by a community member or organization if an unexpected conflict arises with a College District activity. |
| Use Agreement | Any community member or organization approved for a nonschool use of College District facilities shall be required to complete a written agreement indicating receipt and understanding of this policy and any applicable administrative regulations, and acknowledging that the College District is not liable for any personal injury or damages to personal property related to the nonschool use. |
| Fees for Use | A community member or organization authorized to use College District facilities shall be charged a fee for the use of designated facilities. The Board shall establish and publish a schedule of fees based on the cost of the physical operation of the facilities, as well as any applicable personnel costs for supervision, custodial services, food services, security, and technology services. |
| <i>Exception</i> | Fees shall not be charged when College District buildings are used for public meetings sponsored by state or local governmental agencies. |
| Required Conduct | Community members and organizations using College District facilities shall: <ol style="list-style-type: none"> 1. Conduct business in an orderly manner; 2. Provide identification when requested to do so by a College District representative; |

COMMUNITY EXPRESSION AND USE OF COLLEGE FACILITIES

GD
(LOCAL)

3. Abide by all laws, policies, and procedures, including, but not limited to, those prohibiting the use, sale, or possession of alcoholic beverages, illegal drugs, and firearms, and the use of tobacco products or e-cigarettes on College District property; [See CHF and GDA]
4. Make no alteration, temporary or permanent, to College District property without prior written consent from the **College President**; and
5. Be responsible for the cost of repairing any damages incurred during use and shall be required to indemnify the College District for the cost of any such repairs.

Distribution of Literature

Written or printed materials, handbills, photographs, pictures, films, tapes, or other visual or auditory materials not sponsored by the College District shall not be sold, circulated, distributed, or posted on any College District premises by any community member or organization, including a College District support organization except in accordance with this policy.

The College District shall not be responsible for, nor shall the College District endorse, the contents of any materials distributed by a community member or organization.

Limitations on Content

Materials shall not be distributed by a community member or organization on College District property if:

1. The materials are obscene;
2. The materials contain defamatory statements about public figures or others;
3. The materials advocate imminent lawless or disruptive action and are likely to incite or produce such action;
4. The materials are considered prohibited harassment [see DIA series and FFD series];
5. The materials constitute unauthorized solicitation [see Use of College District Facilities, above]; or
6. The materials infringe upon intellectual property rights of the College District [see CT].

Time, Place, and Manner Restrictions

Distribution of materials shall be conducted in a manner that:

1. Is not disruptive [see FLB];
2. Does not impede reasonable access to College District facilities;

3. Does not result in damage to College District property;
4. Does not coerce, badger, or intimidate a person;
5. Does not interfere with the rights of others; and
6. Does not violate local, state, or federal laws or College District policies and procedures.

The distributor shall clean the area around which the literature was distributed of any materials that were discarded or leftover.

The associate vice president of external relations, communications & development shall designate times, locations, and means by which materials that are appropriate for distribution, as provided in this policy, may be made available or distributed by community members or organizations to others in College District facilities and in areas that are not considered common outdoor areas.

Posting of Signs

For the purposes of this policy, “sign” shall be defined as a billboard, decal, notice, placard, poster, banner, or any kind of hand-held sign; and “posting” shall be defined as any means used for displaying a sign.

No signs may be posted on College District property by a community member or organization unless the posting qualifies as a permitted campaign-related use or is in a common outdoor area subject to administrative procedures.

Exception

A College District support organization may post a sign in College District facilities with prior approval of the associate vice president of external relations, communications & development in accordance with the procedures developed for that purpose.

Identification

A community member or organization distributing materials on campus shall provide identification when requested to do so by a College District representative.

Violations of Policy

Failure to comply with this policy and associated procedures shall result in appropriate administrative action, including but not limited to, the suspension of the individual’s or organization’s use of College District facilities and the confiscation of nonconforming materials.

Interference with Expression

Faculty members, students, or student organizations that interfere with the expressive activities permitted by this policy shall be subject to disciplinary action in accordance with the College District’s discipline policies and procedures. [See DH, FM, and FMA]

Appeals

Decisions made by the administration in accordance with this policy may be appealed in accordance with GB(LOCAL), DGBA(LOCAL), and FLD(LOCAL) as applicable.

Publication

This policy and associated procedures must be posted on the College District's website and distributed in the employee and student handbooks and other appropriate publications.

Exhibit 3.1
Full-Time Institutionally-Funded Actions

Cadena, Luz

Manager, Distance Education Program
Professional Staff
Distance Learning Support Services
09/01/20 – 08/31/21
Grade D
Temporary Increase in Responsibilities (10%)

Chavez, Ashley

Financial Aid Specialist- Child Care Services
Classified Staff
Student Financial Aid
Temporary Status
09/01/20 – 08/31/21
Grade E
Extension of Appointment

Gallardo, Ruben

Director, Purchasing & Contract Management
Administrator
Purchasing & Contract Management
09/01/20 – 08/31/21
Grade D
Temporary Increase in Responsibilities (10%)

Hubail, Asaad

Senior Systems Administrator
Professional Staff
Information Technology
Temporary Status
10/26/20 – 08/31/21
Grade K
Noncompetitive Appointment
(New Position)

Exhibit 3.1

Full-Time Institutionally-Funded Actions

The following full-time, temporary Instructors (Lecturers) are extended for the period of 08/17/20 – 05/14/21.

| <u>NAME</u> | <u>DISCIPLINE</u> | <u>GRADE</u> |
|-------------------|--------------------|--------------|
| Briarton, Kelly | Nursing | C |
| Middaugh, Cynthia | Nursing | C |
| New, Elizabeth | Culinary Arts | A |
| Pirrone, Marybeth | Nursing | C |
| Olgin, John | Physics | C |
| Prieto, Bertha | Court Reporting | B |
| Ramirez, Vanessa | Fashion Technology | B |
| Trejo, Guillermo | Culinary Arts | B |

The following Adult Vocational Instructors are extended for the period of 08/17/20 – 08/13/21.

| <u>NAME</u> | <u>DISCIPLINE</u> | <u>GRADE</u> |
|---------------------|---------------------------------|--------------|
| Cazares, Jaime | Automotive Technology | A |
| Edwards, Marta | Basic Skills- Reading & Writing | C |
| Gonzales, Alejandra | Office Technology | A |
| Minjarez, Norma | Basic Skills- Math | C |
| Serrano, Manuel | Law Enforcement Academy | A |

Exhibit 3.1
Full-Time Institutionally-Funded Actions

Advancements for Educational
Achievement:

Ansalmó Carlos, Irma

Nursing Instructor
Master's Degree
08/17/20

Gurrola, Melissa

Music Instructor
Doctorate Degree
08/17/20

Ayub, Antonio

Emergency Medical Services Instructor
Master's Degree
08/17/20

Heras, Delia

Financial Aid Specialist
Master's Degree
09/01/20

Campbell, Sabrina

Coordinator, Customized Training
Master's Degree
09/01/20

Martinez, Isaac

Popular Education Lead Facilitator
Doctorate Degree
09/01/20

Castillo-Attar, Carmen

Counselor
Master's Degree + 60 sem hrs
08/17/20

Nickerson, Jonathan

Manager, Student Culinary Arts
Master's Degree
09/01/20

Fowler, Heather

Nursing Instructor
Doctorate Degree
08/17/20

Sarah, Majd

Language Institute Program Instructor
Master's Degree + 45 sem hrs
08/17/20

Gonzalez, Veronica

Chemistry Instructor
Doctorate Degree
08/17/20

Valenzuela, Jorge

Criminal Justice Instructor
Master's Degree + 30 sem hrs
08/17/20

Guerra, Daniel

Culinary Arts Instructor
Bachelor's Degree
08/17/20

Vargas, Carlos

Psychology Instructor
Master's Degree + 45 sem hrs
08/17/20

Exhibit 3.2
Full-Time Externally-Funded Actions

Carrillo, Martha

Student Services Assistant
Classified Staff
Retention Action Program
Carl Perkins
Temporary Status
09/01/20 – 08/31/21
Grade C
Extension of Appointment

Garcia, Mozella

Project Director, STEMGROW Articulation
Program
Administrator
STEMGROW Articulation Program
STEMGROW Articulation Program
Temporary Status
10/01/20 – 08/31/21
Grade D
Extension of Appointment

Torres, Ana

Administrative Assistant
Classified Staff
STEMGROW Articulation Program
STEMGROW Articulation Program
Temporary Status
10/01/20 – 08/31/21
Grade D
Extension of Appointment

Exhibit 3.3
Information Items
(No Action Required)

Resignations:

None

Retirements:

