



Regular Board of Trustees Meeting, Wednesday, December 4, 2024

El Paso Community College
9050 Viscount Blvd, Boardroom A200
2024-12-04 16:30 - 2024-12-04 17:30 MST

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1. General Functions

A REGULAR MEETING of the Board of Trustees of the El Paso County Community College District will be held on Wednesday, December 4, 2024, beginning at 4:30 p.m. This Regular meeting will be held at the Administrative Service Center located at 9050 Viscount Blvd; Board of Trustees Room - #A200, El Paso, TX 79925, and will be viewable through the EPCC YouTube channel refer to the link: <https://www.youtube.com/user/goepcc>

1.1. CALL TO ORDER

1.2. ROLL CALL

1.3. EXECUTIVE & CLOSED SESSION

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.

1.3.1. Discussion with legal counsel regarding an EEOC charge filed by JoAnn Perales, EEOC charge number 453-2024-01625, pursuant to Section 551.071 of the Texas Government Code.

1.3.2. Discussion with legal counsel regarding the proposed contract termination of employee in the Division of Instruction and Workforce Education, pursuant to Section 551.074 of the Texas Government Code.

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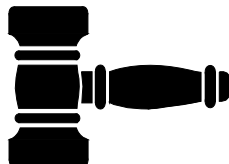
EL PASO COUNTY COMMUNITY COLLEGE DISTRICT

BOARD OF TRUSTEES MINUTES

September 24, 2024

Regular

**REGULAR
December 4, 2024
Exhibit 1.4**





REV Regular Board of Trustees Meeting- Tuesday, September 24, 2024 Minutes

El Paso Community College

Tuesday, September 24, 2024 at 4:30 PM

9050 Viscount Blvd, Boardroom A200

1. General Functions

A REGULAR MEETING of the Board of Trustees of the El Paso County Community College District will be held on Tuesday, September 24, 2024, beginning at 4:30 p.m. This Regular meeting will be held at the Administrative Service Center located at 9050 Viscount Blvd; Board of Trustees Room - #A200, El Paso, TX 79925, and will be viewable through the EPCC YouTube channel refer to the link:

<https://www.youtube.com/user/goepcc>

1.1. CALL TO ORDER

The meeting was called to order at 4:30 p.m. by Board Chair Brian Haggerty. The Trustees led the guests in the Pledge of Allegiance.

1.2. ROLL CALL

Present:

Brian Haggerty - Board Chair, Dr. Carmen Graham - Board Vice Chair, Ms. Bonnie Soria Najera - Board Secretary, Mr. John Uxer Jr. - Trustee, Mr. Jesus Mendez - Trustee, Mrs. Belen Robles – Trustee.

Absent:

Ms. Nina Piña - Trustee

1.3. EXECUTIVE & CLOSED SESSION

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.

1.3.1. Discussion with legal counsel regarding the purchase and sale agreement with Farmers Select, LLC, pursuant to Section 551.072 of the Texas Government Code.

1.4. APPROVAL of MINUTES - NONE

1.5. WELCOME to GUESTS & STAFF MEMBERS

Mr. Haggerty welcomed all guests to the meeting.

1.6. OPEN FORUM

The El Paso Community College, TASB policies limit individual presentations for any individual to three minutes under TASB BDB (Local).

None.

1.7. PRESENTATIONS by INDIVIDUALS, GROUPS, & ORGANIZATIONS

1.7.1. Dr. William Serrata, College President, will recognize individuals who have retired from El Paso Community College.

Retiree's listed under Personnel section 3.1

Dr. Serrata recognized Rosemary Lujan (30 years of service) for her dedication to the College District.

1.7.2. Optional presentations will be made by the presidents of the Classified Staff Association, the Professional Staff Association, the Faculty Association, and the Student Government Association.

No presentations were made.

1.8. COMMUNICATIONS

1.8.1. Discussion and review regarding data, statistics, policies, and general information related to El Paso Community College by the Board of Trustees.

Mr. Fernando Flores, Vice President (VP) of Finance and Administration, provided a presentation on the Student Success Endowment Fund. He reviewed the agenda, stating that he will discuss the background for the Student Success Endowment Fund, the compliance with the Board Resolution, the investment of the endowment, the scholarship awarding process, the annual report for Fiscal Year (FY) 2023-2024, and the budget for FY 2024-2025. He provided the background of the Student Success Endowment Fund, sharing that on May 6, 2021, a \$30 million unrestricted gift was given to the college from MacKenzie Scott and Dan Jewett through the National Philanthropic Fund; funds were invested into the TexPool local government investment pool; on August 30, 2023, the Board of Trustees approved a resolution to create the permanent endowment; on August 31, 2023, funds were transferred from the unrestricted fund to a restricted endowment fund; and the corpus plus accrued interest was invested in TexPool. He shared the Board Resolution parameters, which include never spending any of the corpus deposited in the Student Success Endowment fund for any purpose, only interest income can be paid, 90% of the interest accrued every fiscal

year shall be used to award scholarships to EPCC students to promote student success, college-degree completion, and/or Career and Technical Education (CTE) certification, 9% of the interest accrued every fiscal year shall be used to assist EPCC students for any emergency-related needs, as determined from time to time in the sole discretion of the Board of Trustees, and 1% of interest accrued every fiscal year shall be allocated to the corpus. He continued sharing the parameters stating that the investment of funds in compliance with the Texas Public Funds Investment Act and CAK legal and CAK local policies under the EPCC Board of Trustees' purview or through the advice of a financial adviser on July 24, 2024, the Board of Trustees approved the firm of Hilltop Securities Asset Management, LLC for the investment of EPCC's investments portfolio, including the Student Success Endowment Fund; on August 28, 2024, the Board of Trustees reviewed and approved the updated college's investments policy, and a list of brokers/dealers on this evening's board meeting agenda. Mr. Flores continued by stating that upon the recommendation of Dr. Serrata, an executive committee was appointed to manage the Student Success Endowment Fund; the first meeting was held on March 20, 2023, with the following committee members: Mr. Fernando Flores- V.P., Finance and Administration and Committee Chair, Dr. Carlos Amaya- V.P., Student and Enrollment Services and Vice-Chair, Ms. Josette Shaughnessy- Advisor to the V.P. of Finance and Administration and Secretary, Ms. Ines Lopez- Executive Director of Financial Aid, Dr. Keri Moe- Associate Vice President (AVP) of External Relations, Communication, and Development, Dr. Steven Smith- V.P. of Instruction and Workforce Education, and Ms. Ana Zúñiga- AVP of Budget and Financial Services. Mr. Flores informed the Trustees that the scholarship selection committee was appointed to recommend, implement, review, and oversee the criteria and selection of students for the scholarship award, which include Ms. Ines Lopez, Executive Director, Financial Aid, and Chair, Michael Talamantes – Director of Recruitment, Mr. John Aguirre- Coordinator of Financial Aid-Scholarships, Mr. Blayne Primozich- AVP, Workforce & Continuing Education, Ms. Shannon Valles- Psychology Professor; Ms. Adriana Flores- Valle Verde Counselor; and Ms. Mirella Pasillas- Early Alert Academic Advisor.

Mr. Flores continued his presentation with the FY 2023-2024 annual report of the Student Success Endowment Fund. He mentioned that the listing of individual securities is provided as of August 31, 2024, as one of the requirements of the resolution with additions and changes to the market value during this period; the listing of investments by maturity date; fully accrued interest for the reporting period; the average weighted yield to maturity of the portfolio as compared to applicable state and federal laws, and the investment strategy and policies approved by the Board of Trustees. Mr. Flores mentioned that the corpus and interest invested in TexPool has a balance of \$33,184,811, which is a result of a corpus of \$30 million, plus earned interest in FY 2020-2021 of \$5,435 (an average yield of 0.05593%), earned interest in FY 2021-2022 of \$151,803 (an average yield of 0.4998%), in FY 2022-2023, of \$1,318,022 (an average yield of 4.2837%), and earned interest in FY 2023-2023 of \$1,709,551 (an average yield of 5.3%). He informed the Trustees that the total interest earned since May 6, 2021, is \$3,184,811 and is allocated as follows: 90% to the Student Success Scholarship Fund or \$2,866,330, 9% to student emergency needs or \$286,633, and 1% to the corpus or \$31,848 for growth. He stated that the total corpus amount as of August 31, 2024 is \$30,031,848.

Mr. Flores continued his presentation by sharing the deadlines and dates of the scholarship selection committee. He stated that 191 students were recommended for awarding on September 17, 2024; the executive committee approved the awarding to the recommended selected students, the financial aid office will process the awards and send award notices to awardees, and will coordinate with the Bursar's Office for disbursing and applying funds to the students' accounts. Mr. Flores informed the Trustees of the scholarship eligibility criteria for the Student Success Endowment Fund. He stated that the scholarship is open to students who have completed the admission process at the college and are eligible for in-state tuition; students must complete a financial aid application each year and, if required, must complete the verification process; the scholarship will cover up to eight hours of in-state tuition and mandatory fees per semester for up to six consecutive semesters; students must be continuously enrolled each Fall and Spring semesters; students must maintain Satisfactory Academic Progress (AP) as determined by the Financial Aid Office at the end of each semester to

maintain the scholarship; the scholarship will cover classes included in the program of study that students are pursuing, and for non-credit workforce programs offered through continuing education that lead to a technical certificate such as healthcare programs for a maximum scholarship equivalent to the cost of eight semester credit hours. The scholarship will not pay for the three-peat charges, books, course materials, supplies, or uniforms; and students are required to give the college permission to send notification and messages related to the scholarship.

He concluded his presentation by sharing the budget for FY 2024-2025. He mentioned that the interest balance allocated to the scholarship fund totals \$2,866,330; the total cost of 191 awarded scholarships is \$1,246,848 for up to six consecutive semesters (assuming the tuition rate remains the same), and the carry forward balance of \$1,619,482 is to be allocated towards the FY 2025-2026 cohort. Mr. Flores shared the objectives for FY 2024-2025, which include implementing an investment strategy with advice from Hilltop Securities Asset Management, LLC; contracting with the external audit firm of Peña, Briones, and McDaniel, for agreed-upon procedures on the compliance audit of the Student Success Endowment Fund as required by the Board Resolution; strategizing with the Board of Trustees on awarding funding to address students' emergency needs; monitoring the progress of FY 2024-2025 scholarship awardees, refining the scholarship awarding process, and preparing for the next fiscal year. He thanked the Board of Trustees for their time, attention, and support.

BOARD of TRUSTEES BUSINESS

Action items

- 1.8.2. Discussion and action to approve Board Resolution regarding the ALERRT Training Program.

 [1.9 EPCC's ALERRT Resolution wedit 09052024.pdf](#)

 [1.9 2025 CEO-LE Cert-Assurances Form EPCC ALERRT Grant 09052024 \(003\).pdf](#)

Item 1.9.4 was addressed after executive session.

Motion:

Motion moved by Dr. Graham and motion seconded by Ms. Najera.

Motion passed.

- 1.8.3. Discussion and action to authorize Dr. William Serrata or his designee to execute a letter of support and/or no objection on behalf of the College for a Subzone Expansion of Foreign Trade Zone 58 to include a pecan process facility

of SNRA Commodities, Inc. at 1601 N. Fabens Road, Fabens, TX 79838.

Motion:

Motion moved by Dr. Graham and motion seconded by Ms. Najera.

Motion passed.

- 1.8.4. Discussion and action to authorize Dr. William Serrata or his designee to execute a letter of support and/or no objection on behalf of the College for a Minor Boundary Modification of Foreign Trade Zone 58

to include a distribution facility of World Haul Logistics, LLC at 13490 Pellicano Drive, El Paso, TX 79928.

Motion:

Motion moved by Ms. Najera and motion seconded by Mrs. Robles.

Motion passed.

- 1.8.5. Discussion and action regarding the purchase and sale agreement with Farmers Select, LLC.

Motion:

Motion moved by Ms. Najera and motion seconded by Dr. Graham to move forward based on the recommendation provided by legal counsel.

Motion passed.

1.9. BOARD REPORTS

- 1.9.1. Treasurer's Reports - NONE

- 1.9.2. President's Report

- 1.9.2.1. Dr. William Serrata, College President, will update the Board of Trustees and audience on recent events that have transpired at El Paso Community College.

Dr. Serrata congratulated the EPCC instructors who achieved the rank of Full Professor during the Second Professor Celebration, honoring 25 Professors. He thanked Dr. Steve Smith and his office staff for their efforts and the Board Members who

attended for representing the Board. He shared that the college celebrated 30 Licensed Vocational Nurse Graduates, including 10 from Silva Magnet High School. Dr. Serrata thanked UTEP and the Small Business Administration for their collaboration in providing essential safety training for local workers at the Administrative Services Center. The training focused on critical safety issues in the construction industry, supported by a \$160,000 grant from OSHA for training classes in 2024. He informed the Trustees that the El Paso Public Library's Enhanced Library Card would be available in September and October 2024 at selected community libraries, aiming to assist vulnerable populations in accessing services.

Dr. Serrata continued his report by sharing that the El Paso Community College Chapter of the Student Veterans of America was established and is aimed at supporting student veterans in their educational journeys. He thanked the Medical Assisting Program and EMT Program for their successful Flu Drive, administering over 700 vaccines across campuses. Dr. Serrata informed the Trustees that his annual State of the College address was held on September 19, 2024, and was attended by over 200 faculty and staff, with over 400 views on YouTube. He concluded his presentation by informing the Trustees that the Foundation successfully hosted its annual Fajitas and Margaritas Fundraiser for student scholarships. He mentioned that the event featured 29 company sponsors and raised approximately \$90,000, setting a new record. Dr. Serrata highlighted the remarkable talents of the EPCC Faculty chefs and Culinary Arts students, with five faculty chefs and 65 students working diligently throughout the day to support four competing teams. Congratulations were extended to Chef New, Chef Morales, and the students of La Pera's team for winning this year's competition with their Yuzu Margarita and Asian-Mexican fusion Suadero Fajita in a Bao Bun. He congratulated four culinary students- Melanie Carranza, Marco Morales, Dayanara Reyes, and Jaycee Duron- and each student received a \$750 scholarship from the EPCC Foundation. He thanked Chair Haggerty, Dr.

Graham, Ms. Najera, Mr. Mendez, and Mrs. Robles for attending and representing the Board.

CONSENT DOCKET - NONE

2. ADMINISTRATION

Action item 2.1 ONLY

- 2.1. CC (Local) presented for 2nd reading and approval

Action Required

Resource Person: Julie Penley

 [2.1 CC \(LOCAL\) Board Policy 2nd reading Sept24.docx](#)

 [2.1 CC \(Local\) Aug24.pdf](#)


Motion:

Motion moved by Dr. Graham and motion seconded by Ms. Najera. Motion passed.

- 2.2. CGC, CHA, FFDA, FLB (Local) Policies presented for 1st reading, review and comment.

No Action Required

Resource Person: Julie Penley

 [2.2 CGC,CHA,FFDA,FLB \(LOCAL\) Abstract Board Policies 1st reading, review and comment U46 47 Sept24.docx](#)

 [2.2 CGC\(Local\).pdf](#)

 [2.2 CHA\(Local\) with edits.pdf](#)

 [2.2 FFDA\(Local\).pdf](#)

 [2.2 FLB\(Local\).pdf](#)

3. PERSONNEL

No action required

- 3.1. Information items - Institutionally, externally funded full-time staff and faculty appointments, extensions, resignations and retirements.

No action required

 [REV 3.1 Institutionally Externally Funded Appointments, extensions, resignations and retirements.pdf](#)

4. FINANCIAL SERVICES

Action items

- 4.1. Discussion and action on the approval of a contract with Governmentjobs.com DBA NEOED to provide a web-based recruitment, position, and performance management system in an amount not to exceed \$233,337 for a three-year period.

Action item

Resource Person: Fernando Flores

 [4.1 NTE \\$233,337 Abstract NEOED - Agenda.docx](#)

 [4.1 RFP #24-007 Board Agenda Analysis .pdf](#)

 [4.1 RFP #24-007 Evaluation Tabulation - Board Agenda.pdf](#)

 [4.1 RFP #24-007 Composite Score - Board Agenda.pdf](#)

Motion:

Motion moved by Ms. Najera and motion seconded by Mrs. Robles. Motion passed.

- 4.2. Discussion and action on the approval of a contract award to American DataBank, LLC for drug screenings, motor vehicle record (MVR) checks, background checks, and compliance logging services in an amount not to exceed \$150,000.

 [4.2 NTE \\$150,000 Abstract American DataBank.docx](#)

 [4.2 American DataBank Memo .pdf](#)

 [4.2 Sole Source 08122024.pdf](#)

Motion:

Motion moved by Dr. Graham and motion seconded by Ms. Najera. Motion passed.

- 4.3. Discussion and action to adopt the broker/dealer list for investments.

Action item

Resource Person: Fernando Flores

 [4.3 Abstract Investment Broker Dealer List .docx](#)

 [4.3.2 HSAM Approved Broker-Dealers-2024.pdf](#)

Motion:

Motion moved by Dr. Graham and motion seconded by Ms. Najera to approve items 4.3 and 4.4. Motion passed.

- 4.4. Discussion and action on the authorization to enter into an interlocal agreement with Educational and Institutional Cooperative Service, Inc. (E&I), a non-profit sourcing cooperative exclusively focused on serving the education community.

Action item

Resource Person: Fernando Flores

 [4.4 E&I Interlocal Agreement Agenda Item.docx](#)

Motion:

Item passed.

5. PHYSICAL FACILITIES - NONE

6. CURRICULUM AND INSTRUCTION

Action items

- 6.1. Discussion and action on the approval of the new credit program certificate in Social Media in the amount of \$85,657.

Action item

Resource Person: Steven Smith

 [6.1 \\$85,657 Abstract New Credit Certificate Social Media 090624.docx](#)

Motion:

Motion moved by Dr. Graham and motion seconded by Mrs. Robles. Motion passed.

- 6.2. Discussion and action on the acceptance of a contract award from the Federal Correctional Institution (FCI), La Tuna in the amount of \$50,040.

Action item

Resource Person: Steven Smith

 [6.2 GRANT \\$50,040 Abstract La Tuna - Shadows to the Light 090424.docx](#)

 [6.2 Contract EPCC & FCI La Tuna Education Shadows to Light Program.pdf](#)

Motion:

Motion moved by Ms. Najera and motion seconded by Dr. Graham. Motion passed.

- 6.3. Discussion and action on the acceptance of a subgrant award from the American Association of Community Colleges (AACC) in the amount of \$20,000.

Action item

Resource Person: Julie Penley

 [6.3 GRANT \\$20,000 Abstract AACC BMGF.docx](#)

 [6.3 Revision of Sub agreement for Refining Guided \(002\).pdf](#)

Motion:

Motion moved by Dr. Graham and motion seconded by Mrs. Robles. Motion passed.

- 6.4. Discussion and action on the acceptance of a grant award from Humanities Texas in the amount of \$2,000.

Action item

Resource Person: Steven Smith

 [6.4 GRANT \\$2,000 Abstract Veteran Voices 090524.docx](#)

 [6.4 EPCC Veterans' Resource Center & Humanities Texas.pdf](#)

Motion:

Motion moved by Ms. Najera and motion seconded by Dr. Graham. Motion passed.

- 6.5. Discussion and action on the approval of the restated and amended six Socorro ISD P-TECHS (Blazers, Bulldog, Empire, Falcon, Spartan and Synergi4) Interlocal Agreements.

Action item

Resource Person: Steven Smith

 [6.5 Abstract SISD P-TECHS Interlocal Agreement 080624.docx](#)

 [6.5 Interlocal Agreement SISD P-TECHS MOU 090424.pdf](#)

Motion:

Motion moved by Ms. Najera and motion seconded by Mrs. Robles to approve items 6.5 and 6.6. Motion passed.

- 6.6. Discussion and action on the approval of the restated and amended six Socorro ISD Early College High Schools (Empire, Falcon, Pebble Hills, Rams, Socorro and Trailblazers) Interlocal Agreement.

Action item

Resource Person: Steven Smith

 [6.6 Abstract SISD ECHS Interlocal Agreement 080524.docx](#)

 [6.6 Interlocal Agreement SISD ECHS MOU 090524.pdf](#)

Motion:

Item passed.

7. STUDENT SERVICES

Action items

- 7.1. Discussion and action on the approval to award a contract to The NCHERM Group, LLC aka TNG Consulting to provide professional memberships, support, software, training, and professional services to El Paso Community College

in an amount not to exceed \$643,500 for a three-year period.

Action item

Resource Person: Carlos Amaya

 [7.1 NTE \\$643,500 Abstract The NCHERM Group, LLC, aka TNG Consulting .docx](#)

Motion:

Motion moved by Dr. Graham and motion seconded by Ms. Najera to approve items 7.1, 7.2, and 7.3. Motion passed.

- 7.2. Discussion and action on the approval of a contract to the University of Texas at El Paso (UTEP) Office of Special Events for the use of the Don Haskins Center for commencement ceremonies in an amount not to exceed \$150,000.

Action item

Resource Person: Carlos Amaya

 [7.2 NTE \\$150,000 Abstract-Don Haskins commencement 2024-2025.docx](#)

Motion:

Item passed.

- 7.3. Discussion and action on the approval to purchase from Axon Enterprises, Inc. thirty-two (32) Taser 7's for the El Paso Community College Police Department in the amount of \$144,989.

Action item

Resource Person: Carlos Amaya

 [7.3 \\$144,989 Abstract AXON Taser 7's EPCC PD .docx](#)

Motion:

Item passed.

8. COMMUNITY SERVICES - NONE

The Trustees recessed to Executive Session at 5:29 p.m. and reconvened at 6:15 p.m.

Item 1.9.4 was the item addressed upon reconvening.

9. ADJOURNMENT and announcement of next Board of Trustees meeting

Action item

Mr. Haggerty announced the next Regular Board meeting is scheduled for October 29, 2024, at 4:30 p.m.

The meeting was adjourned at 6:16 p.m. by unanimous consent.

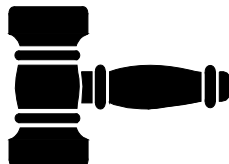
EL PASO COUNTY COMMUNITY COLLEGE DISTRICT

BOARD OF TRUSTEES MINUTES

October 29, 2024

Regular

**REGULAR
December 4, 2024
Exhibit 1.4**





Regular Board of Trustees Meeting Tuesday, October 29, 2024 Minutes

El Paso Community College

Tuesday, October 29, 2024 at 4:30 PM

9050 Viscount Blvd, Boardroom A200

1. General Functions

A REGULAR MEETING of the Board of Trustees of the El Paso County Community College District will be held on Tuesday, October 29, 2024, beginning at 4:30 p.m. This Regular meeting will be held at the Administrative Service Center located at 9050 Viscount Blvd; Board of Trustees Room - #A200, El Paso, TX 79925, and will be viewable through the EPCC YouTube channel refer to the link:

<https://www.youtube.com/user/goepcc>

1.1. CALL TO ORDER

The meeting was called to order at 4:31 p.m. by Vice Chair Dr. Carmen Olivas-Graham.

Mr. Francisco Ortega, Legal Counsel, led the Trustees and guests in the Pledge of Allegiance.

1.2. ROLL CALL

Present:

Dr. Carmen Graham - Board Vice Chair, Ms. Bonnie Najera - Board Secretary, Mr. Jesus Mendez - Trustee, Mrs. Belen Robles - Trustee, Mr. John Uxer Jr. – Trustee.

Absent:

Mr. Brian Haggerty - Board Chair, Ms. Nina Piña - Trustee

1.3. EXECUTIVE & CLOSED SESSION

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.

1.3.1. Discussion with legal counsel regarding dismissal of lawsuit styled,

Jesus A. Ortiz v. El Paso County Community College District, in the United States District Court for the Western District of Texas in El Paso County, Texas, Cause Number 3:24-CV-00184, pursuant to Section 551.071 of the Texas Government Code.

1.3.2. Discussion with legal counsel regarding a lawsuit styled,

Catalina Valtierra-Pinon v. El Paso County Community College District, in the 168th Judicial District Court, El Paso County, Texas, Cause Number 2024DCV2798, pursuant to Section 551.071 of the Texas Government Code.

- 1.3.3. Discussion with legal counsel regarding an EEOC charge filed by Marcia Clark, EEOC charge number 453-2024-00683, pursuant to Section 551.071 of the Texas Government Code.
- 1.3.4. Discussion with legal counsel regarding an EEOC charge filed by Fariba Ansari, EEOC charge number 453-2024-01910, and lawsuit styled,
Fariba Ansari v. El Paso County Community College District, in the 168th Judicial District Court, El Paso County, Texas, Cause Number 2024DCV2425, pursuant to Section 551.071 of the Texas Government Code.
- 1.3.5. Discussion with legal counsel regarding an EEOC charge filed by Kathryn Gutierrez, EEOC charge number 453-2025-0056, pursuant to Section 551.071 of the Texas Government Code.
- 1.3.6. Discussion with legal counsel regarding dismissal of EEOC charge filed by Raymundo Vasquez, EEOC charge number 453-2024-01836, pursuant to Section 551.071 of the Texas Government Code.

1.4. APPROVAL of MINUTES

Action item

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

1.4.1. August 28, 2024 Regular Board of Trustees meeting

 [Regular Board of Trustees Meeting August 28 2024 Minutes.pdf](#)

Motion:

Motion moved by Ms. Najera and motion seconded by Mrs. Robles.

Motion passed.

1.5. WELCOME to GUESTS & STAFF MEMBERS

Dr. Graham welcomed all guests to the meeting.

1.6. OPEN FORUM

The El Paso Community College, TASB policies limit individual presentations for any individual to three minutes under TASB BDB (Local).

Mr. Bryan Iverson, EPCC student, addressed the Board of Trustees regarding the Occupational Therapist Assistant degree.

1.7. PRESENTATIONS by INDIVIDUALS, GROUPS, & ORGANIZATIONS

- 1.7.1. Optional presentations will be made by the presidents of the Classified Staff Association, the Professional Staff Association, the Faculty Association, and the Student Government Association.

Ms. Laura Gaither, Classified Staff Association (CSA) President, provided a presentation to present the CSA officers; Cynthia Arras, Vice President at the Mission del Paso campus; Laura Estrada, Treasurer at the Administrative Service Center (ASC); Elvira Fernandez, Rights and Responsibilities Officer at the ASC, Laura Gonzalez, Rights and Responsibilities Officer at the Valle Verde campus, Kimberly McBroom, Rights and Responsibilities Officer at the Transmountain campus, Cecilia Montoya- Secretary located at the Valle Verde campus, Leticia Montoya, Rights and Responsibilities Officer from the Valle Verde campus, Evangelina Rangel, Vice President at the Rio Grande campus, and Norma Salas, Vice President at the Rio Grande campus. She shared that the CSA officers will take donations for the Turkey Drive. Three nonprofit organizations will receive the donations: Winchester House Transitional Living Center, El Buen Pastor Mission, and the El Paso State Supported Living Center. Ms. Gaither addressed some concerns regarding Professional Development Day, sharing that employees would like all divisions to participate in activities/training for future professional development days. She concluded her presentation by informing the Trustees that CSA will not be hosting a Christmas Dance this year due to conflicts with the hall arrangements.

1.8. COMMUNICATIONS

- 1.8.1. Discussion and review regarding data, statistics, policies, and general information related to El Paso Community College by the Board of Trustees.

No presentation was given to the Board of Trustees.

1.9. BOARD of TRUSTEES BUSINESS

Action items

- 1.9.1. Discussion and take possible action regarding a lawsuit styled, *Catalina Valtierra-Pinon v. El Paso County Community College District, in the 168th Judicial District Court, El Paso County, Texas, Cause Number 2024DCV2798.*

Items 1.9.1, 1.9.2, 1.9.3, and 1.9.4 were addressed upon reconvening from Executive Session.

Motion:

No action.

- 1.9.2. Discussion and take possible action regarding EEOC charge filed by Marcia Clark, EEOC charge number 453-2024-00683.

Motion:

No action.

- 1.9.3. Discussion and take possible action regarding EEOC charge filed by Fariba Ansari, EEOC charge number 453-2024-01910, and lawsuit styled,

Fariba Ansari v. El Paso County Community College District, in the 168th Judicial District Court, El Paso County, Texas, Cause Number 2024DCV2425.

Motion:

No action.

- 1.9.4. Discussion and take possible action regarding EEOC charge filed by Kathryn Gutierrez, EEOC charge number 453-2025-0056.

Motion:

No action.

1.10. BOARD REPORTS

1.10.1. Treasurer's Report

No Action Required

1.10.1.1. August 31, 2024 Financial Statements

 [Final August2024 FinancialStatements 10-24-24.pdf](#)

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 El Paso Community College.

Dr. Serrata congratulated Mr. Pablo Armendariz and the Contract Opportunities Center for hosting a successful event. Two-hundred participants with 55 booths attended the 15th Annual Veterans' Business Conference. The conference highlighted EPCC's commitment to supporting veterans and fostering business partnerships. He shared that the EPCC Fashion Technology Program hosted a "Luncheon with Vogue" featuring keynote speaker Karla Martinez de Salas of Vogue Mexico & Latin America. The event celebrated the program's legacy and promoted connections within the local fashion community. Dr. Serrata shared that the EPCC | UTEP Engineering Academy inaugural academy cohort was welcomed. He mentioned that

the academy offers students an innovative pathway to earn engineering degrees through concurrent enrollment at both institutions. He thanked Dr. Graham and Mr. Uxer for attending and representing the Board of Trustees. Dr. Serrata congratulated Dr. Christian Servin for being recognized as a 2024 McDonald's Triunfadores winner for STEM Education, celebrating his contributions to inspiring youth and advancing STEM in the community. Dr. Serrata also congratulated Dr. Yvette Huerta for being selected for the prestigious HACU Enlace Mid-level Leadership Program, which reflects her commitment to higher education leadership and diversity.

Dr. Serrata continued his report by sharing that the college was selected as one of four colleges to participate in the "Translating Opportunity Texas" Project initiative to improve educational outcomes for Multilingual Learners of English (MLE). He informed the Trustees that the District-Wide Voter Registration Drive was successful. He shared that 241 students successfully registered to vote across four campuses, supported by the EPCC Pasos Program, members of the Student Government Association, the League of Women Voters, the NAACP, Delta Sigma Theta Sorority, and the County Elections Office, enhancing civic engagement. Dr. Serrata concluded his presentation by stating that the college received a \$50,000 grant from Microsoft-Microsoft Grant for AI Initiatives for its Constructing Artificial Intelligence Capacity project, enhancing workforce readiness and education in the AI sector. He congratulated Dr. Servin for his efforts.

2. ADMINISTRATION

Action Required on item 2.1 only

2.1. CGC, CHA, FFDA, FLB (Local) TASB Board Policies 2nd Reading & approval

Action Required

Resource Person: Julie Penley

 [2.1 CGC, CHA, FFDA FLB \(Local\) Board Policies 2nd reading U46 47 Oct24.docx](#)

 [2.1 CGC \(Local\) policy.pdf](#)

 [2.1 CHA \(Local\) with edits policy.pdf](#)

 [2.1 FFDA \(Local\) policy.pdf](#)

 [2.1 FLB \(Local\) policy.pdf](#)

Motion:

Motion moved by Mr. Uxer and motion seconded by Ms. Najera. Motion passed.

- 2.2. DBA, DBB, DC, DEA, DEAA, DEAB, DK, DMC, EBA, ECC (Local) TASB policies for 1st reading, review & comment.

No Action Required

Resource Person: Julie Penley

 [2.2 DBA,DBB,DC,DEA,DEAB,DK,DMC,EBA,ECC \(Local\) Policies 1st Reading.docx](#)

 [2.2 DBA\(Local\).pdf](#)

 [2.2 DBB\(Local\).pdf](#)

 [2.2 DC\(Local\).pdf](#)

 [2.2 DEA\(Local\).pdf](#)

 [2.2 DEAA\(Local\).pdf](#)

 [2.2 DEAB\(Local\).pdf](#)

 [2.2 DK\(Local\).pdf](#)

 [2.2 DMC\(Local\).pdf](#)

 [2.2 EBA \(Local\) .pdf](#)


 [2.2 ECC \(Local\) .pdf](#)

3. PERSONNEL

No Action Required

- 3.1. Information items - Institutionally, externally funded full-time staff and faculty appointments, extensions, resignations and retirements.

No action required

 [3.1 Institutionally, Externally Funded Appointments Extensions and Resignations .pdf](#)

4. FINANCIAL SERVICES

Action items

- 4.1. Discussion and action on the approval to purchase from Bluum USA, Inc. equipment and services to install the SP Controls system in an amount not to exceed \$157,248.

Action item

Resource Person: Marco Fernandez

 [4.1 NTE \\$157,248 Abstract SP Controls Control Systems Agenda DE FO.docx](#)

Motion:

Motion moved by Mr. Uxer and motion seconded by Mrs. Robles. Motion passed.

- 4.2. Discussion and action on the approval to award a contract to Taco Family Inc., d/b/a Taqueria Don Chicho 3 and to The Basil Garden, LLC d/b/a Juice Society to provide on-site food services on a concession basis at the Northwest Campus and Rio Grande Campus respectively.

Action item

Resource Person: Fernando Flores

 [4.2 Abstract Food Services On a Concession Basis .docx](#)

 [4.2.1 Analysis RFP #24-020 On-site Food Services on a Concession Basis - Northwest Campus.pdf](#)

 [4.2.2 RFP #24-020 Composite Score - Board Agenda.pdf](#)

 [4.2.3 RFP #24-020 Evaluation Tabulation - Board Agenda.pdf](#)

 [4.2.4 Analysis RFP #24-021 Rio Grande Campus Coffee, Pastry, and Sandwich Shop.pdf](#)

 [4.2.5 RFP #24-021 Composite Score - Board Agenda.pdf](#)

 [4.2.6 RFP #24-021 Evaluation Tabulation - Board Agenda.pdf](#)

Motion:

Motion moved by Ms. Najera and motion seconded by Mr. Mendez. Motion passed.

5. PHYSICAL FACILITIES - NONE

6. CURRICULUM AND INSTRUCTION

Action items

- 6.1. Discussion and action on the approval of the revised new credit program certificate in Social Media in the amount of \$85,657.

Action item

Resource Person: Steven Smith

 [6.1 Abstract \\$85,657 Revised New Credit Certificate Social Media.docx](#)

Motion:

Motion moved by Ms. Najera and motion seconded by Mr. Uxer. Motion passed.

- 6.2. Discussion and action on the approval of a new academic program in Polysomnography (Sleep Study Tech) in the amount of \$73,257.

Action item

Resource Person: Steven Smith

 [6.2 Abstract \\$73,257 Polysomnography.docx](#)

Motion:

Motion moved by Mr. Uxer and motion seconded by Mrs. Robles. Motion passed.

- 6.3. Discussion and action on the approval of a new Occupational Skills Award in Birth to 3 Teacher.

Action item

Resource Person: Steven Smith

 [6.3 Abstract Birth to 3 Teacher OSA.docx](#)

Motion:

Motion moved by Mr. Uxer and motion seconded by Mrs. Robles. Motion passed.

- 6.4. Discussion and action on the approval of a new Occupational Skills Award in Microsoft Office Specialist.

Action item

Resource Person: Steven Smith

 [6.4 Abstract Microsoft Office Specialist OSA 101024 Updated.docx](#)

Motion:

Motion moved by Ms. Najera and motion seconded by Mrs. Robles. Motion passed.

- 6.5. Discussion and action on the acceptance of the Texas Higher Education Coordinating Board (THECB) Carl D. Perkins Basic Grant in the amount of \$894,771

Action item

Resource Persons: Steven Smith, Carlos Amaya, Julie Penley

 [6.5 Grant Abstract \\$894,771 THECB Carl Perkins .docx](#)

 [6.5 THECB - 2024-2025 Carl Perkins Basic Agreement #01214.pdf](#)

Motion:

Motion moved by Mr. Uxer and motion seconded by Mrs. Robles to approve items 6.5, 6.6, 6.7, 6.8, and 6.9. Motion passed.

- 6.6. Discussion and action on the acceptance of a grant from the U.S Department of Labor (DOL) in the amount of \$160,000.

Action item

Resource Person: Steven Smith

 [6.6 Grant Abstract \\$160,000 Susan Harwood .docx](#)

Motion:

Item passed.

- 6.7. Discussion and action on the acceptance of a grant award from the James A. “Buddy” Davidson Foundation in the amount of \$63,575.

Action item

Resource Person: Steven Smith

 [6.7 Grant Abstract \\$63,575 James Buddy Davidson Foundation.docx](#)

Motion:

Item passed.

- 6.8. Discussion and action on the acceptance of a grant award from the Texas Workforce Commission (TWC) in the amount of \$31,500.

Action item

Resource Person: Steven Smith

 [6.8 Grant Abstract \\$31,500 Skills for Small Business TWC .docx](#)

Motion:

Item passed.

- 6.9. Discussion and action on the acceptance of a grant award from the Math Circle Network of the American Institute of Mathematics (AIM) in the amount of \$1,000.

Action item

Resource Person: Steven Smith

 [6.9 Grant Abstract AIM \\$1,000.docx](#)

Motion:

Item passed.

7. STUDENT SERVICES

Action items

- 7.1. Discussion and action on the approval to purchase and install a new LED scoreboard and LED illuminated sponsor light boxes from Big Media (EP Big Media, Inc.) for the EPCC Baseball field located at the Valle Verde Campus

in an amount not to exceed \$101,574.

Action item

Resource Person: Carlos Amaya

 [7.1 NTE \\$101,574 Abstract - Scoreboard for VV Athletics 10.11.24 DE.docx](#)

Motion:

Motion moved by Ms. Najera and motion seconded by Mrs. Robles. Motion passed.

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

Action item

Resource Person: Steven Smith

 [7.2 Abstract New CE Rates 100324.docx](#)

Motion:

Motion moved by Mr. Uxer and motion seconded by Mrs. Robles. Motion passed.

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

Action item

Resource Person: Steven Smith

 [7.3 Abstract Revised CE Rates 100324.docx](#)

Motion:

Motion moved by Mr. Uxer and motion seconded by Ms. Najera. Motion passed.

8. COMMUNITY SERVICES - NONE

The Board of Trustees recessed to Executive Session at 5:23 p.m. They reconvened at 6:39 p.m. Item 1.9.1 was the first item addressed upon reconvening.

9. ADJOURNMENT and announcement of next Board of Trustees meeting

Action item

Motion:

Dr. Graham announced that the next Board Meeting is scheduled for December 4, 2024, at 4:30 p.m.

The meeting was adjourned at 6:41 p.m. by unanimous consent.

Resolution for Election of Board Member(s) to the El Paso Central Appraisal District Board of Directors

WHEREAS, an election was held on the _____ day of _____, 20____, at the meeting of the Board of Trustees of El Paso County Community College District (the “Board”) for the purpose of electing board members to serve on the El Paso Central Appraisal District Board of Directors; and

WHEREAS, the duly nominated candidate(s) received _____votes as follow(s):

NOW, THEREFORE, BE IT RESOLVED, the Board, votes for [Name] and submits the ballot, to serve a term of [One Year/Three Years], commencing on January 1, 20____, and concluding on December 31, 20____;

Presiding Officer or Authorized Representative(s)

Presiding Officer

ATTEST

Secretary

[Name of Authorizing Official]

[Title]

[Organization/Community/Board Name]

EL PASO COMMUNITY COLLEGE

**TREASURER'S REPORT
SEPTEMBER 30, 2024**

EXHIBIT 1.10.1

**EL PASO COMMUNITY COLLEGE
FINANCIAL STATEMENTS
CURRENT UNRESTRICTED FUNDS
SEPTEMBER 30, 2024**

**EL PASO COMMUNITY COLLEGE
CURRENT UNRESTRICTED FUNDS
BALANCE SHEET
SEPTEMBER 30, 2024**

	Education & General	Student Activities	Auxiliary Services	Intercollegiate Athletics	Total Current Unrestricted
Assets:					
Cash	\$ 19,300	\$	\$	\$	\$ 19,300
Pooled investments	159,577,404	2,169,964	5,749,993	1,791,694	169,289,055
Property taxes receivable	3,252,364				3,252,364
Other receivables	5,212,020		299,119	2,500	5,513,639
Deferred Outflows-Pension	13,686,999				13,686,999
Deferred Outflows-OPEB	5,476,033				5,476,033
Due from restricted funds	3,593,307				3,593,307
Prepaid expenses	83,244				83,244
Total assets	\$ 190,900,671	\$ 2,169,964	\$ 6,049,112	\$ 1,794,194	\$ 200,913,941
Liabilities:					
Accounts payable & accrued expenditures	\$ 5,509,046	\$	\$	\$	\$ 5,551,273
Accrued compensated absences	4,834,096			28,957	4,834,096
Student property deposits	554,507				554,507
Deferred Inflows-Pension	3,765,180				3,765,180
Deferred Inflows-OPEB	28,215,966				28,215,966
Deferred Inflows-Leases	623,968				623,968
Net Pension Liability	37,958,060				37,958,060
Net OPEB Liability	65,000,111				65,000,111
Total liabilities	\$ 146,460,934	\$ 13,270	\$ 0	\$ 28,957	\$ 146,503,161
Fund balance:					
Beginning balance: September 1, 2024	\$ 41,929,079	\$ 1,968,967	\$ 5,716,078	\$ 1,169,094	\$ 50,783,218
Increase (decrease) in fund balance	2,510,658	187,727	333,034	596,143	3,627,562
Ending balance: September 30, 2024	\$ 44,439,737	\$ 2,156,694	\$ 6,049,112	\$ 1,765,237	\$ 54,410,780
Total liabilities and fund balance	\$ 190,900,671	\$ 2,169,964	\$ 6,049,112	\$ 1,794,194	\$ 200,913,941

EL PASO COMMUNITY COLLEGE
EDUCATION AND GENERAL
STATEMENT OF REVENUE AND EXPENDITURES
FOR THE ONE MONTH ENDED SEPTEMBER 30, 2024