Eisenga, Dana
Assistant Director, Athletics
Athletics Department
10/31/2020

FINANCIAL SERVICES ABSTRACT

| | | | | | | | | | | | | |
|---|--|---|-------|-----------------|----------|--------------------|---------|--------------------|-----------------------|--------------------|----------|------------------|
| Item(s) to be Considered: Discussion and action on the approval of an increase to the Board-approved software maintenance support contract with Ellucian Higher Education for the Banner Enterprise Resource Planning (ERP) system. | | Amount: \$5,591 <i>(Additional amount to previously approved \$514,742)</i> | | | | | | | | | | |
| Requestor: Abraham Hubail | Area Responsible: Information Technology | | | | | | | | | | | |
| Resource Persons: Jenny Girón, Abraham Hubail | | | | | | | | | | | | |
| Purpose: To request an increase in the cost of the ERP software maintenance support contract. | | | | | | | | | | | | |
| Explanation: The software renewal maintenance support contract is for the Ellucian Higher Education Banner Enterprise Resource Planning (ERP) system, which was purchased based on RFP #98-03 from SunGard Higher Education, Inc., now Ellucian, and approved by the Board of Trustees on February 15, 1999, for \$2,825,316. Since then, the College has upgraded through many versions of Banner for increased functionality and efficiencies. The current version is a web-based Banner 9. Banner is a suite of student and administrative software applications specifically designed for higher education institutions. The ERP integrates all departments and functions across the College and can serve different departmental needs. It is utilized district-wide by the following student support areas: Admissions & Registrar, Financial Aid Services, Counseling, and Student Web Services. The administrative support areas are Finance, Budget, Accounting Services, Payroll, Accounts Payable, Accounts Receivable, Cashiering Services, Purchasing & Contract Management, Human Resources, Document Management, and Banner employee web services. Degree Works is also included, an integrated add-on to the existing Banner student module and an advising and degree audit software. Banner is highly integrated, and all of the modules use a common database. It allows for 24 x 7 system access via the web and real-time information regarding student enrollment, grades, HR, finance, and budget. The Board approved a renewal of a two-year software maintenance support contract with Ellucian as a sole source in July 2019. Due to an increase in software maintenance costs during the second year of the contract, the Board-approved amount has been exceeded by \$5,591. This was an oversight that has been corrected, and additional measures have been put in place to avoid this future situation. Approval is being requested for an increase to the previously-approved two-year contract of \$514,742 to \$520,333. The Ellucian Banner software renewal maintenance is administered by Texas A&M University, Corpus Christi, and is part of an inter-local agreement with the Texas Connection Consortium (TCC). The renewal provides technical support and software upgrades. The TCC association is comprised of approximately 40 state universities, colleges, and community college districts. Funding is provided by the Software Maintenance account. | | | | | | | | | | | | |
| Recommendation: Approval by the Board of Trustees. | | | | | | | | | | | | |
| Vendor: Texas A&M University 6300 Ocean Drive – Unit 5767 Corpus Christi, TX 78412-5767 | <table border="1"> <tr> <td>Date:</td> <td><u>10/16/20</u></td> </tr> <tr> <td>Account:</td> <td><u>11000-75006</u></td> </tr> <tr> <td>Budget:</td> <td><u>\$1,937,693</u></td> </tr> <tr> <td>Expenditures to date:</td> <td><u>\$1,032,337</u></td> </tr> <tr> <td>Balance:</td> <td><u>\$905,356</u></td> </tr> </table> | | Date: | <u>10/16/20</u> | Account: | <u>11000-75006</u> | Budget: | <u>\$1,937,693</u> | Expenditures to date: | <u>\$1,032,337</u> | Balance: | <u>\$905,356</u> |
| Date: | <u>10/16/20</u> | | | | | | | | | | | |
| Account: | <u>11000-75006</u> | | | | | | | | | | | |
| Budget: | <u>\$1,937,693</u> | | | | | | | | | | | |
| Expenditures to date: | <u>\$1,032,337</u> | | | | | | | | | | | |
| Balance: | <u>\$905,356</u> | | | | | | | | | | | |

CURRICULUM AND INSTRUCTION ABSTRACT

| | | | | | | | | | | | | | | | | | | | | | | | | | | |
|---|---|----------------------------|-------|-----------------------------------|-----------|-------|----------------|---------|-------|-----------------|---------|-------|--|--------|-------|---|--------|-------|------------------------|--------|-------|--------------------------|---------------|--|--------------|--------------------|
| Item(s) to be Considered: Discussion and action on the acceptance of a grant from the U.S. Department of Labor for the Job Corps Scholars Program. | | Amount: \$1,186,900 | | | | | | | | | | | | | | | | | | | | | | | | |
| Requestor: Olga Valerio | Area Responsible: Advanced Technology Center | | | | | | | | | | | | | | | | | | | | | | | | | |
| Resource Persons: Steven Smith, Jaime Farias, Olga Valerio, Robert Elliott | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Purpose: | The U.S. Department of Labor (DOL) Job Corps Scholars Program is a 39-month demonstration project intended to enroll 80 Job Corps eligible youth and provide them with intensive counseling services to support and facilitate each student’s employment and career success. The goal is for the participating student to complete one of the Advanced Technology Center’s 12-month certificates. Allowable activities entail providing an additional 12 months of development coursework (if needed) and up to 12 months of job placement assistance services. Participants will be identified in partnership with the David L. Carrasco Job Corps Center. | | | | | | | | | | | | | | | | | | | | | | | | | |
| Explanation: | Grant funds will be used to hire two career counselors, two employment counselors, and one administrative assistant. The funder requires a 20:1 student-counselor ratio and four (4) full-time counselors. The remaining program funds are budgeted to pay tuition, fees, and supplies, as needed by a student. Indirect costs are budgeted at the approved 41% rate, based on salaries and fringe benefits. | | | | | | | | | | | | | | | | | | | | | | | | | |
| <p>Budget Account Number: 21533-F21533: Budget Summary \$1,186,900 June 30, 2020 – August 31, 2023 Detailed Budget Overview:</p> <table style="margin-left: auto; margin-right: auto;"> <tr> <td style="padding-right: 20px;">61500</td> <td style="padding-right: 20px;">Salaries (Counselors – Full-Time)</td> <td style="text-align: right;">\$506,908</td> </tr> <tr> <td>71910</td> <td>Indirect Costs</td> <td style="text-align: right;">307,318</td> </tr> <tr> <td>62000</td> <td>Fringe Benefits</td> <td style="text-align: right;">172,975</td> </tr> <tr> <td>74615</td> <td>Student Materials (Supplies and Tools)</td> <td style="text-align: right;">71,600</td> </tr> <tr> <td>61601</td> <td>Salaries (Administrative Assistant - Part-Time)</td> <td style="text-align: right;">69,674</td> </tr> <tr> <td>74605</td> <td>Books Special Programs</td> <td style="text-align: right;">36,000</td> </tr> <tr> <td>74604</td> <td>Tuition Special Programs</td> <td style="text-align: right;"><u>22,425</u></td> </tr> <tr> <td></td> <td>TOTAL</td> <td style="text-align: right;">\$1,186,900</td> </tr> </table> | | | 61500 | Salaries (Counselors – Full-Time) | \$506,908 | 71910 | Indirect Costs | 307,318 | 62000 | Fringe Benefits | 172,975 | 74615 | Student Materials (Supplies and Tools) | 71,600 | 61601 | Salaries (Administrative Assistant - Part-Time) | 69,674 | 74605 | Books Special Programs | 36,000 | 74604 | Tuition Special Programs | <u>22,425</u> | | TOTAL | \$1,186,900 |
| 61500 | Salaries (Counselors – Full-Time) | \$506,908 | | | | | | | | | | | | | | | | | | | | | | | | |
| 71910 | Indirect Costs | 307,318 | | | | | | | | | | | | | | | | | | | | | | | | |
| 62000 | Fringe Benefits | 172,975 | | | | | | | | | | | | | | | | | | | | | | | | |
| 74615 | Student Materials (Supplies and Tools) | 71,600 | | | | | | | | | | | | | | | | | | | | | | | | |
| 61601 | Salaries (Administrative Assistant - Part-Time) | 69,674 | | | | | | | | | | | | | | | | | | | | | | | | |
| 74605 | Books Special Programs | 36,000 | | | | | | | | | | | | | | | | | | | | | | | | |
| 74604 | Tuition Special Programs | <u>22,425</u> | | | | | | | | | | | | | | | | | | | | | | | | |
| | TOTAL | \$1,186,900 | | | | | | | | | | | | | | | | | | | | | | | | |
| Recommendation: | Approval by the Board of Trustees. | | | | | | | | | | | | | | | | | | | | | | | | | |

CURRICULUM AND INSTRUCTION ABSTRACT

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|--|--|--------------------------|
| Item(s) to be Considered: Discussion and action on the acceptance of a grant from the Texas Workforce Commission. | | Amount: \$200,000 |
| Requestor: Carmen Aguilera-Goerner | Area Responsible: Workforce Strategic Initiatives | |
| Resource Persons: Steven Smith, Jaime Farias, Carmen Aguilera-Goerner, Robert Elliott | | |
| Purpose: | To approve the increase of workforce capacity in the El Paso area by offering training opportunities to local Apprenticeship sponsors. This 18-month grant supports the development of new Registered Apprenticeship Programs (RAP). It will expand the existing EPCC programs to increase apprenticeship opportunities, identify steps to facilitate the successful entrance of underrepresented populations, and develop RAPs in non-traditional industries. It will create an Apprenticeship Navigator position geared to work with the Department of Labor, the local Workforce Solutions Board, and serve as the liaison for local businesses. | |
| Explanation: | The Apprenticeship Texas Expansion Grant sets aside funds for the creation of an Apprenticeship Navigator position, mandated travel to yearly meetings, and a 10% administrative cost (Indirect) to cover EPCC expenses for administering the grant, e.g., the functions of procuring, purchasing, cash management, personnel management, payroll, systems and procedures development; as well as other costs required for administrative functions of the program such as the portion of supplies, postage, and utilities. The program funds will be used to cover the salary and fringe for the Navigator position and costs associated with student tuition, curriculum development, outreach costs, and support services such as books, tools, uniforms, and certifications. | |
| Budget Account Number: 22740-E22740: Budget Summary \$200,000 | | |
| October 1, 2020 – March 31, 2022 | | |
| Detailed Budget Overview: | | |
| | 71317 Other Professional/ Tech | \$127,776 |
| | 61301 Professional Support Staff PT | 44,503 |
| | 61605 Classified Staff FT | 14,000 |
| | 62000 Fringe | 6,000 |
| | 62000 Fringe | 5,221 |
| | 72200 Travel | <u>2,500</u> |
| | TOTAL | \$200,000 |
| Recommendation: | Approval by the Board of Trustees. | |