	Budget		Actual		Open Commitments	Budget	
	Original	Revised	Current Month	Year To Date		Balance Available	Percent Used
Revenues:							
State Appropriations	\$ 44,140,590	\$ 44,140,590	\$	\$	\$	\$ 44,140,590	0%
Fed Appr/Grants	816,884	816,884	58,610	58,610		758,274	7%
Tuition & fees	41,150,431	41,150,431	18,050,351	18,050,351		23,100,080	44%
Property tax	73,087,258	73,087,258	6,706	6,706		73,080,552	0%
Interest income	5,000,000	5,000,000	817,887	817,887		4,182,113	16%
Other income	2,301,353	2,301,353	132,902	132,902		2,168,451	6%
Total revenues	\$ 166,496,516	\$ 166,496,516	\$ 19,066,456	\$ 19,066,456	\$ 0	\$ 147,430,060	11%
Expenditures:							
Instruction	\$ 58,449,377	\$ 58,449,377	\$ 4,666,110	\$ 4,666,110	\$ 1,098,762	\$ 52,684,505	10%
Research	214,970	214,970	5,925	5,925	6,016	203,029	6%
Public service	5,625,788	5,625,788	207,709	207,709	240,529	5,177,550	8%
Academic support	20,740,776	20,740,776	1,538,909	1,538,909	1,128,695	18,073,172	13%
Student Services	12,844,311	12,844,311	566,160	566,160	389,158	11,888,993	7%
Institutional support	47,703,804	47,703,804	2,941,667	2,941,667	4,913,805	39,848,332	16%
Physical plant, operation & maintenance	13,322,235	13,322,235	1,633,102	1,633,102	4,283,774	7,405,359	44%
Total expenditures	\$ 158,901,261	\$ 158,901,261	\$ 11,559,582	\$ 11,559,582	\$ 12,060,739	\$ 135,280,940	15%
Transfers:							
TPEG	\$ 1,935,652	\$ 1,935,652	\$ 662,399	\$ 662,399	\$	\$ 1,273,253	34%
Student Activities	524,906	524,906	231,165	231,165		293,741	44%
Athletics	1,833,868	1,833,868	801,823	801,823		1,032,045	44%
Plant fund	3,300,829	3,300,829	3,300,829	3,300,829		0	100%
Total transfers	\$ 7,595,255	\$ 7,595,255	\$ 4,996,216	\$ 4,996,216	\$ 0	\$ 2,599,039	66%
Net increase/(decrease) in fund balance	\$ 0	\$ 0	\$ 2,510,658	\$ 2,510,658			

EL PASO COMMUNITY COLLEGE
STUDENT ACTIVITIES FUND
STATEMENT OF REVENUE AND EXPENDITURES
FOR THE ONE MONTH ENDED SEPTEMBER 30, 2024

	<u>Budget</u>	<u>Actual</u>	<u>Budget Balance Available</u>
Revenues:			
Student activity fee	\$ 497,806	\$ 231,805	\$ 266,001
Interest income		9,303	(9,303)
Total revenues	<u>\$ 497,806</u>	<u>\$ 241,108</u>	<u>\$ 256,698</u>
Expenditures:			
Salaries & benefits	\$ 282,448	\$ 6,919	\$ 275,529
Supplies & services	181,358	35,703	145,655
Travel	18,500	7,240	11,260
Club support	<u>15,500</u>	<u>3,519</u>	<u>11,981</u>
Total expenditures	<u>\$ 497,806</u>	<u>\$ 53,381</u>	<u>\$ 444,425</u>
Revenues over (under) expenditures:		\$ 187,727	
Increase (decrease) in fund balance		<u>\$ 187,727</u>	

**EL PASO COMMUNITY COLLEGE
AUXILIARY ENTERPRISE FUND
STATEMENT OF REVENUE AND EXPENDITURES
FOR THE ONE MONTH ENDED SEPTEMBER 30, 2024**

Revenues:		
Vehicle Registration	\$ 448,192	
Bookstore Commissions	29,167	
GECU	9,093	
Pepsi Cola Commissions	2,586	
Subway Commissions	665	
A/R Returned Checks	190	
ATM Commissions	180	\$ 490,073
Expenditures:		
Staff Scholarships	\$ 125,157	
Vehicle Registration Expense	22,822	
Bookstore/Cafeteria Utilities Expense	5,417	
Cafeteria Maint. Expenses	2,226	
Staff Educational Assistance	1,200	
Copy Machines Expense	217	\$ 157,039
Revenues over (under) expenditures	\$ 333,034	
Increase (decrease) in fund balance	\$ 333,034	

EL PASO COMMUNITY COLLEGE
INTERCOLLEGIATE ATHLETICS FUND
STATEMENT OF REVENUE AND EXPENDITURES
FOR THE ONE MONTH ENDED SEPTEMBER 30, 2024

Revenues:			
Athletic Fee	\$ 801,823	\$	809,434
Interest Income	<u>7,611</u>		
		\$	<u>809,434</u>
Expenditures:			
Cross Country	\$ 66,859		
Baseball	65,135		
Athletic Administration	43,689		
Softball	<u>37,608</u>		
		\$	<u>213,291</u>
Revenues over (under) expenditures:		\$	596,143
Increase (decrease) in fund balance		\$	<u><u>596,143</u></u>

**EL PASO COMMUNITY COLLEGE
FINANCIAL STATEMENTS
CURRENT RESTRICTED FUNDS
SEPTEMBER 30, 2024**

**EL PASO COMMUNITY COLLEGE
CURRENT RESTRICTED FUNDS
BALANCE SHEET
SEPTEMBER 30, 2024**

	Total Other Restricted	Total Sponsored Programs	Current Restricted Funds
Assets:			
A/R federal agencies	\$	\$ 2,384,273	\$ 2,384,273
A/R state agencies	3,405,554		3,405,554
A/R county/local agencies	317,806		317,806
A/R students		1,199,413	1,199,413
A/R other	12,000		12,000
Net OPEB Asset	23,657		23,657
Total assets	<u>\$ 3,759,017</u>	<u>\$ 3,583,686</u>	<u>\$ 7,342,703</u>
Liabilities & fund balance:			
Accounts payable	\$ 9,834	\$ 772,161	\$ 781,995
Due to unrestricted funds	845,401	2,747,906	3,593,307
Deferred income	1,274,008	63,619	1,337,627
Fund balance	<u>1,629,774</u>		<u>1,629,774</u>
Total liabilities & fund balance	<u>\$ 3,759,017</u>	<u>\$ 3,583,686</u>	<u>\$ 7,342,703</u>

**EL PASO COMMUNITY COLLEGE
CURRENT RESTRICTED FUNDS - OTHER
STATEMENT OF REVENUE AND EXPENDITURES
FOR THE ONE MONTH ENDED SEPTEMBER 30, 2024**

	Fund Balance 09/01/24	Revenues Additions	Expenditures Deductions	Fund Balance 09/30/24
Gifts:				
Scholarships/donations	\$ 1,172,812	\$ 810,999	\$ 716,149	\$ 1,267,662
Clubs and Associations	333,552	6,514	1,611	338,455
Grants & contracts:				
State	23,657	2,956,806	2,956,806	23,657
Local		88,502	88,502	0
Total	<u>\$ 1,530,021</u>	<u>\$ 3,862,821</u>	<u>\$ 3,763,068</u>	<u>\$ 1,629,774</u>

EL PASO COMMUNITY COLLEGE
CURRENT RESTRICTED FUNDS - SPONSORED PROGRAMS
STATEMENT OF REVENUE AND EXPENDITURES
FOR THE ONE MONTH ENDED SEPTEMBER 30, 2024

	Projected Budget	Current Month	Current Year	Project Year	Open Commitments	Balance Available
Revenues:	\$ 72,001,271	\$ 25,482,488	\$ 25,482,488	\$ 30,016,425	\$ 71,530	\$ 41,913,316
Expenditures:						
2019-2020						
USDOJ La Tuna HVAC & Welding Opt 2	\$ 112,875	\$	\$	\$ 107,136	\$	\$ 5,739
2020-2021						
CCAMPIS 2021	367,872			172,665		195,207
GREEN Advantage Emissary Program	185,474	5,167	5,167	152,145		33,329
2021-2022						
DOE IREPO - Curriculum Development	508,718			507,876		842
DOE IREPO - Distance Learning Support	465,315		36,421	455,499		9,816
CCAMPIS 2022	382,127			23,605		358,522
DOE - Accelerate@EPCC Title V Yr 1	528,871			512,261		16,610
2022-2023						
Ft. Bliss EMT Training	114,544			108,456		6,088
DOE - Accelerate@EPCC Title V YR 2	511,624		59,768	377,843		133,781
DOE HEP 2023 YR 3	474,987			474,099		888
2023-2024						
Rise to the Challenge Bridge 2023	264,380		2,270	232,194		32,186
USDOJ La Tuna Welding Prog. 2023	520,332					520,332
Contract Opportunity Center 2024	391,311		38,288	174,925	1,500	214,886
SSS Prog. 2024	735,953	27,643	27,643	429,455	1,799	304,699
Tejano Pollworker Fellows	49,000			1,121		47,879
DOE HEP 2023 YR 4	474,774	34,938	34,938	107,626	12,432	354,716
Federal Work-Study FY 2023/2024	551,899			408,621		143,278
NSF - ATE Grant	349,990	2,022	2,022	85,495		264,495
DOE - Accelerate@EPCC Title V YR 3	535,048	57,586	57,586	185,927		349,121
DOL - Susan Harwood Training Prog	160,000			145,724		14,276
USDOJ La Tuna Shadows to Light Prog	50,040	(1,410)	(1,410)	21,600		28,440
2024-2025						
Rise to the Challenge Bridge 2024	262,380	9,647	9,647		52,017	200,716
SSS Prog. 2025	735,953					735,953
DOE - Accelerate@EPCC Title V YR 4	511,144					511,144
DOE CAMP 2023 YR 4	453,160	18,217	18,217	126,274	3,782	323,104
Federal Work-Study FY 2024/2025	933,653			4,300		929,353
PELL 2024/2025	60,000,000	24,648,022	24,648,022	24,648,022		35,351,978
SEOG 2024/2025	1,209,847	543,909	543,909	543,909		665,938
DOL - Susan Harwood Training Prog	160,000					160,000
Total	\$ 72,001,271	\$ 25,482,488	\$ 25,482,488	\$ 30,016,425	\$ 71,530	\$ 41,913,316

**EL PASO COMMUNITY COLLEGE
FINANCIAL STATEMENTS
LOAN FUNDS
SEPTEMBER 30, 2024**

**EL PASO COMMUNITY COLLEGE
LOAN FUNDS
BALANCE SHEET
SEPTEMBER 30, 2024**

	<u>Nursing</u>	<u>Other</u>	<u>Loan Fund</u>
Assets:			
Cash & pooled investments	\$ 1,424	\$ 1,129,894	\$ 1,131,318
Loans receivable (net)	<u>13,371</u>	<u>2,665,441</u>	<u>2,678,812</u>
Total assets	<u>\$ 14,795</u>	<u>\$ 3,795,335</u>	<u>\$ 3,810,130</u>
Liabilities and Fund Balance:			
Nursing alumni loan fund	\$	\$ 2,448	\$ 2,448
Emergency loan fund		3,521,727	3,521,727
Ed Alvarez emergency loan fund		5,000	5,000
Alternative Loans (Elm)		3,000	3,000
Direct Loan Program Subsidized		113,582	113,582
Direct Loan Program Unsubsidized		113,880	113,880
SGA Emergency Book Loan Program		35,698	35,698
Federal capital contribution	13,939		13,939
Institutional capital contribution	1,549		1,549
Interest collected	8,645		8,645
Investment income	10,622		10,622
Federal canceled reimbursement	1,320		1,320
Penalty collected	2,906		2,906
Principal cancelled	(19,001)		(19,001)
Collection cost	<u>(5,185)</u>		<u>(5,185)</u>
Total liabilities & fund balance	<u>\$ 14,795</u>	<u>\$ 3,795,335</u>	<u>\$ 3,810,130</u>

**EL PASO COMMUNITY COLLEGE
FINANCIAL STATEMENTS
ENDOWMENT FUNDS
SEPTEMBER 30, 2024**

**EL PASO COMMUNITY COLLEGE
ENDOWMENT FUNDS
BALANCE SHEET
SEPTEMBER 30, 2024**

Assets:	
Cash & Pooled Investments	\$ 34,198,869
Total assets	<u>\$ 34,198,869</u>
Fund Balance:	
Fund Balance	\$ 873,440
Student Success Endowment:	
Fund balance student success corpus	30,033,254
Fund balance student success scholarships	2,992,886
Fund Balance student success emergency aid	299,289
Total fund balance	<u>\$ 34,198,869</u>

EL PASO COMMUNITY COLLEGE
ENDOWMENT FUNDS
STATEMENT OF REVENUE AND EXPENDITURES
FOR THE ONE MONTH ENDED SEPTEMBER 30, 2024

	Fund Balance 09/01/24	Revenues Additions	Expenditures Deductions	Fund Balance 09/30/24
Albert Horwitz	\$ 32,718	\$ 139	\$	\$ 32,857
Jose Cisneros	110,386	467		110,853
Amado Peña	111,403	472		111,875
Cecilia Ochoa Levine	35,041	148		35,189
Mack Quintana	61,479	436		61,915
Adair Margo	40,449	171		40,620
George W.S. Abbey	38,430	163		38,593
P. & B. Moreno Memorial	29,505	124		29,629
Lucy Scarbrough	40,558	171		40,729
Diane D. Rath	37,756	160		37,916
Bob Wingo	37,060	157		37,217
Raymond Paredes	35,633	151		35,784
María A. Peña	63,445	269		63,714
Michael W. Smith	40,585	172		40,757
Gerardo de los Santos	36,268	154		36,422
Augustine D. Gallego	29,896	127		30,023
James Vasquez	29,760	126		29,886
Diana S. Natalicio	29,616	125		29,741
Mark David Milliron	29,595	125		29,720
Student Success Endowment Fund	33,184,811	140,618		33,325,429
Total	\$ 34,054,394	\$ 144,475	\$ 0	\$ 34,198,869

**EL PASO COMMUNITY COLLEGE
FINANCIAL STATEMENTS
PLANT FUNDS
SEPTEMBER 30, 2024**

EL PASO COMMUNITY COLLEGE
PLANT FUNDS
BALANCE SHEET
SEPTEMBER 30, 2024

	Unexpended Plant	Renewals & Replacements	Debt Retirement	Investment In Plant	Total Plant Funds
Assets:					
Pooled investments	\$ 75,917,542	\$ 1,442,517	\$ 31,069,028	\$	\$ 108,429,087
Property taxes receivable			32,549		32,549
Deferred Outflow-Bond Insurance Cost			203,480		203,480
Deposits - Land Earnest Money	50,000				50,000
Land					
Land improvements				13,702,219	13,702,219
Accum. Depr. - Land Improv./Infra				21,338,015	21,338,015
Buildings - EPCC				(13,341,898)	(13,341,898)
Buildings - federal				274,581,223	274,581,223
Construction in progress				9,958,316	9,958,316
Accum. Depr. - Buildings				3,178,608	3,178,608
Furniture & Equipment				(81,405,431)	(81,405,431)
Furniture & Equipment - federal				19,241,749	19,241,749
Accum. Depr. - Furniture & Equip.				8,253,155	8,253,155
Capital lease asset GASB 87				(20,515,411)	(20,515,411)
Capital lease asset GASB 96 - SBITA				452,585	452,585
Accum. Depr. Leases GASB 87				3,708,800	3,708,800
Accum. Depr. Leases GASB 96 - SBITA				(193,640)	(193,640)
Library books EPCC				(1,867,445)	(1,867,445)
Library books - grant				6,364,176	6,364,176
Accum. Depr. - Library Books				63,151	63,151
Total assets	<u>\$ 75,967,542</u>	<u>\$ 1,442,517</u>	<u>\$ 31,305,057</u>	<u>\$ 238,942,905</u>	<u>\$ 347,658,021</u>
Liabilities:					
Accounts Payable - General	\$	\$	\$	\$	\$ 523,527
Revenue bonds 2016	519,664	3,863		105,140,000	105,140,000
Unamortized Bond premium 2016				10,032,430	10,032,430
Revenue bonds 2017				4,070,002	4,070,002
Deferred Inflow-Gain on Bond Refunding			76,764		76,764
Capital lease obligation GASB 87				268,486	268,486
Capital lease obligation GASB 96 - SBITA				1,863,494	1,863,494
Total liabilities	<u>\$ 519,664</u>	<u>\$ 3,863</u>	<u>\$ 76,764</u>	<u>\$ 121,374,412</u>	<u>\$ 121,974,703</u>
Fund balance:					
Designated fund balance	\$ 75,447,878	\$ 1,438,654	\$ 31,228,293	\$	\$ 108,114,825
Invested in plant				\$ 117,568,493	\$ 117,568,493
Total fund balance	<u>\$ 75,447,878</u>	<u>\$ 1,438,654</u>	<u>\$ 31,228,293</u>	<u>\$ 117,568,493</u>	<u>\$ 225,683,318</u>
Total liabilities & fund balance	<u>\$ 75,967,542</u>	<u>\$ 1,442,517</u>	<u>\$ 31,305,057</u>	<u>\$ 238,942,905</u>	<u>\$ 347,658,021</u>

EL PASO COMMUNITY COLLEGE
UNEXPENDED PLANT FUND
STATEMENT OF REVENUE AND EXPENDITURES
FOR THE ONE MONTH ENDED SEPTEMBER 30, 2024

	<u>Original Budget</u>	<u>Revised Budget</u>	<u>Other</u>	<u>Total</u>	<u>Budget Balance</u>
Revenues:					
Transferred from current unrestricted	\$ 3,190,829	\$ 3,190,829	\$ 3,190,829	\$ 3,190,829	\$ 0
Intrafund transfers	21,102,689	21,102,689	130,338	130,338	20,972,351
Interest income	2,090,000	2,090,000	320,414	320,414	1,769,586
Total revenues	<u>\$ 26,383,518</u>	<u>\$ 26,383,518</u>	<u>\$ 3,641,581</u>	<u>\$ 3,641,581</u>	<u>\$ 22,741,937</u>
Expenditures:					
Intrafund transfers	\$ 21,102,689	\$ 21,102,689	\$ 130,338	\$ 130,338	\$ 20,972,351
Interfund transfers	630,000	630,000	630,000	630,000	0
Repairs and rehabilitation	38,530,632	38,530,632	1,497	1,497	38,529,135
Equipment	5,254,229	5,254,229	565,900	565,900	4,688,329
Total expenditures	<u>\$ 65,517,550</u>	<u>\$ 65,517,550</u>	<u>\$ 1,327,735</u>	<u>\$ 1,327,735</u>	<u>\$ 64,189,815</u>
Revenues over/(under) expenditures	\$ (39,134,032)	\$ (39,134,032)	\$ 2,313,846	\$ 2,313,846	
Beginning balance - September 1, 2024	73,134,032	73,134,032	73,134,032	73,134,032	
Ending balance - September 30, 2024	<u>\$ 34,000,000</u>	<u>\$ 34,000,000</u>	<u>\$ 75,447,878</u>	<u>\$ 75,447,878</u>	

EL PASO COMMUNITY COLLEGE
RENEWALS & REPLACEMENTS FUND
STATEMENT OF REVENUE AND EXPENDITURES
FOR THE ONE MONTH ENDED SEPTEMBER 30, 2024

	Original Budget	Revised Budget	Actual	Total	Budget Balance Available
Revenues:					
Transfer from unexpended plant funds	\$ 630,000	\$ 630,000	\$ 630,000	\$ 630,000	\$ 0
Transfer from unrestricted current funds	110,000	110,000	110,000	110,000	0
Transfer from auxiliary enterprises	325,000	325,000	0	0	325,000
Other Income	45,000	45,000	0	0	45,000
Interest income	50,000	50,000	6,081	6,081	43,919
Total revenues	<u>\$ 1,160,000</u>	<u>\$ 1,160,000</u>	<u>\$ 746,081</u>	<u>\$ 746,081</u>	<u>\$ 413,919</u>
Expenditures:					
Replacements and Renovations	\$ 1,852,573	\$ 1,852,573	\$ 0	0	\$ 1,852,573
Total expenditures	<u>\$ 1,852,573</u>	<u>\$ 1,852,573</u>	<u>\$ 0</u>	<u>0</u>	<u>\$ 1,852,573</u>
Revenues over (under) expenditures	\$ (692,573)	\$ (692,573)	\$ 746,081	\$ 746,081	
Beginning balance - September 1, 2024	<u>692,573</u>	<u>692,573</u>	<u>692,573</u>	<u>692,573</u>	
Ending balance - September 30, 2024	<u>\$ 0</u>	<u>\$ 0</u>	<u>\$ 1,438,654</u>	<u>\$ 1,438,654</u>	

**EL PASO COMMUNITY COLLEGE
DEBT RETIREMENT FUND
STATEMENT OF REVENUE AND EXPENDITURES
FOR THE ONE MONTH ENDED SEPTEMBER 30, 2024**

	Original Budget	Actual			Budget
	Debt Service	Revenue Bonds	G.O. Bonds 1975	Capital Leases	Total
Revenues:					
General use fees	\$ 9,000,000	\$ 4,317,445	\$		\$ 4,317,445
Interest income	510,000	47,115			47,115
Intrafund transfers	9,003,956				0
Capital leases	54,077			945	945
Tuition	750,000	384,015			384,015
Total revenues	\$ 19,318,033	\$ 4,748,575	\$ 0	\$ 945	\$ 4,749,520
					\$ 14,568,513
Expenditures:					
Bond principal	\$ 4,070,000	\$	\$		\$ 4,070,000
Bond interest	4,997,871	419,444			419,444
Capital lease interest expense	54,077			945	945
Intrafund transfers	9,003,956				0
Agents fee	5,800				0
Other bond costs	5,745	416			0
Amortization of bond insurance	11,304				416
Loss (gain) on bond refunding	(76,764)				0
Total expenditures	\$ 18,071,989	\$ 419,860	\$ 0	\$ 945	\$ 420,805
					\$ 17,651,184
Revenues over/(under) expenditures	\$ 1,246,044	\$ 4,328,715	\$ 0	\$	\$ 4,328,715
Beginning balance - September 1, 2024	26,899,578	26,856,930	42,648		26,899,578
Ending balance - September 30, 2024	\$ 28,145,622	\$ 31,185,645	\$ 42,648	\$ 0	\$ 31,228,293

**EL PASO COMMUNITY COLLEGE
FINANCIAL STATEMENTS
CUSTODIAL FUNDS
SEPTEMBER 30, 2024**

**EL PASO COMMUNITY COLLEGE
CUSTODIAL FUNDS
BALANCE SHEET
SEPTEMBER 30, 2024**

	Custodial Funds
Assets:	
Cash and cash equivalents	\$ 317,655
Total assets	<u>\$ 317,655</u>
Liabilities:	
Accounts payable and other liabilities	\$ 0
Total liabilities	<u>\$ 0</u>
Fund balance:	
Beginning balance: September 1, 2024	\$ 417,767
Increase (decrease) in fund balance	<u>(100,112)</u>
Ending balance: September 30, 2024	<u>\$ 317,655</u>
Total liabilities & fund balance	<u>\$ 317,655</u>

EL PASO COMMUNITY COLLEGE
CUSTODIAL FUNDS
STATEMENT OF CHANGES IN FUND BALANCE
FOR THE ONE MONTH ENDED SEPTEMBER 30, 2024

	<u>Custodial Funds</u>
Additions:	
Miscellaneous	\$ 37,143
Total additions	<u>\$ 37,143</u>
Deductions:	
Scholarship payments to students	\$ 137,255
Total deductions	<u>\$ 137,255</u>
Net increase (decrease) in fund balance	<u>\$ (100,112)</u>

**EL PASO COMMUNITY COLLEGE
FINANCIAL STATEMENTS
TEMPORARY INVESTMENTS
SEPTEMBER 30, 2024**

PORTFOLIO SUMMARY
EL PASO COMMUNITY COLLEGE
SEPTEMBER 30, 2024

PORTFOLIO	Book Value		Market Value	
	Beginning Balance	Change	Beginning Balance	Change
Pooled Investments	\$ 281,207,106	\$ (15,187,550)	\$ 281,207,106	\$ (15,187,550)
Student Success Endowment	33,056,498	268,931	33,056,498	268,931
Debt Service Reserve Fund	10,587,122	2,115,877	10,587,122	2,115,877
Total Portfolio	<u>\$ 324,850,726</u>	<u>\$ (12,802,742)</u>	<u>\$ 324,850,726</u>	<u>\$ (12,802,742)</u>
				<u>\$ 312,047,984</u>

Effective yield for September 30, 2024 = 5.1527%

Benchmark: Average 13-week T-Bill rate for September = 4.7310. %

The undersigned acknowledge that the College's investment portfolio is in compliance with Generally Accepted Accounting Principles and the policies and strategies as contained in the College's Investment Policy for El Paso Community College and also in compliance with the Public Funds Investment Act of the State of Texas.