CURRICULUM AND INSTRUCTION ABSTRACT

| | | |
|--|---|--------------------------|
| Item(s) to be Considered: Discussion and action on the acceptance of the U.S. Department of Labor Susan Harwood Training Grant. | | Amount: \$160,000 |
| Requestor: Barry Bogle | Area Responsible: Risk Management Institute | |
| Resource Persons: Steven Smith, Jaime Farias, Barry Bogle, Robert Elliott | | |
| Purpose: | To provide occupational safety training in the topic area of Lockout/Tagout, a U.S. Department of Labor (DOL) targeted topic, that will focus on educating limited-English speaking and low-literacy workers, including temporary workers and youth, of local small businesses. The program offers an opportunity for EPCC to conduct training and education for small business workers on the recognition, avoidance, and prevention of occupational safety hazards in their workplace, and to inform workers of their rights and employers of their responsibilities under the Occupational Safety and Health Act. Classes will be taught in English and offered in Spanish. | |
| Explanation: | The EPCC Risk Management Institute will educate 650 qualifying workers with a two-hour session addressing procedures to protect workers from unexpected energizing or startup of machinery and equipment, including the release of hazardous energy during servicing and maintenance. The budget will cover existing part-time faculty instruction hours, faculty coordination/recruitment hours, existing part-time clerk hours, instructional materials/supplies, and travel. Dependent on the status of the COVID-19 pandemic, EPCC travel policy, and the funder-required meeting date, out-of-town travel cost savings will be re-budgeted in the final quarter of the grant period. | |
| <p>Budget Account Number: 21720-F21720 : Budget Summary \$160,000 September 30, 2020 – September 30, 2021 Detailed Budget Overview:</p> | | |
| | 61000 Instructor (PT) Pool | \$82,502 |
| | 71910 Indirect Costs | 23,648 |
| | 71123 Furniture & Equipment <\$5,000> | 19,377 |
| | 62000 Fringe | 10,913 |
| | 61601 Classified Staff (PT) | 8,444 |
| | 71130 Instructional Supplies | 7,752 |
| | 72200 Out-of-Town Travel | 2,864 |
| | 72100 In-Town Travel | 2,500 |
| | 71120 Office Supplies | 1,000 |
| | 71330 Printing/ Duplicating – Internal | <u>1,000</u> |
| | TOTAL | \$160,000 |
| Recommendation: | Approval by the Board of Trustees. | |

CURRICULUM AND INSTRUCTION ABSTRACT

| | |
|---|---|
| Item(s) to be Considered: Discussion and action on the approval of the restated and amended Socorro ISD Early College High Schools Interlocal Agreement. | |
| Requestor: Steven Smith | Area Responsible: Instruction and Workforce Education |
| Resource Persons: Steven Smith, Tonie Badillo | |
| Purpose: | To obtain approval from El Paso County Community College District Board of Trustees for the Socorro ISD Early College High Schools Interlocal Agreement between the El Paso County Community College District and the Socorro Independent School District. |
| Explanation: | With the guidance of legal counsel and respective stakeholders, representatives from El Paso County Community College District and the Socorro Independent School District have created an Interlocal Agreement for three of the Socorro ISD Early College High Schools: RAMS Early College High School, Socorro Early College High School, and Trailblazers Early College High School which are located on 12000 Montwood Dr., El Paso, TX 79936; 10150 Alameda Ave., El Paso, TX 79927; and 12101 Pellicano Dr., El Paso, TX 79936 respectively. The agreement is a renewal for all three schools and states the responsibilities of each entity in sustaining the schools. The agreement is also a requirement from the Texas Education Agency (TEA) to grant Early College High School designation. The El Paso County Community College District has an established and respected Early College High School Program. |
| Recommendation: | Approval by the Board of Trustees. |



**Restated and Amended
Interlocal Agreement
between El Paso County Community College District
and Socorro Independent School District
for the Operation of the
Socorro ISD Early College High Schools**



This Restated and Amended Interlocal Agreement (the "Agreement") is made and entered into between El Paso County Community College District (EPCC) and Socorro Independent School District (SISD) (collectively, the "Parties") for the purpose of continuing to operate and maintain RAMS Early College High School ("REC"), Socorro Early College High School ("SEC") and Trailblazers Early College High School ("TEC"), effective as of this _____ day of _____ 2020.

1. Recitals

WHEREAS, EPCC and SISD entered into Interlocal Agreements with each of the schools, with an effective date of October 27, 2015 for REC, August 1, 2014 for SEC and October 18, 2016 for TEC, to establish these three early college high schools so that students would have the opportunity to earn a high school diploma and a two-year Associate's Degree upon graduation from the early college high schools;

WHEREAS, RAMS Early College High School is located at 12000 Montwood Dr., El Paso, TX, 79936, with no more than five hundred and forty (540) students;

WHEREAS, Socorro Early College High School is located at 10150 Alameda Ave., El Paso, TX, 79927, with no more than five hundred and forty (540) students;

WHEREAS, Trailblazers Early College High School is located at 12101 Pellicano Dr., El Paso, TX, 79936, with no more than five hundred and forty (540) students;

WHEREAS, the goals are to reduce dropout rates, attract and better prepare students for higher education, assure students of the support necessary to be successful in college, and provide SISD students a seamless transition between high school and college;

WHEREAS, SISD and EPCC are authorized to enter into this Agreement pursuant to Section 791.001, Texas Government Code,

WHEREAS, this Agreement will provide efficiencies and cost savings to SISD and EPCC and will benefit the students and taxpayers of SISD and EPCC;

NOW, THEREFORE, for and in consideration of the recitals, agreements, and covenants set forth herein, the Parties hereby agree as follows:

2. Mission Statement

REC, SEC and TEC in Socorro ISD will provide a select population of students in accordance with the Texas Education Agency's designation application guidelines a unique educational opportunity to attend both high school and college in a special campus environment that will challenge them to excel in their academic and personal endeavors, as well as motivate students to be productive problem-solving members of society by having the opportunity to earn a high school diploma and an Associate's Degree from EPCC upon high school graduation.

3. Term

The term of this Agreement is for five (5) years commencing on _____, and concluding on _____, unless terminated earlier pursuant to paragraph 19 hereof.

4. Definitions

A. College Courses for Dual Credit are those courses for which students receive both high school and College credit and are taught in a variety of delivery modes:

- (i) At the Early College High School by a SISD teacher credentialed by EPCC;
- (ii) At the EPCC campus taught by an EPCC faculty member;
- (iii) Through a distance learning course taught by an EPCC faculty member.

B. College Courses for College Credit are those courses for which students receive College credit only; these courses do not have a high school equivalent and therefore cannot be offered for high school credit; i.e. dual credit. These courses are taught by an EPCC faculty member at the college campus or through a distance learning class.

C. Early College High School (ECHS) Sections refer to College courses for dual credit in a high school that are designated for Early College High School students only.

5. Academic Plan

An academic plan developed by EPCC and SISD that enables each student to earn a high school diploma and an Associate's Degree. College credit will be earned through College courses for dual credit. REC, SEC and TEC will administer all applicable statewide assessment instruments under Subchapter B, Chapter 39 of Texas Education Code. Both high school and College credit will be transcribed immediately upon a student's completion of the course.

- A. College Curriculum.** EPCC will have full control over faculty assignments, faculty credentials, and faculty evaluations for all dual credit sections as it pertains to College courses. EPCC will have full control over the College curriculum, College syllabi, and College textbook selection. REC, SEC and TEC teachers will comply with any Student Learning Outcomes and Core Curriculum assessments and interventions as required by the College disciplines. EPCC will not provide classes that only meet high school requirements.
- B. Grading Periods and Policies.** REC, SEC and TEC students will adhere to the grading periods and policies of EPCC for dual credit and College credit courses, but will adhere to the grading periods and policies of SISD as well as the school calendar for high school credit courses.
- C. Courses of Study.** REC, SEC and TEC will primarily provide courses of study that meet the requirements of an Associate's Degree and the Distinguished Level of Achievement diploma, in the following endorsement categories: STEM, Business and Industry, Public Services, Arts and Humanities, and Multidisciplinary Studies. Students will also have the opportunity to earn embedded certificates of completion.
- D. Curriculum Alignment.** A curriculum crosswalk similar to the form set forth below will be used for the purpose of granting each student the opportunity to earn a high school diploma and an Associate's Degree within four years. The curriculum alignment will be reviewed on an annual basis by the ECHS Advisory Committee (composed of EPCC and SISD personnel) and updates will be documented in the annual Texas Education Agency ("TEA") Early College High School ("ECHS") re-designation application.