Fernando Flores, CPA

Vice President

Finance & Administration/CFO



Ana P. Zúñiga, CPA

Associate Vice President

Budget & Financial Services



EL PASO COMMUNITY COLLEGE
TEMPORARY INVESTMENTS
SEPTEMBER 30, 2024

	Amount	Rate	Duration	Purchase	Maturity	Earned YTD	Accrued YTD
Pooled Investments							
Balance 9/1/2024							
TexPool	\$ 150,004,867.24	5.1637	30	08/31/24	09/30/24	\$	\$ 0.00
Texas Daily	129,859,370.26	5.2000	30	08/31/24	09/30/24		0.00
Wells Fargo	1,342,868.91	1.1500	4	08/30/24	09/03/24		0.00
	\$ 281,207,106.41					\$ 0.00	\$ 0.00
Purchases & Transfers in September 2024							
TexPool	\$ 1,253,167.36	5.1637	30	08/31/24	09/30/24	\$	\$ 618,801.68
Texas Daily	548,853.41	5.2000	30	08/31/24	09/30/24		548,853.41
Wells Fargo	43,237,491.54	1.1500	31	08/30/24	09/30/24		1,463.47
	\$ 45,039,512.31					\$ 1,169,118.56	\$ 0.00
Maturities & Transfers in September 2024							
TexPool	\$ 16,421,200.19	5.1637	30	08/31/24	09/30/24	\$	\$ 0.00
Wells Fargo	43,805,861.94	1.1500	31	08/30/24	09/30/24		0.00
	\$ 60,227,062.13					\$ 0.00	\$ 0.00
Balance 9/30/2024	\$ 266,019,556.59					\$ 1,169,118.56	\$ 0.00
Student Success Endowment							
Balance 9/1/2024							
TexPool	\$ 33,056,498.06	5.1637	30	08/31/24	09/30/24	\$	\$ 0.00
	\$ 33,056,498.06					\$ 0.00	\$ 0.00
Purchases & Transfers in September 2024							
TexPool	\$ 268,930.96	5.1637	30	08/31/24	09/30/24	\$	\$ 140,618.35
	\$ 268,930.96					\$ 140,618.35	\$ 0.00
Balance 9/30/2024	\$ 33,325,429.02					\$ 140,618.35	\$ 0.00

EL PASO COMMUNITY COLLEGE
TEMPORARY INVESTMENTS
SEPTEMBER 30, 2024

	Amount	Rate	Duration	Purchase	Maturity	Earned YTD	Accrued YTD
Debt Reserve							
Balance 9/1/2024							
	\$	8,769.92	5.1637	30	08/31/24	09/30/24	\$
TexPool							\$
		10,578,352.16	5.2000	30	08/31/24	09/30/24	
Texas Daily							
	\$	10,587,122.08				\$	0.00
							\$
Purchases & Transfers in September 2024							
	\$	4,545,291.99	5.1637	30	08/31/24	09/30/24	\$
TexPool							\$
		44,709.63	5.2000	30	08/31/24	09/30/24	
Texas Daily							
	\$	4,590,001.62				\$	47,114.04
							\$
Maturities & Transfers in September 2024							
	\$	2,474,125.00	5.1637	30	08/31/24	09/30/24	\$
TexPool							\$
	\$	2,474,125.00				\$	0.00
							\$
Balance 9/30/2024	\$	12,702,998.70				\$	47,114.04
							\$
All Funds	\$	312,047,984.31				\$	1,356,850.95
							\$
							0.00

EL PASO COMMUNITY COLLEGE

**TREASURER'S REPORT
OCTOBER 31, 2024**

EXHIBIT 1.10.1

**EL PASO COMMUNITY COLLEGE
FINANCIAL STATEMENTS
CURRENT UNRESTRICTED FUNDS
OCTOBER 31, 2024**

EL PASO COMMUNITY COLLEGE
CURRENT UNRESTRICTED FUNDS
BALANCE SHEET
OCTOBER 31, 2024

	Education & General	Student Activities	Auxiliary Services	Intercollegiate Athletics	Total Current Unrestricted
Assets:					
Cash	\$ 19,300	\$ 2,132,660	\$ 5,762,779	\$ 1,682,468	\$ 19,300
Pooled investments	168,279,179				177,857,086
Property taxes receivable	78,956,216				78,956,216
Other receivables	13,820,235		329,558	2,500	14,152,293
Deferred Outflows-Pension	13,686,999				13,686,999
Deferred Outflows-OPEB	5,476,033				5,476,033
Due from restricted funds	3,177,566				3,177,566
Prepaid expenses	161,792				161,792
Total assets	\$ 283,577,320	\$ 2,132,660	\$ 6,092,337	\$ 1,684,968	\$ 293,487,285
Liabilities:					
Accounts payable & accrued expenditures	\$ 6,235,686	\$ 289	\$ 186	\$ 4,590	\$ 6,240,751
Accrued compensated absences	4,834,096				4,834,096
Student property deposits	554,607				554,607
Deferred Tuition and Fees	6,799,413				6,799,413
Deferred Inflows-Pension	3,765,180				3,765,180
Deferred Inflows-OPEB	28,215,966				28,215,966
Deferred Inflows-Leases	604,817				604,817
Net Pension Liability	37,958,060				37,958,060
Net OPEB Liability	65,000,111				65,000,111
Total liabilities	\$ 153,967,936	\$ 289	\$ 186	\$ 4,590	\$ 153,973,001
Fund balance:					
Beginning balance: September 1, 2024	\$ 41,929,079	\$ 1,968,967	\$ 5,716,078	\$ 1,169,094	\$ 50,783,218
Increase (decrease) in fund balance	87,680,305	163,404	376,073	511,284	88,731,066
Ending balance: October 31, 2024	\$ 129,609,384	\$ 2,132,371	\$ 6,092,151	\$ 1,680,378	\$ 139,514,284
Total liabilities and fund balance	\$ 283,577,320	\$ 2,132,660	\$ 6,092,337	\$ 1,684,968	\$ 293,487,285

EL PASO COMMUNITY COLLEGE
EDUCATION AND GENERAL
STATEMENT OF REVENUE AND EXPENDITURES
FOR THE TWO MONTHS ENDED OCTOBER 31, 2024

	Budget		Actual		Open Commitments	Budget Balance Available	Percent Used
	Original	Revised	Current Month	Year To Date			
Revenues:							
State Appropriations	\$ 44,140,590	\$ 44,140,590	\$ 19,302,547	\$ 19,302,547	\$	\$ 24,838,043	44%
Fed Appr/Grants	816,884	816,884	44,227	102,837		714,047	13%
Tuition & fees	41,150,431	41,150,431	691,528	18,741,879		22,408,552	46%
Property tax	73,087,258	73,087,258	76,383,220	76,389,926		(3,302,668)	105%
Interest income	5,000,000	5,000,000	798,368	1,616,255		3,383,745	32%
Other income	2,301,353	2,301,353	103,730	236,632		2,064,721	10%
Total revenues	\$ 166,496,516	\$ 166,496,516	\$ 97,323,620	\$ 116,390,076	\$ 0	\$ 50,106,440	70%
Expenditures:							
Instruction	\$ 58,449,377	\$ 58,449,377	\$ 5,264,363	\$ 9,930,473	\$ 1,064,699	\$ 47,454,205	19%
Research	214,970	214,970	17,159	23,084	9,372	182,514	15%
Public service	5,625,788	5,625,788	329,829	537,538	239,225	4,849,025	14%
Academic support	20,740,776	20,740,776	1,586,868	3,125,777	1,155,396	16,459,603	21%
Student Services	12,844,311	12,844,311	771,360	1,337,520	570,066	10,936,725	15%
Institutional support	47,703,804	47,703,804	3,303,167	6,244,834	4,564,961	36,894,009	23%
Physical plant, operation & maintenance	13,322,235	13,322,235	882,734	2,515,836	4,073,554	6,732,845	49%
Total expenditures	\$ 158,901,261	\$ 158,901,261	\$ 12,155,480	\$ 23,715,062	\$ 11,677,273	\$ 123,508,926	22%
Transfers:							
TPEG	\$ 1,935,652	\$ 1,935,652	\$ (1,507)	\$ 660,892	\$	\$ 1,274,760	34%
Student Activities	524,906	524,906		231,165		293,741	44%
Athletics	1,833,868	1,833,868		801,823		1,032,045	44%
Plant fund	3,300,829	3,300,829		3,300,829		0	100%
Total transfers	\$ 7,595,255	\$ 7,595,255	\$ (1,507)	\$ 4,994,709	\$ 0	\$ 2,600,546	66%
Net increase/(decrease)							
fund balance	\$ 0	\$ 0	\$ 85,169,647	\$ 87,680,305			

EL PASO COMMUNITY COLLEGE
STUDENT ACTIVITIES FUND
STATEMENT OF REVENUE AND EXPENDITURES
FOR THE TWO MONTHS ENDED OCTOBER 31, 2024

	<u>Budget</u>	<u>Actual</u>	<u>Budget Balance Available</u>
Revenues:			
Student activity fee	\$ 497,806	\$ 232,440	\$ 265,366
Interest income		18,129	(18,129)
Other income		1,331	(1,331)
Total revenues	<u>\$ 497,806</u>	<u>\$ 251,900</u>	<u>\$ 245,906</u>
Expenditures:			
Salaries & benefits	\$ 282,448	\$ 19,892	\$ 262,556
Supplies & services	181,358	41,759	139,599
Travel	18,500	18,639	(139)
Club support	<u>15,500</u>	<u>8,206</u>	<u>7,294</u>
Total expenditures	<u>\$ 497,806</u>	<u>\$ 88,496</u>	<u>\$ 409,310</u>
Revenues over (under) expenditures:		\$ 163,404	
Increase (decrease) in fund balance		<u>\$ 163,404</u>	

**EL PASO COMMUNITY COLLEGE
AUXILIARY ENTERPRISE FUND
STATEMENT OF REVENUE AND EXPENDITURES
FOR THE TWO MONTHS ENDED OCTOBER 31, 2024**

Revenues:		
Vehicle Registration	\$ 495,719	
Bookstore Commissions	58,333	
GECU	11,139	
Pepsi Cola Commissions	6,751	
Subway Commissions	4,086	
The Basil Garden Commissions	2,861	
Taqueria Don Chicho	1,269	
ATM Commissions	413	
A/R Returned Checks	342	\$ 580,913
Expenditures:		
Staff Scholarships	\$ 133,207	
Vehicle Registration Expense	53,309	
Bookstore/Cafeteria Utilities Expense	10,833	
Cafeteria Maint. Expenses	5,609	
Staff Educational Assistance	1,200	
Copy Machines Expense	557	
Professional Staff Association	76	
Classified Staff Association	42	
Faculty Association	7	\$ 204,840
Revenues over (under) expenditures	\$ 376,073	
Increase (decrease) in fund balance	\$ 376,073	

EL PASO COMMUNITY COLLEGE
INTERCOLLEGIATE ATHLETICS FUND
STATEMENT OF REVENUE AND EXPENDITURES
FOR THE TWO MONTHS ENDED OCTOBER 31, 2024

Revenues:		
Athletic Fee	\$ 801,823	
Interest Income	14,629	
Softball	<u>137</u>	\$ 816,589
Expenditures:		
Baseball	\$ 90,782	
Cross Country	84,732	
Athletic Administration	67,651	
Softball	<u>61,324</u>	\$ 304,489
Revenues over (under) expenditures:		\$ 512,100
Funds Transferred:		
Athletic Scholarships	<u>(816)</u>	
Increase (decrease) in fund balance		<u>\$ 511,284</u>

**EL PASO COMMUNITY COLLEGE
FINANCIAL STATEMENTS
CURRENT RESTRICTED FUNDS
OCTOBER 31, 2024**

**EL PASO COMMUNITY COLLEGE
CURRENT RESTRICTED FUNDS
BALANCE SHEET
OCTOBER 31, 2024**

	<u>Total Other Restricted</u>	<u>Total Sponsored Programs</u>	<u>Current Restricted Funds</u>
Assets:			
A/R federal agencies	\$	\$ 1,753,349	\$ 1,753,349
A/R state agencies	3,208,794		3,208,794
A/R county/local agencies	372,519		372,519
A/R students		817,315	817,315
A/R other	12,000		12,000
Net OPEB Asset	<u>23,657</u>		<u>23,657</u>
Total assets	<u>\$ 3,616,970</u>	<u>\$ 2,570,664</u>	<u>\$ 6,187,634</u>
Liabilities & fund balance:			
Accounts payable	\$ 12,564	\$ 71,813	\$ 84,377
Due to unrestricted funds	742,752	2,434,814	3,177,566
Deferred income	1,250,736	64,037	1,314,773
Fund balance	<u>1,610,918</u>		<u>1,610,918</u>
Total liabilities & fund balance	<u>\$ 3,616,970</u>	<u>\$ 2,570,664</u>	<u>\$ 6,187,634</u>

**EL PASO COMMUNITY COLLEGE
CURRENT RESTRICTED FUNDS - OTHER
STATEMENT OF REVENUE AND EXPENDITURES
FOR THE TWO MONTHS ENDED OCTOBER 31, 2024**

	Fund Balance 09/01/24	Revenues Additions	Expenditures Deductions	Fund Balance 10/31/24
Gifts:				
Scholarships/donations	\$ 1,172,812	\$ 948,498	\$ 878,632	\$ 1,242,678
Clubs and Associations	333,552	28,355	17,324	344,583
Grants & contracts:				
State	23,657	3,280,851	3,280,851	23,657
Local		231,993	231,993	0
Total	<u>\$ 1,530,021</u>	<u>\$ 4,489,697</u>	<u>\$ 4,408,800</u>	<u>\$ 1,610,918</u>

EL PASO COMMUNITY COLLEGE
CURRENT RESTRICTED FUNDS - SPONSORED PROGRAMS
STATEMENT OF REVENUE AND EXPENDITURES
FOR THE TWO MONTHS ENDED OCTOBER 31, 2024

	Projected Budget	Current Month	Current Year	Project Year	Open Commitments	Balance Available
Revenues:	\$ 72,001,270	\$ 855,109	\$ 26,337,597	\$ 30,871,534	\$ 122,824	\$ 41,006,912
Expenditures:						
2019-2020						
USDOJ La Tuna HVAC & Welding Opt 2	\$ 112,875	\$	\$	\$ 107,136	\$	\$ 5,739
2020-2021						
CCAMPIS 2021	367,872			172,665		195,207
GREEN Advantage Emissary Program	185,474	2,467	7,634	154,612		30,862
2021-2022						
DOE IREPO - Curriculum Development	511,680	3,804	3,804	511,680		0
DOE IREPO - Distance Learning Support	462,352	6,853	43,274	462,352		0
CCAMPIS 2022	382,127			23,605		358,522
DOE - Accelerate@EPCC Title V Yr 1	528,871	6,386	6,386	518,647		10,224
2022-2023						
Ft. Bliss EMT Training	114,544			108,456		6,088
DOE - Accelerate@EPCC Title V YR 2	511,624	9,585	69,353	387,428	37,932	86,264
DOE HEP 2023 YR 3	474,987	888	888	474,987	170	(170)
2023-2024						
Rise to the Challenge Bridge 2023	264,380	11,579	13,849	243,773	8,862	11,745
USDOJ La Tuna Welding Prog. 2023	520,332					520,332
Contract Opportunity Center 2024	391,311	34,326	72,614	209,251	1,500	180,560
SSS Prog. 2024	735,953	33,941	61,584	463,396	10,099	262,458
Tejano Pollworker Fellows	49,000	120	120	1,241		47,759
DOE HEP 2023 YR 4	474,774	54,857	89,795	162,483	5,842	306,449
Federal Work-Study FY 2023/2024	551,899			408,621		143,278
NSF - ATE Grant	349,990	3,417	5,439	88,912		261,078
DOE - Accelerate@EPCC Title V YR 3	535,048	28,864	86,450	214,791		320,257
DOL - Susan Harwood Training Prog	160,000	13,473	13,473	159,197		803
USDOJ La Tuna Shadows to Light Prog	50,040	16,263	14,853	37,863		12,177
2024-2025						
Rise to the Challenge Bridge 2024	262,380	22,812	32,459	32,459	52,017	177,904
SSS Prog. 2025	735,953					735,953
DOE - Accelerate@EPCC Title V YR 4	511,144	20,331	20,331	20,331		490,813
DOE CAMP 2023 YR 4	453,160	39,156	57,373	165,430	6,402	281,328
Federal Work-Study FY 2024/2025	933,653	72,838	72,838	77,138		856,515
PELL 2024/2025	60,000,000	476,549	25,124,571	25,124,571		34,875,429
SEOG 2024/2025	1,209,847	(3,400)	540,509	540,509		669,338
DOL - Susan Harwood Training Prog	160,000					160,000
Total	\$ 72,001,270	\$ 855,109	\$ 26,337,597	\$ 30,871,534	\$ 122,824	\$ 41,006,912

**EL PASO COMMUNITY COLLEGE
FINANCIAL STATEMENTS
LOAN FUNDS
OCTOBER 31, 2024**

**EL PASO COMMUNITY COLLEGE
LOAN FUNDS
BALANCE SHEET
OCTOBER 31, 2024**

	<u>Nursing</u>	<u>Other</u>	<u>Loan Fund</u>
Assets:			
Cash & pooled investments	\$ 1,430	\$ 1,622,213	\$ 1,623,643
Loans receivable (net)	<u>13,371</u>	<u>1,959,248</u>	<u>1,972,619</u>
Total assets	<u>\$ 14,801</u>	<u>\$ 3,581,461</u>	<u>\$ 3,596,262</u>
Liabilities and Fund Balance:			
Nursing alumni loan fund	\$	\$ 2,448	\$ 2,448
Emergency loan fund		<u>3,521,727</u>	<u>3,521,727</u>
Ed Alvarez emergency loan fund		5,000	5,000
Alternative Loans (Elm)		3,000	3,000
Direct Loan Program Subsidized		6,414	6,414
Direct Loan Program Unsubsidized		7,174	7,174
SGA Emergency Book Loan Program		35,698	35,698
Federal capital contribution	13,939		13,939
Institutional capital contribution	1,549		1,549
Interest collected	8,645		8,645
Investment income	10,628		10,628
Federal canceled reimbursement	1,320		1,320
Penalty collected	2,906		2,906
Principal cancelled	(19,001)		(19,001)
Collection cost	<u>(5,185)</u>		<u>(5,185)</u>
Total liabilities & fund balance	<u>\$ 14,801</u>	<u>\$ 3,581,461</u>	<u>\$ 3,596,262</u>

**EL PASO COMMUNITY COLLEGE
FINANCIAL STATEMENTS
ENDOWMENT FUNDS
OCTOBER 31, 2024**

**EL PASO COMMUNITY COLLEGE
ENDOWMENT FUNDS
BALANCE SHEET
OCTOBER 31, 2024**

Assets:	
Cash & Pooled Investments	\$ 34,199,613
Total assets	<u>\$ 34,199,613</u>
Fund Balance:	
Fund Balance	\$ 877,246
Student Success Endowment:	
Fund balance student success corpus	30,034,643
Fund balance student success scholarships	2,975,932
Fund Balance student success emergency aid	311,792
Total fund balance	<u>\$ 34,199,613</u>

**EL PASO COMMUNITY COLLEGE
ENDOWMENT FUNDS
STATEMENT OF REVENUE AND EXPENDITURES
FOR THE TWO MONTHS ENDED OCTOBER 31, 2024**