Crosswalk

| 9th Grade High School | | | |
|--|----------------|---|-----------|
| 9th Grade | Credit | EPCC Course | Credits |
| Biology Dual | 1 | BIOL 1306/1106 | 4 |
| Biology Dual | 1 | BIOL 1307/1107 | 4 |
| P/AP Algebra 1 or P/AP Algebra 2 | 1 | | |
| AP Human Geography | 1 | | |
| P/AP English 1 | 1 | | |
| Foreign Language 1 | 1 | | |
| Speech DC or Health | 0.5 | SPCH 1321 | 3 |
| Learning Frameworks/Financial Literacy | 0.5 | EDUC 1300 | 3 |
| PE | 1 | | |
| Total Credits | 8 | | 14 |
| 9th Grade High School: Summer | | | |
| Summer | Credit | EPCC Course | Credits |
| Speech DC (Optional and if not taken in 9th) | 0.5 | SPCH 1321 | 3 |
| | | | |
| 10th Grade High School | | | |
| 10th Grade | Credit | EPCC Course | Credits |
| P/AP Chemistry | 1 | | |
| P/AP English 2 | 1 | | |
| P/AP Algebra 2 or P/AP Geometry | 1 | | |
| AP World History | 1 | | |
| Foreign Language 2 | 1 | | |
| Economics or (Endorsement Requirement) DC | 0.5 | ECON 2301 or 1 class EPCC Core Component #8 that applies FOS | 3 |
| TSI Writing | 0.5 | | |
| Government | 1 | GOVT 2305/GOVT 2306 | 6 |
| TSI Math | 1 | | |
| Total Credits | 8 | | 9 |
| 10th Grade High School: Summer | | | |
| Summer | Credit | EPCC Course | Credits |
| Financial Literacy | 0.5 | | |
| | | | |
| 11th Grade High School | | | |
| 11th Grade | Credit | EPCC Course | Credits |
| AP Physics 1 | 1 | | |
| English 3 | 1 | ENGL 1301/1302 | 6 |
| P/AP Geometry or Dual Pre- Calculus | 1 | MATH 1314 /Math 2412 (Elective) | 7 |
| US History | 1 | HIST 1301/HIST 1302 | 6 |
| Fine Art | 1 | ARTS 1301 OR MUSI 1310 | 3 |
| Student Elective | 1 | | |
| Student Elective | 1 | | |
| Student Elective | 1 | | |
| TSI Mathematics | 0 | | |
| TSI Writing | 0 | | |
| Total Credits | 8 | | 22 |
| 11th Grade High School: Summer | | | |
| Summer | Credit | EPCC Course | Credits |
| Elective Credit DC (Optional) | 0.5 | EPCC FOS | 3 |
| Elective Credit DC (Optional) | 0.5 | EPCC FOS | 3 |
| Total Credits | 1 | | 6 |
| 12th Grade High School | | | |
| 12th Grade | Credit | EPCC Course | Credits |
| Science 4 | 1 | | |
| English 4 | 1 | ENGL 2322 or ENGL 2323 or 1 class EPCC Core Component #4 that applies FOS | 3 |
| Pre-Calculus DUAL or 5t Year Math DUAL | 1 | MATH 1314/Math 2412 or 2413/2314 or FOS classes | 7 |
| Student Elective | 1 | EPCC FOS | |
| Student Elective | 1 | | |
| Student Elective | 1 | | |
| Student Elective | 1 | | |
| Student Elective | 1 | | |
| Total Credits | 8 | | 10 |
| Total HS Credits | 33 | Total EPCC Credits | 61 |

- E. Instructional Materials.** Textbooks for REC, SEC and TEC students will be provided by SISD. All other instructional materials for College credit courses and research activities will be provided jointly by EPCC and SISD. In all cases, SISD will provide those items typically required for purchase by students. College courses for dual credit taught on the high school campus will require dual credit faculty with EPCC approved credentials to teach the College courses and to handle the appropriate lab equipment at the high school campus. SISD will provide those items typically required for purchase by students. For College courses for dual credit, SISD will be responsible for all instructional items. For College credit courses only, EPCC will provide supplies/consumables typically provided as part of the curriculum.
- F. Instructional Calendar.** REC, SEC and TEC students will follow the instructional calendar for both SISD and EPCC as it relates to enrolled coursework. Students enrolled in high school only courses will attend classes on days outlined in the SISD Instructional Calendar. Students enrolled in college courses for dual credit or College credit courses will attend classes on days outlined in the EPCC Instructional Calendar.
- G. Student Enrollment and Attendance Policies.** REC, SEC and TEC students are required to meet the SISD attendance requirements for all dual credit and high school courses and the EPCC attendance requirements for all College credit courses taught by an EPCC credentialed instructor.

Students taking courses at any EPCC campus during the SISD approved attendance-taking time, will take their own attendance using a fingerprint biometric scanner. Fingerprint scanners will be placed at a central location at all EPCC campuses students attend. All hardware and software installation along with maintenance will be the responsibility of SISD and internet access will be provided by EPCC.

6. General Roles and Responsibilities

A. EPCC. EPCC will be responsible for:

- (i) Admitting qualified students into EPCC;
- (ii) Providing professional development opportunities for ECHS instructors credentialed by EPCC;
- (iii) Providing College courses as appropriate and;
- (iv) Awarding College credit to qualified REC, SEC and TEC students.
- (v) Transcribing College credit immediately upon a student's completion of the course.

B. SISD. SISD will be responsible for:

- (i) Recruiting students;
- (ii) Providing and maintaining the appropriate classrooms, facilities, tools and equipment;
- (iii) Hiring and supervising REC, SEC and TEC faculty and staff;
- (iv) Developing and delivering the high school curriculum, and;
- (v) Operating and maintaining the REC, SEC and TEC facilities.
- (vi) Transcribing high school credit immediately upon a student's completion of the course.

C. JOINT RESPONSIBILITIES. EPCC and SISD will be responsible for:

- (i) Aligning the high school and College courses;
- (ii) Sharing in the scheduling of College courses for REC, SEC and TEC;
- (iii) Advising students throughout their collegiate academic experience; and
- (iv) Providing joint professional development opportunities.

7. Use of Facilities

A. Buildings and Site. SISD houses the Early College High Schools covered by this Agreement at the following sites:

- (i) RAMS Early College High School
12000 Montwood Dr.
El Paso, TX, 79936
- (ii) Socorro Early College High School
10150 Alameda Ave.
El Paso, TX, 79927
- (iii) Trailblazers Early College High School
12101 Pellicano Dr.
El Paso, TX, 79936

The space will include core learning classrooms including library and learning resources as well as administrative and student support areas. All core Early College High School classes will be located in a dedicated and contiguous space such as a dedicated hall or wing. Construction and installation, maintenance, utilities, and operation will be at SISD's sole expense.

B. Safety and Health. In case of a health emergency at REC, SEC and TEC, the SISD Emergency Operations Plan will be followed. If the health emergency occurs on the EPCC campus, the Early College High School Emergency Plan will be followed. EPCC police will be the first responder but will not be responsible for providing other than life saving health care for any Early College High School student.

8. Staffing

All the REC, SEC and TEC staff shall be exclusive employees of SISD ("SISD staff"). There will be no joint employment relationship between EPCC and SISD of any SISD staff. SISD shall exclusively pay all salaries and provide benefits to all SISD Staff. Except as otherwise provided herein, EPCC shall have no responsibility to control, discipline, hire, terminate, compensate, or provide benefits to any of the SISD Staff.

Credentials of prospective ECHS teachers who will teach College courses for dual credit will be pre-screened by the appropriate EPCC administrator. EPCC discipline faculty will be invited to serve on ECHS teacher hiring committees. For those areas in which dual credit classes will be offered, SISD will hire teachers who can meet EPCC credentialing requirements.

SISD will staff REC, SEC and TEC with the following personnel:

- An Early College High School Director, fully dedicated to each Early College High School
- A Counselor, fully dedicated to each Early College High School
- The appropriate number of highly qualified teachers based on enrollment and/or curriculum needs
- A Nurse, shared with the comprehensive high schools
- A Secretary, fully dedicated to each Early College High School
- A Clerk, shared with the comprehensive high schools
- A PEIMS clerk/register, shared with the comprehensive high schools
- A Security Guard, shared with the comprehensive high schools
- A Campus Technologist, shared with the comprehensive high schools
- A Librarian, shared with the comprehensive high schools

The staffing will comply with EPCC's Enrollment Optimum but strive for a limit of twenty-five (25) students per class.

The REC, SEC and TEC Counselors will be responsible for overseeing every Early College High School student's degree plan requirements once the plan has been approved by the EPCC counselor.

The appropriate ECHS/EPCC Dean will serve on the hiring committees for the ECHS administrative positions.

EPCC discipline faculty will serve on the REC, SEC and TEC teacher-hiring committees. For those areas in which onsite dual credit classes will be offered, the ECHS will hire teachers who can meet EPCC credentialing requirements. College courses for dual credit can only be taught by qualified instructors credentialed by EPCC. All applicants must follow and meet SISD hiring procedures and requirements.

In the event EPCC provides the instructor for a College course for dual credit, cost sharing will be done according to the most recent Dual Credit Partnership Agreement, except when ECHS students are enrolled in sections at an EPCC campus.

9. Professional Development of Staff

SISD shall be responsible for professional development of all full-time and part-time staff assigned to REC, SEC and TEC, including staff development aimed at working with technology and at-risk students. REC, SEC and TEC faculty at SISD's cost will participate in the professional development activities of EPCC, and the agency designated by the Texas Education Agency (TEA) to provide Early College High School leadership coaching and technical assistance.

10. Student Services

- A. **Student Services Provided by SISD.** Except as expressly set forth herein, SISD shall provide student services for all REC, SEC and TEC students, including, health services, counseling services, tutorial services, transportation, food service, and all high school books and teaching materials. By July 1 of each year, SISD will submit all graduated seniors' final high school transcripts, with the official graduation date, through the Texas Records Exchange (TREx) system. Paper copies will not be accepted.
- B. **Student Services Provided by EPCC.** In addition to on-site resources provided by SISD at REC, SEC and TEC, students will be issued an EPCC ID card by the end of the first semester of their freshman year and will have open access to EPCC's online library databases, materials, and resources. REC, SEC and TEC students will have access to on-campus and online EPCC tutoring centers, Academic Computer Services labs, and libraries. EPCC will provide designated ECHS Librarians with appropriate log-ins to access EPCC Library resources. EPCC Librarians will provide training to designated ECHS Librarians on available EPCC resources. REC, SEC and TEC students will have access to all EPCC student services and privileges, including participation in student government and student clubs. Upon mutual agreement, EPCC will conduct enrollment registration for all qualified students who have met all requirements and have requested enrollment in College courses for dual credit and College credit courses. An enrollment after EPCC's Census Date and a three-peat fee will be assessed in accordance to the current Dual Credit Partnership Agreement.
- C. **Codes of Conduct.** REC, SEC and TEC students will adhere to all the requirements of the SISD Code of Conduct and state law applicable to public school students. Students will have the rights and responsibilities defined in the EPCC Code of Conduct, EPCC Catalog, EPCC Student Handbook, and the EPCC Board Policies and College Procedures. In the event of any inconsistency between the SISD Code of Conduct and the EPCC Code of Conduct, the SISD Code of Conduct and applicable provisions of Chapter 37 of the Texas Education Code will be followed.
- D. **Major Sports and University Interscholastic League (UIL) Activities.** REC, SEC and TEC students will be allowed to participate in major sports and UIL sponsored activities.
- E. **Transportation.** Transportation is at the sole discretion of SISD and not the responsibility of EPCC. SISD will ensure bus routes for students attending courses at all EPCC site facilities during the fall, spring, and summer terms that occur during regular high school hours. SISD will provide round-trip transportation for students from REC, SEC and TEC to EPCC campuses for official school activities, such as daily classes in an approved schedule.

11. Enrollment in College Courses

- A. Placement Exams.** As a prerequisite to enrollment in College courses, each student shall apply for and be admitted to EPCC and shall successfully complete appropriate placement exams, where required. EPCC shall provide materials, support and guidance to assist students in the application process and taking of placement exams. Students with disabilities needing accommodations should contact the EPCC Center for Students with Disabilities (CSD) to arrange a meeting with a CSD Counselor. The placement exam will be administered at the high school that complies with EPCC's CSD-approved accommodations.
- B. Prerequisites.** REC, SEC and TEC students must meet the prerequisite for any College course for which they register; no waivers for such prerequisites will be granted. A course designated as dual credit may not be open to students who have not yet met the prerequisite for such course; students who have not met the prerequisite may not be in attendance in the same classroom. REC, SEC and TEC students will be enrolled in ECHS sections for core dual credit classes.
- C. Degree Plans.** REC, SEC and TEC students will only take College courses for dual credit or College credit courses toward their EPCC degree plan or the degree plan of the transferring institution they have selected, whether such classes are taught at the Early College High Schools or at the EPCC campus. REC, SEC and TEC students will be advised on the transferability and applicability of all College credit offered and earned.
- D. State Assessment Testing.** The Early College High School Director will be responsible for informing the designated EPCC Dean of all mandatory assessment testing dates. ECHS students will be responsible for informing EPCC instructors of dates for all mandatory assessment testing and ensuring that missed work is completed.
- E. High School Graduation.** Upon high school graduation, REC, SEC and TEC students who have not yet graduated with an Associate degree may continue to pursue their degree plan at EPCC, but they will assume all financial responsibility.
- F. College Graduation.** After the REC, SEC and TEC students graduate with their Associate's Degree, they may continue to take College courses at EPCC, but they will assume all financial responsibility.
- G. EPCC Dual Credit Policy and Procedures.** In all cases, College courses for dual credit will adhere to EPCC's College Procedure 6.00.01.30, "High School Dual Credit Program Requirements."
- H. Application of Americans with Disabilities Act Amendments Act and Section 504 of the Rehabilitation Act of 1973.** To the extent this Agreement and the services provided under the Agreement are subject to the Americans with Disabilities Act Amendments Act and/or Section 504 of the Rehabilitation Act of 1973, SISD and EPCC agree to take any steps necessary to comply with the provisions of these laws. Coordination of services under the Agreement, enrollment of students and any necessary accommodations will be managed by the EPCC Center for Students with Disabilities (CSD). Appropriate accommodations will be determined by an EPCC CSD Counselor based upon individual needs and requirements of the required program of study. Accommodations will be provided by SISD. Accommodations for special education students enrolled in dual credit and College courses must adhere to EPCC's accommodations policy.

12. Fees, Tuition, and Instructional Materials for College Courses

EPCC shall waive tuition and fees for College credit courses for REC, SEC and TEC students enrolled in such courses, provided, however, that such courses are related to that student's official degree plan. The exception is for any Open Educational Resource (OER) fees if the student is enrolled in a section using OER materials rather than a traditional textbook (see also Section 5E, above). In these cases, SISD is responsible for the OER fee. SISD will fund placement testing fees. Other fees may apply, as outlined in the most recent Dual Credit Partnership Agreement.

13. Recruitment and Selection of Students

To secure the broadest applicant pool possible, the Early College High Schools will recruit eighth grade students no later than the end of the spring semester of each year. SISD will recruit from its middle school feeder pattern. A recruitment team comprised of the Early College High School Director, Early College High School Counselor, and on-site Early College High School staff will lead this effort. The recruiting process will include the following activities:

- A. Maintenance of an Early College High School website for each REC, SEC and TEC that provides recruitment and admission information with links to the EPCC homepage, EPCC Library homepage, and the EPCC Dual Credit/ECHS Program homepage;
- B. Distribution of recruitment/admission packets to middle school students in the school district.
- C. Meetings with middle school counselors to introduce and explain the concept of the ECHS; TEA and Early College High School blueprint.
- D. Student meetings at all middle school campuses to explain the opportunities and commitment required of REC, SEC and TEC students.
- E. Community informational meetings for students/parents interested in REC, SEC and TEC.
- F. Presentation of recruitment and admission information in both English and Spanish; and
- G. Any other activities required by the TEA Blueprint.

Recruitment materials will be reviewed by the steering committee in the planning year to ensure it meets TEA Blueprint and EPCC co-branding guidelines. EPCC Dual Credit Counseling and Administration will participate in parent and information sessions upon request.

Admission to REC, SEC and TEC will be open to a maximum of 135 students every year. This will be known as a cohort. Criteria for admission to REC, SEC and TEC allows eighth grade students to apply for the new cohort each year and enter Early College High School as ninth graders. The majority of the students accepted to REC, SEC and TEC will be those who are identified as “at risk” according to TEA guidelines, including low-income students, and English language learners.

In special circumstances, additional ninth graders who meet the criteria for Early College High School, will be allowed to apply for any available openings in the cohort, as long as they do not exceed the maximum of 135 students. These students will be integrated into the existing cohort.

14. Marketing and Co-branding

REC, SEC and TEC are a strong and beneficial partnership between SISD and EPCC and will be co-branded accordingly. EPCC and Early College High School logos will appear jointly and prominently on all media/marketing materials, school marquee, verbal and non-verbal messaging, and anywhere else the program is visible. The logos must be of the same size and in high profile locations. SISD and REC, SEC and TEC will state “Early College High School is a partnership between EPCC and SISD,” when speaking, presenting, or discussing the initiative as well as in all written materials, including, but not limited to: news releases, website content, promotional materials, social media or other content. Signage, banners and other displays should prominently demonstrate the partnership and should include EPCC and its logo. Except for written materials on jointly pre-approved Early College High School letterhead or masthead or digital material posted in a jointly pre-approved format, these materials will need to be reviewed and approved by EPCC's Marketing/Community Relations Department and the Dean of DC/ECHS. Each party reserves the right to approve major signage, banners and other displays that will be displayed outside the EPCC campus to the general public. EPCC supplied logos, banners, or flags will be displayed in each classroom used to teach REC, SEC and TEC students. SISD is responsible for ensuring that departments producing as well as appropriate administrators, faculty and staff are aware of the marketing and co-branding requirements. Media/marketing materials that do not reflect appropriate co-branding may have to be taken down and redone to properly reflect required marketing and co-branding.

15. Collecting and Sharing Data

SISD and EPCC agree to collect data associated with REC, SEC and TEC required for reporting purposes and to share the data with the appropriate agencies as needed for internal purposes for use by either entity. SISD and EPCC Research departments, will be the primary point of contact for all data collection for their respective institutions. In addition, SISD and EPCC agree to share any data required for the successful completion of REC, SEC and TEC students' graduation plans. When applicable, EPCC's Institutional Review Board (IRB) will be consulted with when requesting and sharing data or conducting research. When selected, REC, SEC and TEC will participate in student success, facility satisfaction surveys, and other local or national surveys administered to EPCC students. SISD and EPCC will collect and review the following aggregated/disaggregated data: number of credit hours taken and earned; GPAs; state assessment results; SAT/ACT, PSAT; TSI readiness by grade level; qualifications of Early College High School staff; and location(s) where courses are taught. Provisions for implementing program improvements will be based on the collection, review, and sharing of the following data: EPCC data; SISD data; high school grade point average, high school percentile, high school ranking; articulation of high school students in four-year colleges/universities and level of entry and enrollment/retention rates; and leaver codes and attrition rates, by grade level; and other data relevant to student academic achievement, success, and well-being.

FERPA: For purposes of this Agreement, pursuant to the Family Educational Rights and Privacy Act of 1974 (FERPA), EPCC hereby designates SISD as a college official with a legitimate educational interest in the educational records of the students who participate in the Early College High School Program to the extent that access to the records are required by SISD to carry out the Program; and SISD hereby designates EPCC as a school official with a legitimate educational interest in the educational records of the Students who participate in the Early College High School Program to the extent that access to the records are required by EPCC to carry out the Program. Both Parties agree to maintain the confidentiality of the educational records in accordance with the provisions of FERPA.

16. Advisory Committee

An Advisory Committee comprised of representatives from EPCC and SISD will meet at least quarterly to facilitate communication, to evaluate instructional and programmatic activities, to identify issues and challenges and make recommendations, and to enhance collaboration. The Advisory Committee shall periodically make reports and presentations to their respective boards and appropriate administrators. Specifically, the Advisory Committee will meet in order to:

- A. Develop and implement academic and professional policy;
- B. Develop and implement budgets and financial policy;
- C. Supervise annual evaluation of the program and effectiveness of the collaboration;
- D. Ensure adherence to state and federal regulations;
- E. Review, annually, the interlocal and/or articulation agreements and to suggest revisions as necessary.