	Fund Balance 09/01/24	Revenues Additions	Expenditures Deductions	Fund Balance 10/31/24
Albert Horwitz	\$ 32,718	\$ 275	\$	\$ 32,993
Jose Cisneros	110,386	927		111,313
Amado Peña	111,403	937		112,340
Cecilia Ochoa Levine	35,041	295		35,336
Mack Quintana	61,479	869		62,348
Adair Margo	40,449	340		40,789
George W.S. Abbey	38,430	323		38,753
P. & B. Moreno Memorial	29,505	248		29,753
Lucy Scarbrough	40,558	341		40,899
Diane D. Rath	37,756	318		38,074
Bob Wingo	37,060	312		37,372
Raymond Paredes	35,633	300		35,933
María A. Peña	63,445	533		63,978
Michael W. Smith	40,585	341		40,926
Gerardo de los Santos	36,268	305		36,573
Augustine D. Gallego	29,896	251		30,147
James Vasquez	29,760	250		30,010
Diana S. Natalicio	29,616	249		29,865
Mark David Milliron	29,595	249		29,844
Student Success Endowment Fund	33,184,811	279,542	141,986	33,322,367
Total	\$ 34,054,394	\$ 287,205	\$ 141,986	\$ 34,199,613

**EL PASO COMMUNITY COLLEGE
FINANCIAL STATEMENTS
PLANT FUNDS
OCTOBER 31, 2024**

EL PASO COMMUNITY COLLEGE
PLANT FUNDS
BALANCE SHEET
OCTOBER 31, 2024

	Unexpended Plant	Renewals & Replacements	Debt Retirement	Investment In Plant	Total Plant Funds
Assets:					
Pooled investments	\$ 75,470,642	\$ 1,428,829	\$ 32,177,630	\$	\$ 109,077,101
Property taxes receivable			32,549		32,549
Deferred Outflow-Bond Insurance Cost			203,480		203,480
Accrued interest			53,142		53,142
Land				13,702,219	13,702,219
Land improvements				21,338,015	21,338,015
Accum. Depr. - Land Improv./Infra				(13,341,898)	(13,341,898)
Buildings - EPCC				274,581,223	274,581,223
Buildings - federal				9,958,316	9,958,316
Construction in progress				3,194,690	3,194,690
Accum. Depr. - Buildings				(81,405,431)	(81,405,431)
Furniture & Equipment				19,297,214	19,297,214
Furniture & Equipment - federal				8,266,430	8,266,430
Accum. Depr. - Furniture & Equip.				(20,515,411)	(20,515,411)
Capital lease asset GASB 87				452,585	452,585
Capital lease asset GASB 96 - SBITA				3,708,800	3,708,800
Accum. Depr. Leases GASB 87				(201,183)	(201,183)
Accum. Depr. Leases GASB 96 - SBITA				(1,867,445)	(1,867,445)
Library books EPCC				6,364,176	6,364,176
Library books - grant				63,151	63,151
Accum. Depr. - Library Books				(4,575,267)	(4,575,267)
Total assets	<u>\$ 75,470,642</u>	<u>\$ 1,428,829</u>	<u>\$ 32,466,801</u>	<u>\$ 239,020,184</u>	<u>\$ 348,386,456</u>
Liabilities:					
Accounts Payable - General	\$ 34,946	\$	\$	\$	\$ 34,946
Revenue bonds 2016				105,140,000	105,140,000
Unamortized Bond premium 2016				10,032,430	10,032,430
Revenue bonds 2017			678,333	3,391,669	4,070,002
Deferred Inflow-Gain on Bond Refunding			76,764		76,764
Accrued interest - Bonds			419,443		419,443
Capital lease obligation GASB 87				261,086	261,086
Capital lease obligation GASB 96 - SBITA				1,863,494	1,863,494
Total liabilities	<u>\$ 34,946</u>	<u>\$ 0</u>	<u>\$ 1,174,540</u>	<u>\$ 120,688,679</u>	<u>\$ 121,898,165</u>
Fund balance:					
Designated fund balance	\$ 75,435,696	\$ 1,428,829	\$ 31,292,261	\$	\$ 108,156,786
Invested in plant				\$ 118,331,505	\$ 118,331,505
Total fund balance	<u>\$ 75,435,696</u>	<u>\$ 1,428,829</u>	<u>\$ 31,292,261</u>	<u>\$ 118,331,505</u>	<u>\$ 226,488,291</u>
Total liabilities & fund balance	<u>\$ 75,470,642</u>	<u>\$ 1,428,829</u>	<u>\$ 32,466,801</u>	<u>\$ 239,020,184</u>	<u>\$ 348,386,456</u>

EL PASO COMMUNITY COLLEGE
UNEXPENDED PLANT FUND
STATEMENT OF REVENUE AND EXPENDITURES
FOR THE TWO MONTHS ENDED OCTOBER 31, 2024

	Original Budget	Revised Budget	Other	Total	Budget Balance
Revenues:					
Transferred from current unrestricted	\$ 3,190,829	\$ 3,190,829	\$ 3,190,829	\$ 3,190,829	\$ 0
Intrafund transfers	21,102,689	21,102,689	3,062,512	3,062,512	18,040,177
Interest income	2,090,000	2,090,000	632,366	632,366	1,457,634
Total revenues	<u>\$ 26,383,518</u>	<u>\$ 26,383,518</u>	<u>\$ 6,885,707</u>	<u>\$ 6,885,707</u>	<u>\$ 19,497,811</u>
Expenditures:					
Intrafund transfers	\$ 21,102,689	\$ 21,102,689	\$ 3,062,512	\$ 3,062,512	\$ 18,040,177
Interfund transfers	630,000	630,000	630,000	630,000	0
Repairs and rehabilitation	38,530,632	38,530,632	267,316	267,316	38,263,316
Equipment	5,254,229	5,254,229	624,215	624,215	4,630,014
Total expenditures	<u>\$ 65,517,550</u>	<u>\$ 65,517,550</u>	<u>\$ 4,584,043</u>	<u>\$ 4,584,043</u>	<u>\$ 60,933,507</u>
Revenues over/(under) expenditures	\$ (39,134,032)	\$ (39,134,032)	\$ 2,301,664	\$ 2,301,664	
Beginning balance - September 1, 2024	73,134,032	73,134,032	73,134,032	73,134,032	
Ending balance - October 31, 2024	<u><u>\$ 34,000,000</u></u>	<u><u>\$ 34,000,000</u></u>	<u><u>\$ 75,435,696</u></u>	<u><u>\$ 75,435,696</u></u>	

**EL PASO COMMUNITY COLLEGE
RENEWALS & REPLACEMENTS FUND
STATEMENT OF REVENUE AND EXPENDITURES
FOR THE TWO MONTHS ENDED OCTOBER 31, 2024**

	<u>Original Budget</u>	<u>Revised Budget</u>	<u>Actual</u>	<u>Total</u>	<u>Budget Balance Available</u>
Revenues:					
Transfer from unexpended plant funds	\$ 630,000	\$ 630,000	\$ 630,000	\$ 630,000	\$ 0
Transfer from unrestricted current funds	110,000	110,000	110,000	110,000	0
Transfer from auxiliary enterprises	325,000	325,000	0	0	325,000
Other Income	45,000	45,000	0	0	45,000
Interest income	50,000	50,000	11,994	11,994	38,006
Total revenues	<u>\$ 1,160,000</u>	<u>\$ 1,160,000</u>	<u>\$ 751,994</u>	<u>\$ 751,994</u>	<u>\$ 408,006</u>
Expenditures:					
Replacements and Renovations	\$ 1,852,573	\$ 1,852,573	\$ 15,738	\$ 15,738	\$ 1,836,835
Total expenditures	<u>\$ 1,852,573</u>	<u>\$ 1,852,573</u>	<u>\$ 15,738</u>	<u>\$ 15,738</u>	<u>\$ 1,836,835</u>
Revenues over (under) expenditures	\$ (692,573)	\$ (692,573)	\$ 736,256	\$ 736,256	
Beginning balance - September 1, 2024	<u>692,573</u>	<u>692,573</u>	<u>692,573</u>	<u>692,573</u>	
Ending balance - October 31, 2024	<u>\$ 0</u>	<u>\$ 0</u>	<u>\$ 1,428,829</u>	<u>\$ 1,428,829</u>	

EL PASO COMMUNITY COLLEGE
DEBT RETIREMENT FUND
STATEMENT OF REVENUE AND EXPENDITURES
FOR THE TWO MONTHS ENDED OCTOBER 31, 2024

	Original Budget	Actual			Budget
	Debt Service	Revenue Bonds	G.O. Bonds 1975	Capital Leases	Balance Available
Revenues:					
Property tax interest	\$	\$	1	\$	1
General use fees	9,000,000	5,431,047			5,431,047
Interest income	510,000	100,256			100,256
Intrafund transfers	9,003,956				0
Capital leases	54,077			1,864	1,864
Tuition	750,000	384,015			384,015
Total revenues	\$ 19,318,033	\$ 5,915,318	1	1,864	\$ 5,917,183
					\$ 13,400,850
Expenditures:					
Bond principal	\$ 4,070,000	\$ 678,333	\$		\$ 678,333
Bond interest	4,997,871	838,887			838,887
Capital lease interest expense	54,077			1,864	1,864
Intrafund transfers	9,003,956				0
Agents fee	5,800				0
Other bond costs	5,745	5,416			5,416
Amortization of bond insurance	11,304				0
Loss (gain) on bond refunding	(76,764)				0
Total expenditures	\$ 18,071,989	\$ 1,522,636	0	1,864	\$ 1,524,500
					\$ 16,547,489
Revenues over/(under) expenditures	\$ 1,246,044	\$ 4,392,682	1	0	\$ 4,392,683
Beginning balance - September 1, 2024	26,899,578	26,856,930	42,648		26,899,578
Ending balance - October 31, 2024	\$ 28,145,622	\$ 31,249,612	\$ 42,649	0	\$ 31,292,261

**EL PASO COMMUNITY COLLEGE
FINANCIAL STATEMENTS
CUSTODIAL FUNDS
OCTOBER 31, 2024**

EL PASO COMMUNITY COLLEGE
CUSTODIAL FUNDS
BALANCE SHEET
OCTOBER 31, 2024

	Custodial Funds
Assets:	
Cash and cash equivalents	\$ 306,835
Total assets	<u>\$ 306,835</u>
Liabilities:	
Accounts payable and other liabilities	\$ 0
Total liabilities	<u>\$ 0</u>
Fund balance:	
Beginning balance: September 1, 2024	\$ 417,767
Increase (decrease) in fund balance	<u>(110,932)</u>
Ending balance: October 31, 2024	<u>\$ 306,835</u>
Total liabilities & fund balance	<u>\$ 306,835</u>

EL PASO COMMUNITY COLLEGE
CUSTODIAL FUNDS
STATEMENT OF CHANGES IN FUND BALANCE
FOR THE TWO MONTHS ENDED OCTOBER 31, 2024

	<u>Custodial Funds</u>
Additions:	
Miscellaneous	\$ 60,872
Total additions	<u>\$ 60,872</u>
Deductions:	
Scholarship payments to students	\$ 171,804
Total deductions	<u>\$ 171,804</u>
Net increase (decrease) in fund balance	<u><u>\$ (110,932)</u></u>

**EL PASO COMMUNITY COLLEGE
FINANCIAL STATEMENTS
TEMPORARY INVESTMENTS
OCTOBER 31, 2024**

PORTFOLIO SUMMARY
EL PASO COMMUNITY COLLEGE
OCTOBER 31, 2024

PORTFOLIO	Book Value			Market Value		
	Beginning Balance	Change	Ending Balance	Beginning Balance	Change	Ending Balance
Pooled Investments	\$ 266,019,556	\$ 10,826,944	\$ 276,846,500	\$ 266,019,556	\$ 10,826,944	\$ 276,846,500
Student Success Endowment	33,325,429	(141,967)	33,183,462	33,325,429	(141,967)	33,183,462
Debt Service Reserve Fund	12,702,999	0	12,702,999	12,702,999	0	12,702,999
Total Portfolio	<u>\$ 312,047,984</u>	<u>\$ 10,684,977</u>	<u>\$ 322,732,961</u>	<u>\$ 312,047,984</u>	<u>\$ 10,684,977</u>	<u>\$ 322,732,961</u>

Effective yield for October 31, 2024 = 4.8944%

Benchmark: Average 13-week T-Bill rate for October = 4.5163%

The undersigned acknowledges that the College's investment portfolio is in compliance with Generally Accepted Accounting Principles and the policies and strategies as contained in the College's Investment Policy for El Paso Community College and also in compliance with the Public Funds Investment Act of the State of Texas.

Fernando Flores, CPA
Vice President
Finance & Administration/CFO



Ana P. Zúñiga, CPA
Associate Vice President
Budget & Financial Services



**EL PASO COMMUNITY COLLEGE
TEMPORARY INVESTMENTS
OCTOBER 31, 2024**

	Amount	Rate	Duration	Purchase	Maturity	Earned YTD	Accrued YTD
Pooled Investments							
Balance 10/1/2024	\$ 266,019,556.59					\$ 1,169,118.56	\$ 1,134,619.46
Purchases & Transfers in October 2024							
TexPool	\$ 21,933,145.38	4.9130	31	09/30/24	10/31/24	\$ 0.00	\$ 0.00
Wells Fargo	49,090,799.75	1.1500	31	09/30/24	10/31/24	3,163.79	1,984.71
	\$ 71,023,945.13					\$ 3,163.79	\$ 1,984.71
Maturities & Transfers in October 2024							
TexPool	\$ 11,575,000.00	4.9130	31	09/30/24	10/31/24	\$	\$ 0.00
Wells Fargo	48,622,001.77	1.1500	31	09/30/24	10/31/24		0.00
	\$ 60,197,001.77					\$ 0.00	\$ 0.00
Balance 10/31/2024	\$ 276,846,499.95					\$ 1,172,282.35	\$ 1,136,604.17
Student Success Endowment							
Balance 10/1/2024	\$ 33,325,429.02	4.9130	31	09/30/24	10/31/24	\$	\$ 138,923.88
	\$ 33,325,429.02					\$ 140,618.35	\$ 138,923.88
Maturities & Transfers in October 2024							
TexPool	\$ 141,967.00	4.9130	31	09/30/24	10/31/24	\$ 0.00	\$ 0.00
	\$ 141,967.00					\$ 0.00	\$ 0.00
Balance 10/31/2024	\$ 33,183,462.02					\$ 140,618.35	\$ 138,923.88

EL PASO COMMUNITY COLLEGE
TEMPORARY INVESTMENTS
OCTOBER 31, 2024

	Amount	Rate	Duration	Purchase	Maturity	Earned YTD	Accrued YTD
Debt Reserve							
Balance 10/1/2024	\$ 2,079,936.91	4.9130	31	09/30/24	10/31/24	\$	\$ 8,678.99
	10,623,061.79	4.9300	31	09/30/24	10/31/24		44,462.61
	\$ 12,702,998.70					\$ 47,114.04	\$ 53,141.60
Balance 10/31/24	12,702,998.70					47,114.04	53,141.60
All Funds	\$ 322,732,960.67					\$ 1,360,014.74	\$ 1,328,669.65

BOARD POLICY ABSTRACT

Policies to be Considered: TASB policies	Policies #: 10 (Local) Policies
Policy Sections: D (Personnel) E (Instruction)	<div style="border-bottom: 1px solid black; display: inline-block; width: 100%;"> <div style="display: flex; justify-content: space-between; align-items: center;"> <u> X </u> (2) New </div> <div style="display: flex; justify-content: space-between; align-items: center;"> <u> X </u> (8) Revision </div> </div>
Action: _____ For information only (_____ 1 st Reading) <u> X </u> For Adoption (<u> X </u> 2 nd Reading and Approval)	
Resource Person: Julie Penley	
<p>Purpose: To ensure El Paso County Community College District (EPCCCD) Local Policies remain current, the Board of Trustees authorized the College President at its October 2019 Regular Meeting to execute a Community College District Policy Updating Services Agreement with the Texas Association of School Boards' (TASB). This Agreement includes numbered Local Manual Updates in response to changing legal authority.</p> <p>Explanation: TASB (Legal) Policies compile federal and state laws, as well as court decisions, and provide a statutory context for TASB (Local) Policies. TASB Policies are posted in EPCC's TASB Portal: https://pol.tasb.org/Home/Index/435.</p> <p>As part of Local Manual Updates 45, 46 and 47, TASB recommends adoption of the attached Local Policies based on the rationale below.</p> <p>DBA (EMPLOYMENT REQUIREMENTS AND RESTRICTIONS: CREDENTIALS AND RECORDS). New recommended local policy language addresses the application of SB 1445 to Law Enforcement Personnel Files.</p> <p>DBB (EMPLOYMENT REQUIREMENTS AND RESTRICTIONS: MEDICAL EXAMINATIONS AND COMMUNICABLE DISEASES). New recommended local policy language addresses the application of SB 1445 to the Medical and Psychological Examination of a Peace Officer or Telecommunicator.</p> <p>DC (EMPLOYMENT PRACTICES). New recommended local policy language addresses the application of SB 1445 to the Employment of Certain Law Enforcement Personnel.</p> <p>DEA (COMPENSATION AND BENEFITS: COMPENSATION PLAN). To accommodate the reorganization of the DEA series: All content from the previous Stipend section has been moved to DEAA; and All content from the previous sections on Classification of Positions, Workweek Defined, and Compensatory Time has been moved to DEAB. An Annualized Salary section has been recommended as a best practice, which addresses the payment of salaried employees over a 12-month period. In addition, at Pay Increases, recommended language addresses pay increases that occur as part of the annual budget. Language has been recommended to clarify that the college president may designate an individual to grant mid-year pay increases to Noncontract employees.</p>	

DEAA (COMPENSATION PLAN: INCENTIVES AND STIPENDS). To accommodate the reorganization of the DEA series, a Stipend section from DEA has been moved to this new policy with minimal changes consistent with TASB style.

DEAB (COMPENSATION PLAN: WAGE AND HOUR LAWS). To accommodate the reorganization of the DEA series, previous content from DEA, including Classification of Positions, Workweek Defined, and Compensatory Time, has been moved to this new policy with minimal changes consistent with TASB style.

DK (PROFESSIONAL DEVELOPMENT). Recommended revisions to this local policy have been made in response to updates to Coordinating Board rules allowing the college to select an accreditor other than SACSCOC. The college's accreditor is named in GK(LOCAL).

DMC (TERMINATION OF EMPLOYMENT: REDUCTION IN FORCE). Recommended revisions to this local policy have been made in response to updates to Coordinating Board rules allowing the college to select an accreditor other than SACSCOC. The college's accreditor is named in GK(LOCAL).

EBA (ALTERNATE METHODS OF INSTRUCTION: DISTANCE EDUCATION). Recommended revisions to this local policy were made to reflect changes in the Administrative Code and in response to updates to Coordinating Board rules allowing the college to select an accreditor other than SACSCOC. The college's accreditor is named in GK(LOCAL).

ECC (INSTRUCTIONAL ARRANGEMENTS: COURSE LOAD AND SCHEDULES). Recommended revisions to this local policy address HB 8, which prohibits a college from counting toward the drop limit a course dropped during a bachelor's program that a student ultimately earned or a dual credit or dual enrollment course a student dropped before graduating from high school.

Recommendation: Approval by the Board of Trustees.

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
CREDENTIALS AND RECORDS

DBA
(LOCAL)

**Social Security
Number**

The College District shall not use an employee's social security number as an employee identifier, except for tax purposes [see DC]. In accordance with law, the College District shall keep an employee's social security number confidential.

**Law Enforcement
Personnel Files**

The College President or designee and the College District police department shall develop regulations, in accordance with law, for the compilation and retention of, and access to, personnel files maintained with respect to peace officers and telecommunicators.

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
MEDICAL EXAMINATIONS AND COMMUNICABLE DISEASES

DBB
(LOCAL)

**Examinations During
Employment**

The College President or designee may require an employee to undergo a medical examination if information received from the employee, the employee's supervisor, or other sources indicates the employee has a physical or mental impairment that:

1. Interferes with the employee's ability to perform essential job functions; or
2. Poses a direct threat to the health or safety of the employee or others. A communicable or other infectious disease may constitute a direct threat.

The College District may designate the physician to perform the examination. If the College District designates the physician, the College District shall pay the cost of the examination. The College District may place the employee on paid administrative leave while awaiting results of the examination and evaluating the results.

Based on the results of the examination, the College President or designee shall determine whether the employee has an impairment. If so, the College President or designee shall determine whether the impairment interferes with the employee's ability to perform essential job functions or poses a direct threat. If not, the employee shall be returned to his or her job position.

If the impairment does interfere with the employee's ability to perform essential job functions or poses a direct threat, the College President or designee shall determine whether the employee has a disability and, if so, whether the disability requires reasonable accommodation, including the use of available leave. The granting of additional unpaid leave may be a reasonable accommodation in some circumstances. If the employee does not have a disability, the College President or designee shall evaluate the employee's eligibility for leave. [See DEC(LOCAL)]

[See DAA for information on disabilities and reasonable accommodation]

Other Requirements

Employees with communicable diseases shall follow recommendations of public health officials regarding contact with students and other employees. Food service workers shall comply with health requirements established by city, county, and state health authorities. [See DBA]

**Medical and
Psychological
Examination of a
Peace Officer or
Telecommunicator**

The College President or designee and the College District police department shall develop regulations, in accordance with law, addressing the fitness-for-duty examination of a peace officer or telecommunicator who is licensed, or a person for whom the College District police department seeks a license, under Occupations Code Chapter 1701. The regulations must address:

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
MEDICAL EXAMINATIONS AND COMMUNICABLE DISEASES

DBB
(LOCAL)

1. The criteria for requiring an examination;
2. The provision of notice to the license holder or applicant that includes the reasons for the examination;
3. The examination procedures;
4. The determination of the license holder's or applicant's duty status during and following the examination;
5. Appeals of the application or interpretation of the regulations; and
6. The submission of a report to the Texas Commission on Law Enforcement (TCOLE):
 - a. If the license holder or applicant refuses to submit to the examination; or
 - b. Absent the successful completion of a treatment program, if the license holder or applicant fails the examination.