Members of the Advisory Committee may include: EPCC Dual Credit and Early College High Schools (DC/ECHS) Associate Director (Student Services), EPCC Executive Director of Admissions & Registrar, EPCC Administrative Liaison, EPCC Dean of DC/ECHS, EPCC ECHS Counseling Coordinator, EPCC Counselor, Early College High School Director, Early College High School Counselor, and others as invited to participate.

17. Early College High School Leadership Council

Representatives from the Advisory Committee in addition to EPCC and SISD senior administrators will be members of the Early College High School Leadership Council (ECHSLC). The purpose of the Early College High School Leadership Council is to provide a forum for the discussion of topics and issues of common interest and concern across all El Paso area Early College High Schools. Additionally, when appropriate, the Council will facilitate the coordination of activities and events (such as joint professional development) across the schools. Other members of the Council may include the

District Office Liaisons, UTEP Representative, EPCC President, EPCC Vice President of Instruction and Workforce Education, and EPCC Vice President of Student and Enrollment Services. It is firmly believed that this new management and organizational tool enhances the operation of the high schools and ensures consistency in operation, while still allowing for the individuality of each Early College High School. This group meets biannually.

18. Liability of EPCC and SISD

This Agreement is not intended to alter or reallocate any defense or immunity presently authorized by law, or to create or transfer any liability arising under the law. SISD and EPCC shall each bear any liability or risk of loss for claims arising from the acts or omissions of their respective employees and agents. Each Party agrees that it shall be responsible for its own officers, agents and employees who are performing duties under this Agreement, and neither shall be liable or responsible for the acts or omissions of the other's officers, agents or employees. SISD shall bear sole responsibility and liability for any claims by its students arising from acts, omissions, and negligence attributed to SISD. SISD and EPCC expressly maintain all rights of governmental immunity or sovereign immunity from litigation or liability, to the extent provided by applicable law.

19. Renewal or Termination

Upon completion of the initial term of this Agreement, it shall be automatically renewed for successive terms of one (1) year each unless EPCC or SISD shall give notice of nonrenewal at least ninety (90) days prior to the end of the initial term or ninety (90) days prior to the end of any renewal term. Notwithstanding the foregoing, either EPCC or SISD shall have the right to terminate this Agreement with or without cause at any time during the initial term upon written notice to the other party. In the event of termination during the initial term of this Agreement, the effective date of termination shall be as of June 30, following the notice. It is the intent of the Parties that no termination shall be made during the middle of the school year which will disrupt the academic progress for the students of REC, SEC and TEC, unless the Parties mutually agree. In the event of termination, REC, SEC and TEC will continue operation through the 11th grade cohort's scheduled graduation from REC, SEC and TEC. Services to enrolled 9th and 10th grade students may be continued though graduation of those cohorts by agreement. While in the process of discontinuing operation, REC, SEC and TEC may not enroll any additional students in grades that have been phased out but will continue to meet all the required design elements and provide full support for all students enrolled in the school.

20. Miscellaneous

- A. **Integrated Agreement.** This Agreement constitutes the entire agreement of the Parties respecting the subject matter described herein and supersedes all prior agreements or understandings, whether written or oral.
- B. **Notices.** Any notice authorized or required to be given under this Agreement shall be delivered or sent to the Parties at the following addresses:

El Paso Community College
P.O. Box 20500
El Paso, TX 79998
Attn: President

Socorro Independent School District
12440 Rojas
El Paso, TX 79928
Attn: Superintendent

All notices required to be given hereunder shall be in writing, and shall be served in person upon the party to be notified or upon its agent, or shall be mailed by certified or registered mail or deposited with a nationally recognized overnight carrier, postage prepaid, to the address shown on above. Any notice mailed in the manner set forth in this Section shall be deemed received by the party to whom it is addressed when deposited in such manner with the United States Postal Service or said overnight carrier.

- C. **Compliance with Laws and Regulations.** The Parties shall comply with all applicable local, state, and federal laws, ordinances, regulations, and orders.
- D. **Governing Law.** This Agreement is to be performed in El Paso County, Texas, and is governed by the Constitution and the laws of the State of Texas. The venue of any suit arising from this Agreement shall be in El Paso County, Texas. The Parties hereby irrevocably submit generally and unconditionally for themselves and in

respect of their property to the jurisdiction of any state court, or any United States federal court, sitting in the City El Paso, El Paso County, Texas, over any suit, action or proceeding arising out of or relating to this Agreement.

- E. **Assignment Prohibited.** This Agreement, its rights, duties and responsibilities, may not be assigned without the prior written agreement of the Parties.
- F. **Alternate Dispute Resolution.** The dispute resolution process provided for in Chapter 2260 of the Texas Government Code and the related rules adopted by the Texas Attorney General pursuant to Chapter 2260 will be used by the Parties to attempt to resolve any claim for breach of contract made by either party that cannot be resolved in the ordinary course of business.
- G. **Counterparts.** This Agreement is being executed in multiple counterparts, each of which shall constitute an original and all of which together shall constitute but one and the same instrument.
- H. **Payments.** Any party paying for the performance of governmental functions or services rendered by the other party must make these payments from current revenues available to the paying party.

Signed and approved effective as of the date shown above.

EPCC:
EL PASO COUNTY COMMUNITY COLLEGE DISTRICT

By: _____
William Serrata, Ph.D., President

Approved as to form:

General Counsel, EPCC

SISD:
SOCORRO INDEPENDENT SCHOOL DISTRICT

By: _____
José Espinoza, Ed.D., Superintendent

Approved as to form:

General Counsel, SISD

CURRICULUM AND INSTRUCTION ABSTRACT

| | | | | | | | | | | | | |
|----------------------------------|---|--|-------|-----------------|----------|--------------------|---------|--------------------|-----------------------|--------------------|----------|------------------|
| Item(s) to be Considered: | Discussion and action to approve an amendment to the Board-approved five-year contract with Blackboard, Inc. to host and support the EPCC Virtual College. | Amount: \$240,000 | | | | | | | | | | |
| Requestor: | Paula Mitchell | Area Responsible: Instruction and Student Success | | | | | | | | | | |
| Resource Persons: | Steven Smith, Jenny Giron, Paula Mitchell,, Luz Cadena | | | | | | | | | | | |
| Purpose: | To amend the existing contract with Blackboard, Inc. to expand server space for the EPCC Virtual College to ensure quality delivery of instruction. | | | | | | | | | | | |
| Explanation: | <p>A five-year contract with Blackboard, Inc. was approved by the Board of Trustees in June 2019 to provide services from FY2019-2020 through FY2023-2024. Under this agreement, Blackboard hosts and supports the EPCC Virtual College. Hosting services include the Blackboard learn administration and software, application server, database support services, and maintenance. Revenue usually is generated from tuition, the distance-learning fee, and state reimbursement.</p> <p>In April 2020, the College moved to virtual coursework due to the emerging COVID-19 Pandemic. This transition caused an increase in server utilization, which has continued to expand with continuing online coursework through Summer 2020, Fall 2020, and the plan for Spring 2021. The EPCC Distance Learning Support Services Department has worked closely with the Blackboard support staff to reduce server storage. However, Blackboard billed the College and included an additional \$48,000 for utilization through August 2020 for the 2019-2020 academic year. Projecting continued utilization at the same or higher level, Blackboard recommends that the existing contract be amended to reflect additional server space at the cost of \$48,000 per academic year. This amendment brings the projected cost increase to an additional \$240,000 total.</p> <p>The original contract was conducted through the National Cooperative Purchasing Alliance contract #01-92, as allowed by the Texas Education Code 44.031 and Texas Government Code 791. Such contracts are competitively awarded.</p> <p>Funding is provided by the Software Maintenance Account. The \$48,000 for the 2019-2020 and 2020-2021 academic years may be eligible for reimbursement from the CARES Institutional Grant.</p> | | | | | | | | | | | |
| Recommendation: | Approval by the Board of Trustees. | | | | | | | | | | | |
| Vendor: | Blackboard, Inc. P.O. Box 200154 Pittsburg, PA 15251-0154 | | | | | | | | | | | |
| | | <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%;">Date:</td> <td style="text-align: right;"><u>10/16/20</u></td> </tr> <tr> <td>Account:</td> <td style="text-align: right;"><u>11000-75006</u></td> </tr> <tr> <td>Budget:</td> <td style="text-align: right;"><u>\$1,937,693</u></td> </tr> <tr> <td>Expenditures to date:</td> <td style="text-align: right;"><u>\$1,032,337</u></td> </tr> <tr> <td>Balance:</td> <td style="text-align: right;"><u>\$905,356</u></td> </tr> </table> | Date: | <u>10/16/20</u> | Account: | <u>11000-75006</u> | Budget: | <u>\$1,937,693</u> | Expenditures to date: | <u>\$1,032,337</u> | Balance: | <u>\$905,356</u> |
| Date: | <u>10/16/20</u> | | | | | | | | | | | |
| Account: | <u>11000-75006</u> | | | | | | | | | | | |
| Budget: | <u>\$1,937,693</u> | | | | | | | | | | | |
| Expenditures to date: | <u>\$1,032,337</u> | | | | | | | | | | | |
| Balance: | <u>\$905,356</u> | | | | | | | | | | | |

STUDENT SERVICES ABSTRACT

| | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|---|--|---|---------------|-----------------|----------|---------------------------------|------------------------|--------------------|----------------------------------|------------------|--------------------|----------------------------------|------------------------------------|--------------------|----------------------------------|--|--------|----------------------------------|--|--------|------------------------------------|--|-------|-------------------------|--|----------------|-----------|--|---------|-------------------|--|---------------|--------------------|--|--------------------------|
| Item(s) to be Considered: Discussion and action on the approval of a contract award to JSA Technology Card Systems LP (dba 'Atrium') to purchase a student ID card system. | | Amount (Not to Exceed): \$479,852 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Requestor: Arvis Jones | Area Responsible: Student Leadership & Campus Life | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Resource Persons: Kenneth Gonzalez, Arvis Jones, Marco Fernandez | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Purpose: | To approve a contract award to purchase a student ID card system with JSA Technology Card Systems LP for replacement of the existing 15-year old ID card system. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Explanation: | <p>All current members of the College community are issued a valid Photo Identification Card for the purposes of verifying status and or seeking access to College facilities or services. The new system meets the following requirements: Industry standard, PCI compliant, Support Windows 10 workstations, support entries of cardholder information and digitized images. The ID card will have student photo, student name, ID number and signatures needed for hospital and testing admission and access. It also has multiple layers of security, magnet cards that conform to encoding format for financial transaction on tracks I and II. Track III is programmable with District information. The card system can generate various reports for District utilization.</p> <p>This recommendation is based on Request for Proposal (RFP) #19-006 per Texas Education Code 44.031. Contract award also includes annual licensing fees and maintenance and support costs for a period of five years: the initial year plus four additional years.</p> <table border="0"> <tr> <td colspan="3" style="text-align: center;">Cost Proposal</td> </tr> <tr> <td>1st year investment</td> <td></td> <td style="text-align: right;">\$ 167,649</td> </tr> <tr> <td>2nd year maintenance</td> <td></td> <td style="text-align: right;">69,250</td> </tr> <tr> <td>3rd year maintenance</td> <td></td> <td style="text-align: right;">69,250</td> </tr> <tr> <td>4th year maintenance</td> <td></td> <td style="text-align: right;">69,250</td> </tr> <tr> <td>5th year maintenance</td> <td></td> <td style="text-align: right;">69,250</td> </tr> <tr> <td>Purchase of ID cards – Qty: 35,000</td> <td></td> <td style="text-align: right;">6,650</td> </tr> <tr> <td>*Adjustments to pricing</td> <td></td> <td style="text-align: right;"><u>-15,070</u></td> </tr> <tr> <td>Sub Total</td> <td></td> <td style="text-align: right;">436,229</td> </tr> <tr> <td>Contingency (10%)</td> <td></td> <td style="text-align: right;"><u>43,623</u></td> </tr> <tr> <td>Grand Total</td> <td></td> <td style="text-align: right;"><u>\$ 479,852</u></td> </tr> </table> <p>*Adjustment for USB magnetic stripe reader.</p> <p>Funding for the initial investment is provided by the current fund balance in the Student Activities Fund. Annual maintenance will be budgeted in the Student Activities Fund for every year of this contract.</p> | | Cost Proposal | | | 1 st year investment | | \$ 167,649 | 2 nd year maintenance | | 69,250 | 3 rd year maintenance | | 69,250 | 4 th year maintenance | | 69,250 | 5 th year maintenance | | 69,250 | Purchase of ID cards – Qty: 35,000 | | 6,650 | *Adjustments to pricing | | <u>-15,070</u> | Sub Total | | 436,229 | Contingency (10%) | | <u>43,623</u> | Grand Total | | <u>\$ 479,852</u> |
| Cost Proposal | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 1 st year investment | | \$ 167,649 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 2 nd year maintenance | | 69,250 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 3 rd year maintenance | | 69,250 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 4 th year maintenance | | 69,250 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 5 th year maintenance | | 69,250 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Purchase of ID cards – Qty: 35,000 | | 6,650 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| *Adjustments to pricing | | <u>-15,070</u> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Sub Total | | 436,229 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Contingency (10%) | | <u>43,623</u> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Grand Total | | <u>\$ 479,852</u> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Recommendation: Approval by the Board of Trustees. | <table border="1"> <tr> <td>Date:</td> <td style="text-align: right;"><u>09/01/20</u></td> </tr> <tr> <td>Account:</td> <td style="text-align: right;"><u>16001-B16004</u></td> </tr> <tr> <td>Beginning Fund Balance</td> <td style="text-align: right;"><u>\$1,117,390</u></td> </tr> <tr> <td>Budgeted revenue:</td> <td style="text-align: right;"><u>\$494,906</u></td> </tr> <tr> <td>Budgeted Expenses:</td> <td style="text-align: right;"><u>\$494,906</u></td> </tr> <tr> <td>Projected Fund balance 08/31/21</td> <td style="text-align: right;"><u>\$1,117,390</u></td> </tr> </table> | | Date: | <u>09/01/20</u> | Account: | <u>16001-B16004</u> | Beginning Fund Balance | <u>\$1,117,390</u> | Budgeted revenue: | <u>\$494,906</u> | Budgeted Expenses: | <u>\$494,906</u> | Projected Fund balance 08/31/21 | <u>\$1,117,390</u> | | | | | | | | | | | | | | | | | | | | | |
| Date: | <u>09/01/20</u> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Account: | <u>16001-B16004</u> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Beginning Fund Balance | <u>\$1,117,390</u> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Budgeted revenue: | <u>\$494,906</u> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Budgeted Expenses: | <u>\$494,906</u> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Projected Fund balance 08/31/21 | <u>\$1,117,390</u> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Vendor: JSA Technology Card Systems LP (dba 'Atrium') | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 3126 W. Cary St. #727 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Richmond, VA 23221 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

EL PASO COUNTY COMMUNITY COLLEGE DISTRICT
PURCHASE OF IDENTIFICATION CARD PRINTER SYSTEM

RFP #19-006

ANALYSIS

The goods and services secured through this Request for Proposals (RFP) process will be utilized by El Paso County Community College District.

This RFP process complies with all applicable statutes, rules, policies, and procedures related to procurement as it relates to contracting for goods and/or services, including compliance with conflict of interest disclosure requirements.

Requests for Proposals were advertised for two (2) consecutive weeks in the local newspaper, the *El Paso, Inc.* All such solicitations are also posted on the Purchasing & Contract Management Department's page of the EPCC website. Proposal packets were issued to forty (40) entities. Proposals were received from the following entities: Comco, Inc.; Convergint Technologies LLC; JSA Technology Card Systems LP (dba 'Atrium'); Matrix Special Systems, Inc.; and Rockwest Technology Group, Inc. dba Multicard.

The RFP Analysis Committee evaluated and scored the written proposals, taking into account the references checked and, based on the scores, decided to invite the companies with the top three scoring proposals to present to the RFP Analysis Committee via Microsoft Teams.

The RFP Analysis Committee heard 40-minute presentations each from Comco Inc.; JSA Technology Card Systems LP (dba 'Atrium'); and Rockwest Technology Group, Inc. dba Multicard. Each presentation was followed by a 10-minute question and answer period.

It is the recommendation of the "RFP Analysis Committee" (Arvis Jones, Marlib Gonzalez, Claudia Gutierrez, Dr. Paula Mitchell, Marco Fernandez, Nasser Hamdan, Abraham Hubail, Sam Ruiz, and Ana Zuniga) that a contract be awarded to:

JSA Technology Card Systems LP (dba 'Atrium')
3126 W. Cary St. #727
Richmond, VA 23221

Contract award will be through project completion, including, by way of example and not limitation, delivery, installation, testing, and training. Contract award also includes annual licensing fees and maintenance and support costs for a period of five years: the initial year plus four additional years.

| RFP #19-006 Purchase of Identification Card Printer System | | | |
|---|---|--|---|
| Vendor | Comco, Inc. | JSA Technology Card Systems LP (dba 'Atrium') | Rockwest Technology Group, Inc. dba Multicard |
| The District requests two (2) complete proposal response packets of which one (1) must be an original with all the requested information, documentation, forms, etc. in each packet. | Provided | Provided | Provided |
| Cost Respondent agrees to hold the prices, if awarded, through project completion. Yes ___ (initial) If no, please indicate the term: _____ (Month, Date, Year) | Agreed | Agreed "FIVE YEARS with option to renew for another Five Years based on CPI index change from Year 1 to Year 6" | Agreed |
| A. Initial Investment | See proposal response for detailed pricing | See proposal response for detailed pricing | See proposal response for detailed pricing |
| B. Annual License/Maintenance Fees | See proposal response for detailing information pertaining to Annual License/Maintenance Fees | See proposal response for detailing information pertaining to Annual License/Maintenance Fees | See proposal response for detailing information pertaining to Annual License/Maintenance Fees |
| C. Card System Equipment | See proposal response for detailing information pertaining to Card System Equipment | See proposal response for detailing information pertaining to Card System Equipment | See proposal response for detailing information pertaining to Card System Equipment |
| Refer to Section III. Specifications (pages 15-18) for any additional items to be included with your proposal. Refer to Section V. Proposal Response (pages 20-22) for any additional items to be included with your proposal. | See proposal response for responses to these items | See proposal response for responses to these items | See proposal response for responses to these items |
| Proposal Response | | | |
| Respondent shall state whether offeror operates in El Paso, Texas only or is a regional or national company. If offeror is a regional or national company, describe what resources are available locally to handle operational and administrative issues. Respondent shall state the city & state where its company's headquarters are located on the Proposal Form, page 34. | Provided | Provided | Provided |
| Respondent shall provide a minimum of three (3) references from organizations, preferably multi-campus, educational environments, where similar full spectrum card services have been provided using Attachment A. The District reserves the right to contact respondent's other customers as part of its reference check process. | Provided | Provided | Provided |
| Vendor acknowledged Addenda #1, #2, and #3. | Acknowledged | Acknowledged addenda #1 and #2 | Acknowledged addenda #1 and #2 |
| Family Code, Felony Conviction, and Conflict of Interest Forms | Provided | Provided | Provided |