EMPLOYMENT PRACTICES

DC
(LOCAL)

Posting Vacancies The College President or designee shall establish guidelines for advertising employment opportunities and posting notices of vacancies. These guidelines shall advance the Board's commitment to equal opportunity employment and to recruiting well-qualified candidates. Current College District employees may apply for any vacancy for which they have appropriate qualifications.

Applications All applicants shall complete the application form supplied by the College District. Information on applications shall be confirmed before a contract is offered for a contractual position and before hiring or as soon as possible thereafter for a noncontractual position.

Employment of Contractual Personnel The College President has sole authority to make recommendations to the Board regarding the selection of contractual personnel.

The Board retains final authority for employment of contractual personnel. [See DCA]

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

Employment of Certain Law Enforcement Personnel The College President or designee and the College District police department shall develop regulations, in accordance with law, for the employment of peace officers and telecommunicators. The regulations shall address:

1. The investigation of the applicant's background;
2. Medical and psychological examination and drug screening of the applicant;
3. The applicant's qualification to carry a firearm, if applicable;
4. A provisional hiring period applicable upon employment; and
5. The submission of any required forms to the Texas Commission on Law Enforcement (TCOLE).

COMPENSATION AND BENEFITS
~~SALARIES AND WAGES~~COMPENSATION PLAN

DEA
(LOCAL)

The College President shall recommend an annual compensation plan for all College District employees. [See also DEAA] The compensation plan may include wage and salary structures, stipends, benefits, and incentives. The recommended plan shall support College District goals for hiring and retaining highly qualified employees. The Board shall review and approve the compensation plan to be used by the College District. The Board shall also determine the total compensation package for the College President. [See BF series]

Pay Administration

The College President shall implement the compensation plan and establish procedures for plan administration consistent with the budget. The College President or designee shall classify each job title within the compensation plan based on the qualifications, duties, and market value of the position.

Annualized Salary

The College District shall pay all salaried employees over 12 months in equal monthly or semimonthly installments, regardless of the number of months employed during the academic year. Salaried employees hired during the academic year shall be paid in accordance with administrative regulations.

Pay Increases

~~Stipend~~

The College President shall recommend ~~a stipend to the Board an amount for employee pay~~ schedule increases as part of the annual compensation plan of the College District.

~~Supplemental
Duties~~

~~The College President or designee may assign noncontractual supplemental duties to personnel exempt under the Fair Labor Standards Act (FLSA), as needed. [See DJ(LOCAL)] The employee shall be compensated for these assignments according to the compensation plan of the College District.~~

Pay Increases

The College President or designee shall determine pay adjustments for individual employees, within the approved budget following established procedures.

*Mid-Year Pay
Increases*

Contract
Employees

A contract employee's pay may be increased after performance on the contract has begun only if authorized by the compensation plan of the College District or there is a change in the employee's job assignment or duties during the term of the contract that warrants additional compensation. Any such changes in pay that do not conform with the compensation plan shall require Board approval. [See DEA(LEGAL) for provisions on pay increases and public hearing requirements]

Noncontract
Employees

The College President or designee may grant a pay increase to a noncontract employee after duties have begun because of a change in the employee's job assignment or to address pay equity.

COMPENSATION AND BENEFITS
~~SALARIES AND WAGES~~COMPENSATION PLAN

DEA
(LOCAL)

	The College President shall report any such pay increases to the Board at the next regular meeting.
Pay During Closing	If the Board chooses to pay employees during an emergency closure for which the workdays are not scheduled to be made up at a later date, then that authorization shall be by resolution or other Board action and shall reflect the purpose served by the expenditure.
Classification of Positions	The College President or designee shall determine the classification of positions or employees as “exempt” or “nonexempt” for purposes of payment of overtime in compliance with the FLSA.
Exempt	The College District shall pay employees who are exempt from the overtime pay requirements of the FLSA on a salary basis. The salaries of these employees are intended to cover all hours worked, and the College District shall not make deductions that are prohibited under the FLSA. An employee who believes deductions have been made from his or her salary in violation of this policy should bring the matter to the College District’s attention, through the College District’s complaint policy. [See DGBA] If improper deductions are confirmed, the College District shall reimburse the employee and take steps to ensure future compliance with the FLSA.
Nonexempt	Nonexempt employees may be compensated on an hourly basis or on a salary basis. Employees who are paid on an hourly basis shall be compensated for all hours worked. An employee who is paid on a salary basis shall be paid for up to and including a 40-hour workweek. A nonexempt employee shall have the approval of his or her supervisor before working overtime. An employee who works overtime without prior approval is subject to discipline but shall be compensated in accordance with the FLSA.
Workweek Defined	For purposes of FLSA compliance, the workweek for College District employees shall be 12:01 a.m. on Monday through 12:00 midnight on Sunday.
Compensatory Time	At the College District’s option, nonexempt employees may receive compensatory time off, rather than overtime pay, for overtime work. The employee shall be informed in advance if overtime hours will accrue compensatory time rather than pay.
Accrual	Compensatory time earned by nonexempt employees may not accrue beyond a maximum of 120 hours. If an employee has a balance of more than 120 hours of compensatory time, the College District shall require the employee to use the compensatory time,

COMPENSATION AND BENEFITS
~~SALARIES AND WAGES~~COMPENSATION PLAN

DEA
(LOCAL)

	or at the College District's option, the College District shall pay the employee for the compensatory time.
Use	An employee shall use compensatory time within the duty year in which it is earned. If an employee has any unused compensatory time remaining at the end of a duty year, the College District shall pay the employee for the compensatory time. Compensatory time may be used at either the employee's or the College District's option. An employee may use compensatory time in accordance with the College District's leave policies and if such use does not unduly disrupt the operations of the College District. [See DEC(LOCAL)] The College District may require an employee to use compensatory time when in the best interest of the College District.
Gifts, Grants, and Donations for Salary Supplements	The College District shall not accept gifts, grants, donations, or other consideration designated for use as salary supplements.

COMPENSATION PLAN
INCENTIVES AND STIPENDS

DEAA
(LOCAL)

Stipend

The College President shall recommend a stipend pay schedule as part of the annual compensation plan of the College District. [See DEA]

Supplemental
Duties

The College President or designee may assign noncontractual supplemental duties to personnel exempt under the Fair Labor Standards Act (FLSA), as needed. [See DJ(LOCAL)] The employee shall be compensated for these assignments according to the compensation plan of the College District.

COMPENSATION PLAN
WAGE AND HOUR LAWS

DEAB
(LOCAL)

Classification of Positions

The College President or designee shall determine the classification of positions or employees as “exempt” or “nonexempt” for purposes of payment of overtime in compliance with the Fair Labor Standards Act (FLSA).

Exempt

The College District shall pay employees who are exempt from the overtime pay requirements of the FLSA on a salary basis. The salaries of these employees are intended to cover all hours worked, and the College District shall not make deductions that are prohibited under the FLSA.

An employee who believes deductions have been made from the employee’s salary in violation of this policy should bring the matter to the College District’s attention, through the College District’s complaint policy. [See DGBA] If improper deductions are confirmed, the College District shall reimburse the employee and take steps to ensure future compliance with the FLSA.

Nonexempt

Nonexempt employees may be compensated on an hourly basis or on a salary basis. Employees who are paid on an hourly basis shall be compensated for all hours worked. An employee who is paid on a salary basis shall be paid for up to and including a 40-hour workweek.

A nonexempt employee shall have the approval of the employee’s supervisor before working overtime. An employee who works overtime without prior approval is subject to discipline but shall be compensated in accordance with the FLSA.

Workweek Defined

For purposes of FLSA compliance, the workweek for College District employees shall be 12:01 a.m. on Monday through 12:00 midnight on Sunday.

Compensatory Time

At the College District’s option, nonexempt employees may receive compensatory time off, rather than overtime pay, for overtime work. The employee shall be informed in advance if overtime hours will accrue compensatory time rather than pay.

Accrual

Compensatory time earned by nonexempt employees may not accrue beyond a maximum of 120 hours. If an employee has a balance of more than 120 hours of compensatory time, the College District shall require the employee to use the compensatory time, or at the College District’s option, the College District shall pay the employee for the compensatory time.

Use

An employee shall use compensatory time within the duty year in which it is earned. If an employee has any unused compensatory time remaining at the end of a duty year, the College District shall pay the employee for the compensatory time.

COMPENSATION PLAN
WAGE AND HOUR LAWS

DEAB
(LOCAL)

Compensatory time may be used at either the employee's or the College District's option. An employee may use compensatory time in accordance with the College District's leave policies and if such use does not unduly disrupt the operations of the College District. [See DEC(LOCAL)] The College District may require an employee to use compensatory time when in the best interest of the College District.

PROFESSIONAL DEVELOPMENT

DK
(LOCAL)

**Cybersecurity
Training**

Each employee shall meet the professional development standards described by the ~~Southern Association of Colleges and Schools Commission on Colleges (SACSCOC)~~ College District's accreditor [see GK] as well as any professional development required of the employee by state or federal law or administrative regulations.

Each employee shall seek approval prior to pursuing professional development in accordance with administrative regulations.

The ~~College President~~ College President or designee shall determine, from the list of cybersecurity training programs certified by the Department of Information Resources (DIR) and published to DIR's website, the cybersecurity training program to be used in the College District. ~~The College President~~ The College President shall verify and report to DIR, in the form required by DIR, the compliance of each employee required to complete the program. ~~The College President~~ The College President may remove access to the College District's computer systems and databases for noncompliance with training requirements as appropriate.

~~The College President~~ The College President shall periodically require an internal review of the College District to ensure compliance with the cybersecurity training requirements.

TERMINATION OF EMPLOYMENT
REDUCTION IN FORCE

DMC
(LOCAL)

Definitions

Definitions used in this policy are as follows:

1. "Reduction in force (RIF)" means the dismissal of an instructor, professor, administrator, or other professional employee before the end of a contract term for reasons of financial exigency or program change. Nonrenewal of an employee's term contract is not a "reduction in force" as used in this policy.
2. "Financial exigency" means any decline in the Board's financial resources brought about by decline in enrollment, cuts in funding, decline in tax revenues, or any other actions or events that create a need for the College District to reduce financial expenditures for personnel.
3. "Program change" means any elimination, curtailment, or reorganization of a curriculum offering, program, or College District operation because of a lack of student response to particular course offerings, legislative revisions to program funding, or a reorganization or consolidation of two or more divisions or departments.

General Grounds for Dismissal

All contracts shall, unless excepted by the Board, contain a provision that a reduction in force may take place when the Board determines that a financial exigency, program change, or business necessity requires that the contract of one or more instructors, professors, administrators, classified staff, faculty, or other professional employees be terminated. Such a determination constitutes the necessary good cause for termination during the contract term.

Employment Areas

A reduction in force may be implemented in one, several, or all employment areas. Employment areas shall be defined as:

1. Administration.
2. Associate degree programs.
3. Certificate degree programs.
4. Remedial and other programs.
5. Academic support programs, such as library or computer programs.
6. Counseling and support programs.
7. Other noninstructional professional staff.

Criteria for Decisions

Using the following criteria, the ~~College President~~ College President shall determine which particular employees shall be RIFed and shall submit the recommendation to the Board:

TERMINATION OF EMPLOYMENT
REDUCTION IN FORCE

DMC
(LOCAL)

1. Certification: Appropriate degree certificate and/or endorsement for current assignment required by the ~~Southern Association of Colleges and Schools Commission on Colleges (SACSCOC)~~ College District's accreditor [see GK] or the Coordinating Board.
2. Performance: Employee's effectiveness as reflected by the most recent written evaluations and/or other appraisal documentation.
3. Seniority: Years of service in the College District.
4. Professional Background: Professional education and work experience related to the current assignment.

These criteria are listed in order of importance. ~~The College President~~ The College President shall apply them sequentially to the selected employment areas until the number of staff reductions necessary have been identified, i.e., if all necessary reductions can be accomplished by applying the certification criteria, it is not necessary to apply the performance or subsequent criteria.

Board Action

After considering the ~~College President~~ College President's recommendation, the Board shall determine which employees shall be dismissed. Each employee shall be given a statement of the reasons and conditions requiring such dismissal and shall, upon request, be given a hearing in accordance with the policy for termination during his or her contract. [See DMAA]

Appeals

Appeals of a dismissal due to a reduction in force shall be handled through the hearing afforded under DMAA rather than the grievance policy.

Exception

Appeals of a dismissal due to a reduction in force of a former foster child entitled to an employment preference shall be handled through the hearing afforded under DC. [See DC]

**Rights of Employees
Subject to RIF**

An employee dismissed pursuant to this policy, if subsequently re-employed by the College District, shall be credited with the amount of local sick leave that had accrued at the time of dismissal.

Reemployment

Upon written request, an employee dismissed pursuant to this policy shall be notified in writing of any subsequent availability of the position for a period of one calendar year following the effective date of such dismissal. The notice shall be mailed to the address that was on file for the former employee at the time of dismissal, unless the College District has been notified in writing of a change of address. A former employee so notified must respond to the Board in writing within ~~ten~~ 10 calendar days of receipt of such notification if the person wishes to be considered for the position. Any

TERMINATION OF EMPLOYMENT
REDUCTION IN FORCE

DMC
(LOCAL)

individual who responds shall be considered for employment on
the same basis as all other applicants.

ALTERNATE METHODS OF INSTRUCTION
DISTANCE EDUCATION

EBA
(LOCAL)

The College District shall offer distance education courses and programs in accordance with:

- Applicable law;
- Coordinating Board regulations and guidelines, including the Principles of Good Practice for Distance Education;
- Principles, policies, and guidelines of the ~~Southern Association of Colleges and Schools Commission on Colleges (SACSCOC)~~; and College District's accreditor [see GK]; and
- College District policies and procedures.

The College President shall develop procedures to implement this policy.

INSTRUCTIONAL ARRANGEMENTS
COURSE LOAD AND SCHEDULES

ECC
(LOCAL)

Course Load

The normal course load for the fall or spring semester shall be ~~15~~15 semester hours. Course loads in excess of ~~16~~16 semester hours shall require approval by the ~~dean~~dean. The maximum course load shall be no more than ~~24~~21 semester hours.

The normal course load for the summer session shall be ~~six semester hours for each five-week term or 12~~six semester hours for each five-week term or 12 semester hours for a full summer semester. Course loads in excess of ~~six~~six semester hours per term or ~~12~~12 semester hours per summer semester shall require approval by the ~~dean~~dean. The maximum summer credit hours earned shall be ~~eight~~eight semester hours for one term or ~~16~~16 semester hours for a full summer semester.

**Limitation on
Number of Dropped
Courses**

A College District student shall not be permitted to drop more than six courses taken while enrolled at the College District or another public institution of higher education. For the limit to apply:

1. The student must be permitted to drop the course without receiving a grade or being penalized academically;
2. The student's transcript must indicate or will indicate the student was enrolled in the course; and
3. The student must not have dropped the course to withdraw from the College District.

Exceptions ~~for~~
Good Cause

A student shall be permitted to exceed the limit on the number of dropped courses for any of the following reasons:

1. A severe illness or other debilitating condition that affects the student's ability to satisfactorily complete a course;
2. The care of a sick, injured, or needy person if providing that care affects the student's ability to satisfactorily complete a course;
3. The death of a member of the student's family as defined by law;
4. The death of a person who has a sufficiently close relationship to the student as defined by law;
5. The student's active military duty service;
6. The active military service of a member of the student's family or a person who has a sufficiently close relationship to the student;
7. A change in the student's work schedule that is beyond the student's control and affects the student's ability to satisfactorily complete the course; or

INSTRUCTIONAL ARRANGEMENTS
COURSE LOAD AND SCHEDULES

ECC
(LOCAL)

8. A disaster declared by the governor that prevents or limits in-person course attendance for a period determined by the College District, in accordance with law, to significantly affect the student's ability to participate in coursework.

~~Exception for~~
~~Reenrolled~~
~~Students~~

A qualifying reenrolled student may drop a seventh course in accordance with law.

~~Exception for~~
~~Course Dropped~~
~~During a~~
~~Bachelor's~~
~~Program~~
~~Dual Credit or~~
~~Dual Enrollment~~
~~Course~~

A course dropped by a student while pursuing a bachelor's degree that the student ultimately earned may not be counted toward the limit on the number of dropped courses.

A dual credit or dual enrollment course dropped by a student before graduating from high school may not be counted toward the limit on the number of dropped courses.

COVID-19
Pandemic

A course dropped by a student during the 2020 spring or summer semester or the 2020—21 academic year because of a bar or limit on in-person course attendance due to the COVID-19 pandemic may not be counted toward the limit on the number of dropped courses.

Procedures

The ~~College President~~ College President shall develop procedures to implement this policy and shall publish the procedures in the College District catalog.

BOARD POLICY ABSTRACT

Policies to be Considered: TASB Legal Policies	Policy #: 31 (Legal) Policies
Policy Section: A (Basic District Foundations) B (Local Governance) C (Business and Support Services) D (Personnel) E (Instruction) F (Students) G (Community and Governmental Relations)	_____ New _____ X Revision
Action: <u> X </u> For information only (no action required)	
Resource Person: Julie Penley	
<p>Purpose: To ensure El Paso County Community College District (EPCCCD) Board Policies remain current, the Board of Trustees authorized the College President at its October 2019 Regular Meeting to execute a Community College District Policy Updating Services Agreement with the Texas Association of School Boards' (TASB). This Agreement includes numbered Localized Policy Manual Updates in response to changing legal authority.</p> <p>Explanation: TASB (Legal) Policies compile federal and state laws, as well as court decisions, and provide a statutory context for TASB (Local) Policies. TASB (Legal) Policies are posted in EPCC's TASB Portal: https://pol.tasb.org/Home/Index/435</p> <p>Community College Policy Reference Manual (CCPRM) Update 48 provides the legal framework for key areas of college operations. TASB Community College Services continually monitors changes in the legal landscape and prepares numbered updates with new or revised legal policies that cite current legal requirements. Update 48 reflects revisions to legal frameworks which incorporate clarification of existing materials and new materials arising from the 88th Regular Legislative Session as well as amendments to federal rules, along with rule changes from the Texas Higher Education Coordinating Board and other state agencies.</p> <p>AFA (INSTITUTIONAL EFFECTIVENESS: PERFORMANCE AND INSTITUTION REPORTS). Language addressing Academic Reporting has been updated to reflect amendments to Coordinating Board rules concerning the naming convention for community colleges under the community college finance program. A link to the Coordinating Board Management (CBM) Reporting and Procedures Manual for Texas Community, Technical, and State Colleges has also been updated. Additional changes have been made to conform to TASB style.</p> <p>BI (REPORTS). The list has been expanded to include two new reports. A new reporting requirement issued by the Coordinating Board applicable to colleges that receive a scale adjustment under the community college finance program has been added at #9. At #20, language has been added to reflect an Administrative Code provision amended to include a police department compliance report. Also, #21 reflects a nonsubstantive change to the Code of Criminal of Procedure from HB 4504 that is effective January 1, 2025.</p>	

CAAA (STATE AND FEDERAL REVENUE SOURCES: STATE). At Appropriations, revisions have been made to address Coordinating Board amendments to rules, including the addition of language addressing High-Demand Fields and a Shared Services Report. Additional changes have been made to conform to TASB style.

CAAB (STATE AND FEDERAL REVENUE SOURCES: FEDERAL). Revisions have been made at Administration of Federal Awards to reflect amendments to the U.S. Office of Management and Budget (OMB) Guidance for Federal Financial Assistance, formerly the OMB Guidance for Grants and Agreements. Also, revisions have been made based on amendments to the U.S. Education Department General Administrative Regulations (EDGAR). Additional changes have been made to conform to TASB style.

CAID (AD VALOREM TAXES: APPRAISAL DISTRICT). SB 2 from the second special session prohibits an individual from being a candidate for the Appraisal District Board of Directors if a Conflict of Interest exists. Also, SB 2 clarifies that the governing board of a taxing unit may only call for the Recall of an appointed member of an Appraisal District Board of Directors. Additional changes have been made for clarity and to conform to TASB style.

CDA (ACCOUNTING: FINANCIAL REPORTS AND STATEMENTS). Language at Annual Financial Report has been updated to reflect amendments to Coordinating Board rules concerning the naming convention for community colleges under the community college finance program. A link to the Coordinating Board's [Budget Requirements and Annual Financial Reporting Requirements for Texas Public Community Colleges](#) has also been updated. Additional changes have been made to conform to TASB style.

CHA (SITE MANAGEMENT: SECURITY). At Law Enforcement Agency, language has been revised to reflect existing Administrative Code provisions related to the creation of police departments that were recently amended to apply to the continued operation of a department, update minimum department standards, and add a compliance report. Newly adopted rules that require the Texas Commission on Law Enforcement (TCOLE) to exclude the licensee service report of certain officers from the Licensee Service Report Database have been added. Also, HB 4504 renumbers sections of the Code of Criminal of Procedure, resulting in citation changes throughout this legal framework. The bill is effective January 1, 2025. Additional changes have been made to conform to TASB style.