| RFP #19-006 Purchase of Identification Card Printer System | | | | | | |
|--|--|--------|--------------|---|---|----------------|
| Evaluation Criteria | Ratings Key | Factor | Comco, Inc. | JSA Technology Card Systems LP (dba 'Atrium') | Rockwest Technology Group, Inc. dba Multicard | Maximum Points |
| 1. The purchase price (30 pts.) | 0 = Unable to evaluate due to inadequate or missing information 1 = Unsatisfactory 2 = Below average 3 = Average 4 = Above average 5 = Superior | 6 | 17.33 | 20.00 | 18.00 | 30 |
| 2. The reputation of the vendor and of the vendor's goods or services (15 pts.) | 0 = Unable to evaluate due to inadequate or missing information 1 = Unsatisfactory 2 = Below average 3 = Average 4 = Above average 5 = Superior | 3 | 7.33 | 12.67 | 7.67 | 15 |
| 3. The quality of the vendor's goods or services (15 pts.) | 0 = Unable to evaluate due to inadequate or missing information 1 = Unsatisfactory 2 = Below average 3 = Average 4 = Above average 5 = Superior | 3 | 6.33 | 13.33 | 8.00 | 15 |
| 4. The extent to which the vendor's goods or services meet the District's needs (19 pts.) | 0 = Unable to evaluate due to inadequate or missing information 1 = Unsatisfactory 2 = Below average 3 = Average 4 = Above average 5 = Superior | 3.8 | 5.91 | 16.04 | 10.98 | 19 |
| 5. The vendor's past relationship with the District (5 pts.) | 0 = Unable to evaluate due to inadequate or missing information 1 = Unsatisfactory 2 = Below average 3 = Average 4 = Above average 5 = Superior | 1 | 1.89 | 0.00 | 2.78 | 5 |
| 6. The impact on the ability of the District to comply with laws and rules relating to Historically Underutilized Businesses | 0 = No 1 = Yes | 1 | 1.00 | 0.00 | 0.00 | 1 |
| 7. The total long term cost to the District to acquire the vendor's goods or services (10 pts.) | 0 = Unable to evaluate due to inadequate or missing information 1 = Unsatisfactory 2 = Below average 3 = Average 4 = Above average 5 = Superior | 2 | 5.56 | 7.11 | 5.78 | 10 |
| 8. For a contract for goods and services, other than goods and services related to telecommunication and information services, building construction and maintenance, or instructional materials, whether the vendor or the vendor's ultimate parent company or majority owner: (A) has its principal place of business in this state; or (B) employs at least 500 persons in this state. (0 pts.) | 0 = No 1 = Yes | 0 | 0.00 | 0.00 | 0.00 | 0 |
| 9. Any other relevant factor specifically listed in the request for bids, proposals, or qualifications (5 pts.) | 0 = Unable to evaluate due to inadequate or missing information 1 = Unsatisfactory 2 = Below average 3 = Average 4 = Above average 5 = Superior | 1 | 1.56 | 3.67 | 2.56 | 5 |
| TOTALS: Composite scores calculated to the nearest hundredth. | | | 46.91 | 72.82 | 55.76 | 100 |
| Comments: | | | | Recommend award | | |
| Scope of Work as per the Specifications in RFP #19-006 Purchase of Identification Card Printer System | | | | | | |
| The El Paso County Community College District ("District") is seeking proposals for the purchase of an identification card printer system. | | | | | | |

| COURSE | TITLE | HOURS | TUITION |
|--|---------------------------------------|-------|---------|
| Business/Computer/Technical Education | | | |
| MGT 223 | New Paths to 21 st Century | 24 | \$129 |
| CE Health | | | |
| AHP 537 | Intro to Yoga | 12 | \$75 |
| AHP 538 | Bodies and Bands | 12 | \$75 |
| AHP 539 | Yin Yoga | 12 | \$75 |
| Center for College Access and Development | | | |
| WPL 835 | Communication Improvement I | 50 | \$608 |
| Center for Corporate and Workforce Training | | | |
| JER 100 | Princ. Of Home Insp.: Sys. & St | 100 | \$1,270 |
| JER 101 | Elec. Fdn. Trng. Series | 8 | \$264 |
| JER 102 | Fund. Of Eng.: Elec. Review | 100 | \$1,406 |
| JER 104 | NATE Core, Air Con. & Heat Pum | 250 | \$1,315 |
| JER 105 | Ind. Foundations Trng. Series | 23 | \$283 |
| JER 106 | Mechanical Ind. Trng. Series | 37 | \$503 |
| JER 107 | Complete Ind. Skills Trng. Ser | 188 | \$716 |
| JER 108 | Ind. Inst. & Cont. Trng. Serie | 24 | \$253 |
| JER 109 | Ind. Elect. And Elect. Trng. | 10 | \$250 |
| JER 110 | Dist. And Whs Trng. Series | 10 | \$180 |
| JER 111 | Bldg. Mngmt. and Maint. Trng. | 15 | \$250 |
| JER 112 | Lockout/Tagout | 3 | \$104 |
| JER 113 | Mnfg. Stats. Personal Trng. | 24 | \$207 |
| JER 114 | Lean Mnfg. Personal Trng. | 24 | \$207 |

| COURSE | TITLE | HOURS | TUITION |
|--|--------------------------------|-------|---------|
| Center for Corporate and Workforce Training | | | |
| JER 115 | OSHA 8-Hour Haz. Refresher | 8 | \$184 |
| JER 116 | DOT HAZMAT Transportation | 4 | \$200 |
| JER 117 | Haz. Waste Mngmt. and Shipping | 8 | \$204 |
| JER 118 | Ctrl. of Haz. Eng. Lockout/Tag | 2 | \$154 |
| JER 120 | Fall Protection | 3 | \$104 |
| JER 121 | Personal Protection Equipment | 3 | \$104 |
| JER 122 | L6S Black Belt Course Lib. | 29 | \$307 |
| JER 123 | L6S Green Belt Course Lib Mnfg | 34 | \$257 |
| JER 124 | L6S Green Belt Course Lib Tran | 23 | \$257 |
| JER 125 | L6S Yellow Belt Course Mnfg. | 17 | \$204 |
| JER 126 | L6S Yellow Belt Course Trans | 17 | \$204 |
| JER 127 | Six Sigma Certificate Series | 80 | \$910 |
| JER 128 | Water Treat. Trng. Series | 5 | \$104 |
| JER 129 | Water & Wastewater Treat. | 17 | \$250 |
| JER 130 | Fund. of Eng.: Chemical Review | 100 | \$1,406 |
| JER 131 | Fund. of Eng.: FE Civil Review | 100 | \$1,406 |
| JER 132 | Fund. of Eng.: Mechanic Review | 100 | \$1,406 |
| JER 133 | Maint. Mngmt. Toolbox Trng. | 10 | \$280 |
| JER 134 | Hazard Com. (HazCo) | 8 | \$80 |
| JER 135 | HAZ Waste Manifest Update | 8 | \$80 |
| JER 136 | DIY Home Improvement Basics | 10 | \$304 |

| COURSE | TITLE | HOURS | TUITION |
|----------------------------|--------------------------------|-------|---------|
| Personal Enrichment | | | |
| PIA 493 | Oil Painting Tech | 15 | \$94 |
| PIO 102 | Intro Lightroom Classic CC-Onl | 24 | \$125 |
| PIO 103 | Intro Illustrator CS6-Online | 24 | \$125 |
| PIO 104 | Blogging Podcasting Beg. – Onl | 24 | \$125 |
| PIO 105 | Intro MS Publisher 2013 – Onl | 24 | \$130 |
| PIO 107 | Effective Selling – Online | 24 | \$125 |
| PLD 645 | Yoga Dance for Children | 12 | \$65 |

| COURSE | TITLE | OLD HOURS | OLD TUITION | NEW HOURS | NEW TUITION | COMMENTS |
|---|-----------------------------------|-----------|-------------|-----------|-------------|--|
| Business/Computers/Technical Education/Personal Enrichment | | | | | | |
| CE Health | | | | | | |
| SDH 252 | CPR and First Aid | 8 | \$70 | 8 | \$75 | Textbook price and supplies increase |
| Center for College Access and Development | | | | | | |
| WPL 386 | Interpersonal Communication | 40 | \$0 | 24 | \$0 | Decrease in contact hours |
| WPL 398 | GED Mathematics | 60 | \$50 | 117 | \$50 | Increase in contact hours |
| WPL 648 | GED Language Arts | 60 | \$50 | 60 | \$30 | Decrease in tuition |
| WPL 760 | GED Social Studies | 60 | \$0 | 60 | \$30 | Increase in tuition |
| WPL 774 | ESL Bridge Grammar | 5 | \$15 | 92 | \$60 | Increase in contact hours and tuition |
| WPL 777 | GED Science | 60 | \$0 | 60 | \$30 | Increase in tuition |
| Personal Enrichment | | | | | | |
| PIE 669 | Solving Classroom Discipline Prob | 24 | \$80 | 24 | \$125 | Increase in faculty salaries. |
| PLD 628 | Drawing with Young Rembrandts | 6 | \$95 | 6 | \$75 | Decrease in tuition partner w/Young Rembrandts |
| PLD 979 | Cartoon Drawing | 6 | \$95 | 6 | \$75 | Decrease in tuition partner w/Young Rembrandts |

COMMUNITY SERVICES ABSTRACT

| | |
|---|---|
| Item(s) to be Considered: Discussion and action on the acceptance of monetary donations. | |
| Requestor: Lety Jones | Area Responsible: Marketing & Community Relations |
| Resource Person: Keri Moe | |
| Purpose: | <p>To accept the donation of \$60 from Lupe Tunderman</p> <p>To accept the donation of \$20 from Yolanda Zavala</p> <p>To accept the donation of \$100 from Sarah John</p> <p>To accept the donation of \$20 from El Paso Fighting Hunger</p> <p>To accept the donation of \$50 from Christina Diaz Fabiano</p> |
| Explanation: | The \$250 monetary donations went towards the clear masks handmade by the El Paso Community College Social Work Club. |
| Recommendation: | Approval by the Board of Trustees. |