CHF (SITE MANAGEMENT: WEAPONS). At Establishment, HB 4504 renumbers a section of the Code of Criminal of Procedure. The bill is effective January 1, 2025. At Wrongful Exclusion of Handgun License Holder, citations have been updated. Additional changes have been made to conform to TASB style.

CKE (INSURANCE AND ANNUITIES MANAGEMENT: WORKERS'COMPENSATION). At First Responder Liaison, HB 4504 renumbers a section of the Code of Criminal of Procedure. The bill is effective January 1, 2025.

CR (TECHNOLOGY RESOURCES). This legal framework has been revised to incorporate new federal regulations on Web and Mobile Accessibility applicable to public entities. The deadline for compliance with the requirements varies based on the population size of the entity and whether the entity may be considered a special district government. The Department of Justice has not opined on the type of entity it considers Texas community colleges to be and instead stated that a college should document the reasoning behind its determination regarding which deadline applies. This legal framework has also been revised to reflect the FAA Reauthorization Act of 2024, which amended an existing statute addressing Drones. Additional changes have been made to conform to TASB style.

DAA (EMPLOYMENT OBJECTIVES: EQUAL EMPLOYMENT OPPORTUNITY). This legal framework has been revised to incorporate the federal Title IX regulations that are currently in effect in the state for clarity as to application as well as new federal regulations implementing the Pregnant Workers Fairness Act. Additional changes have been made throughout the policy for clarity and to conform with TASB style.

DEAB (COMPENSATION PLAN: WAGE AND HOUR LAWS). This legal framework has been revised to include amendments to rules adopted under the federal Fair Labor Standards Act that increase the minimum salary threshold for Exempt Employees. This change reflects the amendments currently in effect. The amendments scheduled to go into effect January 1, 2025 will be included in the next policy update.

DEC (COMPENSATION AND BENEFITS: LEAVES AND ABSENCES). At Pregnancy and Related Conditions, this legal framework has been revised to incorporate the Title IX regulations that are currently in effect in the state for clarity as to application and new federal regulations adopted under the Pregnant Workers Fairness Act.

DECB (LEAVES AND ABSENCES: MILITARY LEAVE). At Reemployment, this legal framework has been revised to incorporate amendments to definitions found in the federal regulations implementing the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA).

EBA (ALTERNATE METHODS OF INSTRUCTION: DISTANCE EDUCATION). At Notification, language has been updated to reflect amendments to Coordinating Board rules. A link to the Coordinating Board's [Distance Education Resources](#) webpage has also been updated at the Note.

EFAA (INSTRUCTIONAL PROGRAMS AND COURSES: ACADEMIC COURSES). Language has been updated to reflect amendments to Coordinating Board rules related to the Adoption of the core curriculum for certain associate degree programs. In addition, citations have been updated.

EFAB (INSTRUCTIONAL PROGRAMS AND COURSES: CAREER TECHNICAL/WORKFORCE COURSES). Language has been updated to reflect newly adopted Coordinating Board rules addressing the process for obtaining approval for Local Needs Courses. Additional changes have been made to conform to TASB style.

EFAC (INSTRUCTIONAL PROGRAMS AND COURSES: DEVELOPMENTAL EDUCATION). This legal framework has been updated to reflect the repeal and replacement of Coordinating Board rules related to developmental education.

EFB (CURRICULUM DESIGN: DEGREES AND CERTIFICATES). Updates have been made to reflect amendments to Coordinating Board rules addressing the degree and certificate Program Planning and Program Approval. A link to the Coordinating Board's [Recommended Course Sequence](#) template and instructions has also been updated.

EFBA (DEGREES AND CERTIFICATES: ASSOCIATE DEGREES AND CERTIFICATES). Amendments to Coordinating Board rules addressing the approval processes for a New Academic Associate Degree Program and an Academic Certificate, as well as rules relating to the Texas Direct Associate Degree, have been added. Also added are newly adopted rules addressing the structure of, and approval processes for, an Applied Associate Degree program and a Career and Technical Education Certificate. Additional changes have been made to conform to TASB style.

EFBB (DEGREES AND CERTIFICATES: BACCALAUREATE DEGREES). Language has been updated to reflect amendments to Coordinating Board rules addressing articulation agreements and the Limitations on the number of baccalaureate degree programs a college may offer. Additional changes have been made to conform to TASB style.

EFBC (DEGREES AND CERTIFICATES: HIGH SCHOOL DEGREES). Language has been updated to reflect Coordinating Board rules adopted to implement the Opportunity High School Diploma Program.

EG (ACADEMIC ACHIEVEMENT). At Field of Study, a citation has been updated to reflect amendments to Coordinating Board rules.

EGA (ACADEMIC ACHIEVEMENT: GRADING AND CREDIT). At Transfer of Field of Study Curriculum, a citation has been updated to reflect amendments to Coordinating Board rules. Also, language has been updated to reflect Coordinating Board amendments to the Transfer Dispute Resolution process. Additional changes have been made to conform to TASB style.

EI (TESTING PROGRAMS). Language has been updated throughout this legal framework to reflect the Coordinating Board's repeal and replacement of rules addressing the Texas Success Initiative. Additional changes have been made to conform to TASB style.

FAA (EQUAL EDUCATIONAL OPPORTUNITY: PREGNANT AND PARENTING STUDENTS). Language has been updated at State Law to reflect new Coordinating Board rules addressing pregnant and parenting students.

FB (ADMISSIONS). Language has been updated to reflect amendments to Coordinating Board rules addressing the recovery of system operating costs from colleges that use the Common Admission Application Forms. In addition, changes have been made to conform to TASB style.

FK (STUDENT ACTIVITIES). The Coordinating Board adopted rules related to athletic participation.

GCA (PUBLIC INFORMATION PROGRAM: ACCESS TO INFORMATION). HB 4504 renumbers sections of the Code of Criminal of Procedure, as reflected at Elected Public Officers and Peace Officers/Security Officers, Contact Information, and Photographs of Peace Officers. The bill is effective January 1, 2025.

GE (ADVERTISING AND FUNDRAISING). Language and citations have been updated to reflect amendments to Administrative Code provisions addressing Commercial Signs. In addition, changes have been made to conform to TASB style.

GH (RELATIONS WITH SCHOOLS AND DISTRICTS). Language has been updated at College Connect Courses, FAST Program, and Instructional Partnerships with Public Secondary Schools to reflect the Coordinating Board's repeal and replacement of rules related to dual credit programs, including provisions addressing definitions, Dual Credit Agreements, new Reporting to the Coordinating Board regarding the agreements, Student Eligibility Requirements, and Academic Policies and Student Support Services. A citation to new Administrative Code provisions relating to the Rural Pathway Excellence Partnership (RPEP) program has also been added. Additional changes have been made for clarity and to conform to TASB style.

Recommendation: Review by the Board of Trustees.

**Annual Performance
Report**

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

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

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

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

Education Code 130.0035

Academic Reporting

A public junior college must submit data through required reporting mechanisms established by the Coordinating Board. The Coordinating Board may use information obtained through required reporting for:

1. Calculating funding disbursed under 19 Administrative Code Chapter 13;

2. Providing timely data and analyses to inform management decisions by the governing body of each public junior college ~~district~~;
3. Administering or evaluating the effectiveness of programs; or
4. Auditing the program.

Each public junior college must use data standards established by the commissioner to submit required information relating to the delivery of educational programs. The commissioner shall adopt and publish annually data standards in official Coordinating Board publications, including through the Coordinating Board Management (CBM) [Reporting and Procedures Manual for Texas Community, Technical, and State Colleges](#)¹. The Coordinating Board will widely disseminate this publication, which will include:

1. Descriptions of the data collections and submission requirements;
2. Descriptions of data elements and the codes used to report them, including data used to calculate Full-Time Student Equivalent enrollments, Texas Success Initiative eligibility of students, student transfer, dual credit or dual enrollment, the number and type of credentials conferred, and other relevant student characteristics;
3. Detailed responsibilities of public junior colleges in connection to the data submission process, including each deadline for submission and resubmission; and
4. Descriptions of data submission requirements, including submission record layout specifications and data edit specifications.

A public junior college may report a student in attendance on the approved course census date for the purpose of funding under 19 Administrative Code, Chapter 13, Subchapter R, in accordance with Education Code 130A.008.

Education Code 130A.006, .008; 19 TAC 13.524(a), (e)(1)-(2), .526(a) [See CAAA]

Certification

The reporting official for each public junior college must certify the accuracy of the report by a certification statement submitted to the Coordinating Board's Educational Data Center in accordance with the template and instructions provided in the CBM Reporting and Procedures Manual. 19 TAC 13.524(e)(4)

Ad Hoc Reporting
Requests

As necessary to implement ~~19 Administrative Code~~ Chapter 13, the commissioner may determine the need for additional, limited, supplemental requests for data and information from public junior colleges. To the extent ad hoc reporting requests may determine or influence funding disbursements under ~~19 Administrative Code~~ Chapter 13, Subchapter R, the Coordinating Board shall require the reporting official or another Coordinating Board designated official for each public junior college to certify the accuracy of the information contained in the report. *19 TAC 13.524(f)*

College District
Resumes

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

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

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

Education Code 51A.003-.004

Student Enrollment
Status Report

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

1. Students seeking a degree;
2. Students seeking a certificate;
3. Students enrolled in workforce continuing education courses;
4. Students enrolled in college credit courses who are not seeking a degree or certificate;
5. Students enrolled in courses for credit to transfer to another institution;

6. Students enrolled in developmental education courses by course level; and
7. Enrollment in other categories as specified by the Coordinating Board.

Education Code 130.0036(a)

Cost of Attendance

Each institution of higher education, including each college district, that offers an undergraduate degree or certificate program shall prominently display on the institution's internet website the cost of attendance for a first-time entering full-time student in accordance with the uniform standards prescribed by the commissioner. These standards may be updated on an annual basis. In addition, each institution must provide a link to the [Free Application for Federal Student Aid \(FAFSA\)](#)² website.

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

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

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

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

Dissemination of Institutional Information

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

1. Financial assistance available to students enrolled in the institution. [See FEA]
2. The institution pursuant to this section.
3. The institution's retention rate as reported to the Integrated Postsecondary Education Data System. In the case of a request from a prospective student, the information must be made available prior to the student's enrolling or entering into any financial obligation with the institution. [See EGC]

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

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

Required
Information

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

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

- e. If an educational program is designed to meet educational requirements for a specific professional license or certification that is required for employment in an occupation, or is advertised as meeting such requirements, a list of all states where the institution has determined, including as part of the institution's obligation under 34 C.F.R. 668.14(b)(32), that the program does and does not meet such requirements. If the institution has made a determination that the program's curriculum does not meet the requirements for licensure or certification in the state in which a prospective or enrolled student is located, the institution must also provide the notice described by 34 C.F.R. 668.43(c); and
 - f. If a prison education program, as defined in 34 C.F.R. 668.236, is designed to meet educational requirements for a specific professional license or certification that is required for employment in an occupation, as described in 34 C.F.R. 668.236(a)(7)-(8), information regarding whether that occupation typically involves state or federal prohibitions on the licensure or employment of formerly confined or incarcerated individuals in any other state for which the institution has made a determination about state prohibitions on the licensure or certification of formerly confined or incarcerated individuals;
- 6. The names of associations, agencies, or governmental bodies that accredit, approve, or license the institution and its programs, and the procedures by which documents describing that activity may be reviewed under 34 C.F.R. 668.43(b);
 - 7. A description of the services and facilities available to students with disabilities, including students with intellectual disabilities as defined in 34 C.F.R. Part 668, Subpart O [see EFCA];
 - 8. The titles of persons designated under 34 C.F.R. 668.44, below, and information regarding how and where those persons may be contacted;
 - 9. A statement that a student's enrollment in a program of study abroad approved for credit by the home institution may be considered enrollment at the home institution for the purpose of applying for assistance under the Title IV, Higher Education Act (HEA) programs;
 - 10. Institutional policies and sanctions related to copyright infringement [see CT], including:

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

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

20 U.S.C. 1092(a); 34 C.F.R. 668.43(a)

The institution must make available for review to any enrolled or prospective student upon request, a copy of the documents describing the institution's accreditation and its state, federal, or tribal approval or licensing. The institution must also provide its students or prospective students with contact information for filing complaints with its accreditor and with its state approval or licensing entity and any other relevant state official or agency that would appropriately handle a student's complaint. *20 U.S.C. 1092(a); 34 C.F.R. 668.43(b)*

Notice to Enrolled
Students

An institution annually must distribute to all enrolled students a notice of the availability of the information required to be disclosed pursuant to 34 C.F.R. 668.41(d)-(g) [see above, EGC, FG, FK, GCC] and pursuant to 34 C.F.R. 99.7. The notice must list and briefly describe the information and tell the student how to obtain the information. *34 C.F.R. 668.41(c)(1)*

An institution that discloses information to enrolled students as required under 34 C.F.R. 668.41(d)-(g) by posting the information on an internet website or an intranet website must include in the notice described in 34 C.F.R. 668.41(c)(1):

1. The exact electronic address at which the information is posted; and
2. A statement that the institution will provide a paper copy of the information on request.

34 C.F.R. 668.41(c)(2)

Disclosure Through
Internet or Intranet
Websites

Subject to 34 C.F.R. 668.41(c)(2), 34 C.F.R. 661.41(e)(2)-(4), or 34 C.F.R. 661.41(g)(1)(ii), as appropriate, an institution may satisfy any requirement to disclose information under 34 C.F.R. 668.41(d)-(g) for:

1. Enrolled students or current employees by posting the information on an internet website or an intranet website that is reasonably accessible to the individuals to whom the information must be disclosed; and
2. Prospective students or prospective employees by posting the information on an internet website.

34 C.F.R. 668.41(b)

Employees
Available to
Disseminate
Information

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

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

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

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

34 C.F.R. 668.44

Prospective
Employee

The term "prospective employee" means an individual who has contacted an eligible institution for the purpose of requesting information concerning employment with that institution. *34 C.F.R. 668.41(a)*

Prospective Student

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

**Financial Value
Transparency**

In accordance with 34 C.F.R. 668.408 and procedures established by the U.S. Secretary of Education, an institution, including a college district, offering any group of substantially similar programs, defined as all programs in the same four-digit Classification of Instructional Program (CIP) code at an institution, with 30 or more completers in total over the four most recent award years must report to the U.S. Department of Education:

1. For each gainful employment (GE) program and eligible non-GE program, for its most recently completed award year:
 - a. The name, CIP code, credential level, and length of the program;
 - b. Whether the program is programmatically accredited and, if so, the name of the accrediting agency;

- c. Whether the program meets licensure requirements or prepares students to sit for a licensure examination in a particular occupation for each state in the institution's metropolitan statistical area; and
 - d. The total number of students enrolled in the program during the most recently completed award year, including both recipients and non-recipients of Title IV, HEA funds;
2. For each student, the information described by 34 C.F.R. 668.408(a)(2);
 3. If the student completed or withdrew from the program during the award year, the information described by 34 C.F.R. 668.408(a)(3); and
 4. As described in a notice published by the Secretary in the Federal Register, any other information the Secretary requires the institution to report.

34 C.F.R. 668.408(a)(1)(i)-(iv), (a)(2)-(4)

**Postsecondary
Credential
Information**

From money appropriated or otherwise available for the purpose, the Coordinating Board shall develop one or more electronic tools or platforms to provide information to assist prospective postsecondary students in assessing the value of a certificate program, associate or baccalaureate degree program, or other credential program offered by an institution of higher education or private or independent institution of higher education by comparing each institution with other institutions regarding the information provided in Education Code 61.09022. Each institution of higher education, including each college district, shall include on its internet website, in a prominent location that is not more than three hyperlinks from the website's home page, a link to the electronic tools or platforms developed by the Coordinating Board. *Education Code 61.09022(a)-(b)*

Customer Service
Customer Input

Not later than June 1 of each even-numbered year and on request of the [Legislative Budget Board \(LBB\)](#) or the governor's [Office of Budget and Policy \(OBP\)](#), a state agency, including a college district, shall report on the information described below to the LBB and the governor's OBP.

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

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

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

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

Gov't Code 2114.002

Customer Relations
Representative

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

1. Coordinate the state agency's customer service performance measurement under Government Code Chapter 2114;
2. Gather information and evaluations from the public about an agency's customer service;
3. Respond to customer concerns; and

4. Establish the agency's Compact With Texans.

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

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

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

Gov't Code 2114.006

¹ Reporting and Procedures Manual for Texas Community, Technical, and State Colleges: <https://reportcenter.highered.texas.gov/agency-publication/guidelines-manuals/reporting-and-procedures-manual-for-texas-community-technical-and-state-colleges-fall-2024/>

² Free Application for Federal Student Aid (FAFSA): <https://studentaid.gov/h/apply-for-aid/fafsa>

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

Reports by College District

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

1. As soon as practicable after the end of each academic year, the college district shall prepare an annual performance report for that academic year, under Education Code 130.0035. [See AFA]
2. Each college district must use data standards established by the commissioner to submit required information to the Coordinating Board relating to the delivery of educational programs, under 19 Administrative Code 13.524. [See AFA]
3. In the form and manner and at the times required by the Coordinating Board, the college district shall report to the Coordinating Board on the enrollment status of students of the college district, under Education Code 130.0036. [See AFA]
4. The college district shall follow applicable institutional and financial assistance information dissemination requirements found at 20 U.S.C. 1092 and 34 C.F.R. 668.41 and 668.43. [See AFA]
5. A college district must report applicable information related to financial value transparency by the deadlines specified in 34 C.F.R. 668.408. [See AFA]
6. Not later than June 1 of each even-numbered year and on request of the Legislative Budget Board (LBB) or the governor's Office of Budget and Policy (OBP), the college district shall report customer service information to the LBB and the OBP, under Government Code 2114.002. [See AFA]
7. The minutes of the last regular meeting held by the board during a calendar year must reflect whether each member of the board has completed any training required to be completed by the member as of the meeting date, under Education Code 61.084. [See BBD]

8. The college district shall submit to the legislature and the Coordinating Board a report certifying the board's compliance regarding diversity, equity, and inclusion initiatives during the preceding state fiscal year, under Education Code 51.3525. [See BG]
9. By November 1st of each even-numbered year, a college district with fewer than 5,000 full-time equivalent students that receives a scale adjustment shall file a shared services report under 19 Administrative Code 13.563. [See CAAA]
- ~~9.~~10. The college district shall report monthly to the retirement system set out in Government Code 825.404, in a form it prescribes, the employee salary and other information required under Government Code 825.406. [See CAAB, CAM]
- ~~10.~~11. The investment officer shall prepare a report on the Public Funds Investment Act (PFIA) and deliver it to the board no later than the 180th day after the last day of each regular session of the legislature, under Government Code 2256.007. [See CAK]
- ~~11.~~12. Not less than quarterly and within a reasonable time after the end of the period, the investment officer shall prepare and submit to the board a written report of investment transactions for all funds covered by the PFIA, under Education Code 51.0032 and Government Code 2256.023. [See CAK]
- ~~12.~~13. By January 1, each college district shall submit an annual financial report for the preceding fiscal year, under 19 Administrative Code 13.524(b). [See CDA]
- ~~13.~~14. By January 31, each college district must report annual financial report data for each fiscal year as prescribed in the Community College Reporting and Analysis Tool, under 19 Administrative Code 13.524(b). [See CDA]
- ~~14.~~15. By January 31, each college district must report all instructional expenses from each completed fiscal year for each institutional discipline and unallocated administrative expenses under 19 Administrative Code 13.524(c). [See CDA]
- ~~15.~~16. The college district shall report comprehensive tuition and fee financial data through the Integrated Fiscal Reporting System each fiscal year, under 19 Administrative Code 13.524(d). [See CDA]
- ~~16.~~17. The board shall be responsible for the preparation of an annual financial statement, under Local Government Code 140.005. [See CDA]

- ~~17.~~18. The college district shall annually compile and report information regarding debt obligations, under Local Government Code 140.008. [See CDA]
- ~~18.~~19. Annually, a college district that enters into a qualifying purchasing contract shall present a written report on any contract-related fee as an agenda item in an open meeting of the board of trustees, under Education Code 44.0331. [See CF]
- ~~19.~~20. Annually, a college district shall report to the State Energy Conservation Office (SECO) regarding the college district's goal to reduce electric consumption, the college district's efforts to meet the goal, and progress the college district has made, under Health and Safety Code 388.005. [See CH]
21. Between January 1st and March 1st of each year, each college district police department shall complete and submit a report documenting continued compliance with the requirements of 37 Administrative Code 211.16. [See CHA]
- ~~20.~~22. Not later than March 1 of each year, each college district police department shall submit a report containing information about traffic stops during the previous calendar year to the Texas Commission on Law Enforcement Officers and Standards and the governing body of each county or municipality served by the department, under Code of Criminal Procedure ~~2-134~~2B.0055. [See CHA]
- ~~21.~~23. At least once every three years, a college district shall conduct a security audit of the college district's facilities and report the results of the security audit to the Texas School Safety Center, under Education Code 37.108. [See CG]
- ~~22.~~24. No later than January 1 of each odd-numbered year, the college district shall submit a written report regarding the institution's compliance with the online course information posting to certain state officials, under Education Code 51.974 and 19 Administrative Code 4.225 to 4.228. [See EFA]
- ~~23.~~25. Not later than May 1 of each year and in the form prescribed by the Coordinating Board, each college district shall provide to the Coordinating Board and the legislature a report on courses taken by students who, during the preceding academic year, transferred to a general academic teaching institution or earned an associate degree at the college, under Education Code 51.4034. [See EFA]
- ~~24.~~26. Every five years, following the same timetable as the regular accreditation reports sent to the Southern Association of Colleges and Schools Commission on Colleges (SACSCOC)

or its successor, each college district shall review its policies regarding credit earned as part of an approved field of study curriculum, and report the results to the Coordinating Board, under 19 Administrative Code 4.33(a). [See EFAA]

~~25-27.~~ On an annual basis during the designated time period, the college district shall review course sequences for accuracy and submit any revisions or changes to the Coordinating Board, under Education Code 51.96852(c) and 19 Administrative Code 4.364. [See EFB]

~~26-28.~~ A college district offering a baccalaureate degree program shall review each program and submit a report on the operation, quality, and effectiveness of the programs to the Coordinating Board in a specified format by January 1 of each odd-numbered year, under Education Code 130.011 and 19 Administrative Code 2.89, 2.183, and 9.678. [See EFBB]

~~27-29.~~ Contact hours for career technical/workforce continuing education courses from public two-year colleges must be determined and reported in compliance with Coordinating Board policy as outlined in the Guidelines for Instructional Programs in Workforce Education as approved by the Coordinating Board, the Workforce Education Course Manual, and state law, under 19 Administrative Code 9.113, 9.114, and 9.116. [See EFCB]

~~28-30.~~ No later than the July 1 immediately following the 12-month period ending August 31 during which 150 percent of the normal time for completion or graduation has elapsed for the students, the college district shall report on the completion and transfer-out rates of certificate- or degree-seeking, first-time, full-time undergraduate students, under 34 C.F.R. 668.45. [See EGC]

~~29-31.~~ Annually, by July 1, a college district that is attended by students receiving athletically-related student aid must produce a report containing student athlete completion and transfer-out rates, under 34 C.F.R. 668.48. [See EGC]

~~30-32.~~ At the end of each semester, the college district shall report to the Coordinating Board certain information for undergraduate students, under 19 Administrative Code 4.60. [See EI]

~~31-33.~~ At times prescribed by the Coordinating Board, the college district shall report to the Coordinating Board all programs and services provided for persons with intellectual and developmental disabilities by the college district, under Education Code 61.0663. [See FA]

- ~~32.~~34. Not later than May 1 of each academic year, a college district shall submit to the Coordinating Board a report that contains certain information regarding students enrolled at the institution for the current academic year who are the parent or guardian of a child younger than 18 years of age, under Education Code 51.9357. [See FAA]
- ~~33.~~35. The college district shall report to the Coordinating Board all information regarding adjusted tuition rates for excessive hours and repeated courses required to comply with the provisions of 19 Administrative Code Chapter 13, Subchapter F, under 19 Administrative Code 13.109. [See FD]
- ~~34.~~36. The college district shall report to the Coordinating Board the types and amounts of tuition and fees charged to students by semester during the previous academic year, under 19 Administrative Code 13.143. [See FD]
- ~~35.~~37. Annually, the college district chief executive officer shall certify in writing to the Coordinating Board that the college district is in substantial compliance with Education Code Chapter 51, Subchapter E-2, under Education Code 51.258. [See DIAA, FFDA]
- ~~36.~~38. By October 1 of each year, a college district that provides on-campus housing shall prepare, publish, and distribute, through appropriate publications or mailings, an annual fire safety report to all current students and employees and, upon request, to any applicant for enrollment or employment, under 34 C.F.R. 668.41(e)(1). [See FG]
- ~~37.~~39. Not later than the 14th day before the first class day of each fall or spring semester and at student orientation, the college district shall provide a report to each student on hazing committed on or off campus by an organization registered with or recognized by the college district, under Education Code 51.936. [See FLBC]
- ~~38.~~40. By October 1 of each year, the college district shall prepare, publish, and distribute, through appropriate publications or mailings, an annual security report to all current students and employees and, upon request, to any applicant for enrollment or employment, under 20 U.S.C. 1092(f) and 34 C.F.R. 668.41(e)(1). [See GCC]
- ~~39.~~41. The college district must report statistics for the three most recent calendar years concerning the occurrence on campus, in or on noncampus buildings or property and on public prop-

erty, of certain crimes that are reported to local police agencies or to a campus security authority, under 34 C.F.R. 668.46. [See GCC]

~~40-42.~~ 42. The college district shall, in a manner that is timely and will aid in the prevention of similar crimes, report to the campus community on crimes that are considered by the college district to represent a threat to students and employees, under 34 C.F.R. 668.46(e). [See GCC]

~~41-43.~~ 43. The college district shall report student performance during the first year a student is enrolled after graduation from high school to the high school or public two-year college the student last attended, under Education Code 51.403 and 19 Administrative Code 9.23. [See GH]

Appropriations

There shall be appropriated biennially from money in the state treasury not otherwise appropriated an amount sufficient to supplement local funds for the proper support, maintenance, operation, and improvement of those public junior colleges of Texas that meet the standards prescribed by Education Code Chapter 130. The sum shall be allocated in accordance with Education Code Chapter 130A. *Education Code 130.003(a)*

Certification of Compliance

To be eligible for and to receive money appropriated under Education Code 130.003(a) and 19 Administrative Code, Chapter 13, Subchapter R, a public junior college must certify to the Coordinating Board that the college:

1. Offers a minimum of 24 semester hours of vocational and/or terminal courses;
2. Collects, from each full-time and part-time student enrolled, tuition and other fees in the amounts required by law or in the amounts set by the governing board of the junior college district as authorized by Education Code Title 3;
3. Grants, when properly applied for, the scholarships and tuition exemptions provided for in the Education Code;
4. For a public junior college established on or after September 1, 1986, levies and collects ad valorem taxes as provided by law for the operation and maintenance of the college; and
5. Has complied with all laws and Coordinating Board rules for the establishment and operation of a public junior college.

Education Code 130.003(b); 19 TAC 13.523(a)

A public junior college must submit an attestation via [email](#)¹ certifying to compliance with Education Code 130.003(b) to the Coordinating Board by August 1 of each year. The certification must be signed by the public junior college's president, or chief executive officer, as applicable. The certification must certify the following:

1. That the public junior college is currently in compliance with each provision of Education Code 130.003; and
2. The public junior college has complied with all laws and Coordinating Board rules for the establishment and operation of a public junior college.

If a [public](#) junior college ~~district~~ has an unresolved or ongoing audit [or compliance monitoring](#) finding that the certifying official determines may preclude the ~~district's~~ [public junior college's](#) certification under Section 130.003(b), the ~~district~~ [public junior college](#) shall disclose the finding(s) and provide an explanation of the finding(s) and proposed resolution.

The commissioner shall determine whether the [public](#) junior college ~~district~~ can demonstrate that ~~the district~~ [it](#) will be in compliance for the purpose of receiving a scheduled payment.

Any payment that the Coordinating Board makes to an institution pursuant to 19 Administrative Code, Chapter 13, Subchapter R, is subject to recovery or recoupment if the certifying official does not make the required certification for the fiscal year for which the certification was required.

19 TAC 13.523(b)-(c)

Data Reporting

A public junior college must submit data through required reporting mechanisms established by the Coordinating Board. The Coordinating Board may use information obtained through required reporting for:

1. Calculating funding disbursed under ~~19 Administrative Code~~ Chapter 13;
2. Providing timely data and analyses to inform management decisions by the governing body of each public junior college ~~district~~;
3. Administering or evaluating the effectiveness of the programs; or
4. Auditing the program.

A public junior college shall report financial and academic data in accordance with 19 Administrative Code 13.524. [See AFA and CDA]

Education Code 130A.006, .008; 19 TAC 13.524(a), .526(a)

*Funding
Adjustments
Based on Data*

[Upon finalization of fundable certified data](#), the commissioner at his or her discretion or upon recommendation of the chief audit executive may direct Coordinating Board staff to review the accuracy of the data reported to the Coordinating Board by public junior colleges under ~~19 Administrative Code~~ Chapter 13, Subchapter R, using any of the following methods or combination thereof:

1. The chief audit executive or Coordinating Board staff may conduct periodic file reviews, desk-reviews, site visits, or audits of the accuracy of the data and information submitted for funding purposes, including regular reviews of submitted data carried out through standard data management, supporting data, audits conducted under Chapter 13, Subchapter R, or as a result of any other audit. Upon identifying a [potential](#) data reporting error ~~that may impact formula funding~~, Coordinating

Board staff shall notify the commissioner as soon as practicable.

2. Upon receiving a notification [of a potential data reporting error](#) from the chief audit executive ~~or~~, Coordinating Board staff, [or the chief executive officer](#) of a ~~potential~~ public junior college [whose data reporting error may be affected](#), the commissioner may:
 - a. Direct staff to continue to gather additional information;
 - b. Determine that the discrepancy does not rise to the level of a data reporting error as defined in Chapter 13 due to the materiality impact of the error; or
 - c. Determine that the discrepancy rises to the level of a data reporting error that requires a funding adjustment due to the materiality impact of the error or the amount of overallocation or under-allocation.

The Coordinating Board may review and/or require correction of a data reporting error that occurred not more than seven years prior to a review conducted by Coordinating Board staff.

Upon the commissioner's determination that the discrepancy constitutes a data reporting error requiring a funding adjustment, staff will notify the public junior college within 30 business days.

The commissioner may use any method provided in 19 Administration Code 13.528 or 13.529 to make the necessary funding adjustments to correct an over- or under-allocation.

Education Code 130A.007(a)-(b); 19 TAC 13.525

Funding Calculations

The public junior college state finance program consists of:

1. A base tier of state and local funding determined in accordance with Education Code Chapter 130A, Subchapter B, [and 19 Administrative Code 13.554](#) that ensures each public junior college has access to a defined level of base funding for instruction and operations; and
2. A performance tier of state funding determined in accordance with [Education Code](#) Chapter 130A, Subchapter C, [and 19 Administrative Code 13.555-.559](#) that constitutes the majority of state funding and is distributed based on measurable outcomes aligned with:
 - a. Regional and state workforce needs; and
 - b. State goals aligned to the state's long-range master plan for higher education developed under Education Code 61.051.

Education Code 130A.004; [19 TAC 13.554-.559](#)

*High-Demand
Fields*

Education Code 130A.101(c)(1) provides for public junior colleges to earn an additional funding weight for a credential conferred in a high-demand occupation as part of performance tier funding. To be eligible for an additional weight, a credential must be eligible for performance tier funding under 19 Administrative Code 13.555, and a public junior college must confer the credential in a field specified in 19 Administrative Code Chapter 13, Subchapter T, as defined by the discipline's federal Classification of Instructional Program (CIP) Code. [19 TAC 13.590](#)

Overallocated
Funds

If the Coordinating Board determines after closing out a fiscal year pursuant to 19 Administrative Code 13.477 or any close-out or settle-up provisions contained in 19 Administrative Code Chapter 13, Subchapter S, that a data reporting error or any other error resulted in an overallocation of funds to the institution, the Coordinating Board shall use any method authorized under statute or 19 Administrative Code 13.528 to make a funding adjustment necessary to correct the overallocation.

The Coordinating Board shall notify the institution not later than 30 business days after the commissioner makes a determination of a data reporting error under 19 Administrative Code 13.525 or otherwise identifies an error requiring a funding adjustment to recover an overallocation. This notification must contain the amount of the overallocation and the basis for the determination.

The institution may submit a written appeal to the commissioner within 30 business days of receiving notification of an overallocation. The institution may attach any data or other written documentation that supports its appeal. The commissioner shall review the appeal and determine in his or her sole discretion whether to affirm, deny, or modify the determination of overallocation within 30 business days of receipt. The commissioner or chief audit executive shall make an annual report of overallocation determinations to the Coordinating Board.

If the institution does not appeal or the commissioner affirms the determination that an overallocation requiring a funding adjustment has occurred, the Coordinating Board shall recover an amount equal to the amount overallocated to the public junior college through one of the following methods:

1. The Coordinating Board shall:
 - a. Withhold an amount equivalent to the overallocation by withholding from subsequent allocations of state funds for the current fiscal year as part of ~~the~~any close-out or

settle-up provisions contained in 19 Administrative Code Chapter 13, Subchapter U, or as otherwise authorized by law of the current fiscal year; or

- b. Request and obtain a refund from the public junior college during the current fiscal year an amount equivalent to the amount of the overallocation; or
 - c. If the commissioner in his or her sole discretion determines that the recovery of an overallocation in the current or subsequent fiscal year will have a substantial negative impact on the operations of the institution or the education of students, the commissioner may instead recover the overallocation pursuant to item 2.
2. If the commissioner in his or her sole discretion determines that an overallocation pursuant to items 1a or 1b, above, was the result of exceptional circumstances reasonably caused by statutory changes to Education Code Chapters 130 or 130A and related reporting requirements, the Coordinating Board may recover the overallocation over a period not to exceed the subsequent five fiscal years.

In addition to the recovery of an overallocation, the commissioner may establish a corrective action plan for a public junior college that has received an overallocation of funds.

If a junior college district fails to comply with a request for a refund, the Coordinating Board shall report to the comptroller that the amount constitutes a debt for purposes of Government Code 403.055. The Coordinating Board shall provide to the comptroller the amount of the overallocation and any other information required by the comptroller. The comptroller may certify the amount of the debt to the attorney general for collection. The junior college district's governmental immunity is waived to the extent necessary to collect the debt owed.

Education Code 130A.009; 19 TAC 13.528

Under-Allocated
Funds

If the commissioner determines that a data reporting error or any other error resulted in an under-allocation of funds, the Coordinating Board shall provide the funds to the institution pursuant to the close-out process in 19 Administrative Code 13.477, any close-out or settle-up provisions contained in 19 Administrative Code, Chapter 13, Subchapter SU, or as otherwise authorized by law. 19 TAC 13.529

Records Retention	An institution of higher education shall retain records related to financial and educational data and information reported to the Coordinating Board under 19 Administrative Code Chapter 13 for a period of not less than seven years. <i>19 TAC 13.527</i>
Compliance Monitoring and Audits by the Coordinating Board	The chief audit executive may conduct compliance monitoring or audits of public junior colleges' compliance with Education Code Chapter 130A, the General Appropriations Act, and other related formula funding statutes, in accordance with 19 Administrative Code 13.526. [See CDC] <i>19 TAC 13.526(b)</i>
<i>Audit</i>	An “audit” is an engagement to audit the program conducted by the Coordinating Board's internal auditor and internal audit or compliance monitoring staff pursuant to either Education Code 130A.006(4) or 61.035. This term may include a site visit, desk review, or examination of the institution's use of funds allocated by the Coordinating Board and data reported to the Coordinating Board. The term includes auditing undertaken to obtain evidence to sufficiently examine or verify data submitted to the Coordinating Board to be used by the Coordinating Board for funding or policy-making decisions, including data used for formula funding allocations, to ensure the data is reported accurately. <i>19 TAC 13.522(1)</i>
<i>Compliance Monitoring</i>	"Compliance monitoring" means a risk-based audit and compliance function conducted by the Coordinating Board pursuant to either Education Code 130A.006(4) or 61.035, for the purpose of reviewing and assessing programmatic, legal, and fiscal compliance. This function may include conducting audits, site visits, desk reviews, or other examinations to ensure that funds allocated or distributed by the Coordinating Board are allocated, distributed, and used in accordance with applicable law and Coordinating Board rule. The function includes obtaining evidence to sufficiently examine or verify data submitted to the Coordinating Board to be used by the Coordinating Board for funding or policymaking decisions, including data used for formula funding allocations, to ensure the data is reported accurately. <i>19 TAC 13.522(4)</i>
<u>Shared Services Report</u>	<u>This provision applies to each public junior college district of fewer than 5,000 full-time equivalent students which receives a scale adjustment under 19 Administrative Code 13.554(b)(1)(C). Public junior colleges subject to this provision must submit a report on their participation in shared services to the Coordinating Board by November 1st of each even-numbered year. The report will include information for each fiscal year in the previous two fiscal years in which a college received a scale adjustment. <i>Education Code 130A.054(e); 19 TAC 13.563</i></u>

Expenditure of Funds

All funds allocated under the provisions of the Education Code, with the exception of those necessary for paying the costs of audits as provided, shall be used exclusively for the purpose of paying salaries of the instructional and administrative forces of the several institutions and the purchase of supplies and materials for instructional purposes. *Education Code 130.003(c)*

Note: For more detail regarding appropriated funds and restrictions on the use of the funds, see the current [General Appropriations Act and related appropriations bills](#),² available at the Legislative Reference Library of Texas.

Report on Lending and Credit Support Programs

Not later than December 31 of each even-numbered year, the Bond Review Board shall submit to the legislature and post on its internet website a report on all lending programs and credit support programs in this state in accordance with Government Code 1231.064.

A political subdivision of this state, including a college district, shall provide to the Bond Review Board in the manner provided by board rule any information necessary for the Bond Review Board to prepare the report.

"Credit support program" means a program under which this state guarantees or provides credit enhancements for the debt of any public or private entity, including providing support for interest or principal payments, in a manner that obligates this state to pay any part of the principal or interest on that debt if the entity defaults.

"Lending program" means a program through which state money is loaned, or otherwise provided with the expectation of repayment, to a public or private entity.

Gov't Code 1231.064

¹ Certification of compliance email: ccfinance@highered.texas.gov

² General appropriations acts and major biennial appropriations bills: <http://www.lrl.state.tx.us/legis/approBills.cfm>

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Perkins Grants

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

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

20 U.S.C. 2352(a)(1)-(2)

**Retirement
Contributions**

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

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

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

Gov't Code 825.406 [See CAM]

**Requests for Federal
Financial Assistance**

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

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

Gov't Code 742.004

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

**Administration of
Federal Awards**

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

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

Gov't Code 742.005

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

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

~~“Non-federal entity” (NFE) means a state, local government, Indian tribe, institution of higher education (IHE), or nonprofit organization that carries out a federal award as a recipient or subrecipient. “Re-~~
ipient” means an entity that receives a federal award directly from a federal agency to carry out an activity under a federal program. The term “recipient” does not include subrecipients or individuals that are participants or beneficiaries of the award.

“Subrecipient” means an entity that receives a subaward from a pass-through entity to carry out part of a federal award. The term “subrecipient” does not include a beneficiary or participant. A subrecipient may also be a recipient of other federal awards directly from a federal agency.

2 C.F.R. 200.1

Financial
Management

Each state must expend and account for the federal award in accordance with state laws and procedures for expending and accounting for the state's ~~own~~ funds. ~~In addition, the state's~~ All recipient and ~~the other non-federal entity's~~ subrecipient financial

management systems, including records documenting compliance with federal statutes, regulations, and the terms and conditions of the federal award, must be sufficient to permit the preparation of reports required by ~~general and program-specific~~ the terms and conditions; and the ~~tracing of funds to a level~~ tracking of expenditures ~~adequate~~ to establish that ~~such~~ funds have been used ~~ac-~~ according to the in accordance with federal statutes, regulations, and the terms and conditions of the federal award. [See also 2 C.F.R. 200.450-.]

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

1. Identification, ~~in its accounts~~, of all federal awards received and expended and the federal programs under which they were received. Federal program and federal award identification must include, as applicable, the Assistance Listings title and number, federal award identification number ~~and~~ year, ~~name of the federal agency~~ award was issued, and name of the federal agency or pass-through entity, ~~if any~~.
2. Accurate, current, and complete disclosure of the financial results of each federal award or program in accordance with the reporting requirements ~~set forth~~ in 2 C.F.R. 200.328 and 200.329. ~~If~~ When a federal ~~awarding agency~~ or pass-through entity requires reporting on an accrual basis from a recipient or subrecipient that maintains its records ~~on~~ other than on an accrual basis, the recipient or subrecipient must not be required to establish an accrual accounting system. This recipient or subrecipient may develop accrual data for its reports based ~~on the basis of~~ an analysis of the documentation on hand. ~~Similarly, a pass-through entity must not require a subrecipient to establish an accrual accounting system and must allow the subrecipient to develop accrual data for its reports on the basis of an analysis of the documentation on hand.~~
3. Maintaining records that sufficiently identify ~~adequately~~ the amount, source, and ~~application~~ expenditure of federal funds for ~~federally funded activities~~ federal awards. These records must contain information ~~pertaining~~ necessary to identify federal awards, authorizations, financial obligations, unobligated balances, as well as assets, expenditures, income, and interest ~~and~~. All records must be supported by source documentation.
4. Effective control over, and accountability for, all funds, property, and ~~other~~ assets. The ~~non-federal entity~~ recipient or subrecipient must adequately safeguard all assets and assure

~~that~~ they are used solely for authorized purposes. [See 2 C.F.R. 200.303-]

5. Comparison of expenditures with budget amounts for each federal award.
6. Written procedures to implement the requirements of 2 C.F.R. 200.305.
7. Written procedures for determining the allowability of costs in accordance with 2 C.F.R. Part 200, Subpart E, and the terms and conditions of the federal award.

2 C.F.R. 200.302

Internal Controls

The ~~non-federal entity~~ recipient and subrecipient must:

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

2 C.F.R. 200.303

Advanced Payment

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

~~Standards governing the use of banks and other institutions as depositories of advance payments under federal awards are as follows:~~ The federal ~~awarding agency~~ and/or pass-through entity must not require separate depository accounts for funds provided to a ~~non-federal entity~~ the recipient or subrecipient or establish any eligibility requirements for depositories ~~for funds provided to the non-federal entity.~~ However, the ~~non-federal entity~~ recipient or subrecipient must be able to account for all funds received, obligated, and expended.

Advance payments of federal funds must be deposited and maintained in insured accounts whenever possible.

The ~~non-federal entity~~ recipient or subrecipient must maintain advance payments of federal ~~awards~~ funds in interest-bearing accounts, unless one of the following ~~apply~~ applies:

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

5. ~~Interest earned amounts~~ An interest-bearing account is not readily accessible (for example, due to public or political unrest in a foreign country).

The recipient or subrecipient may retain up to \$500 per year ~~may be retained by the non-~~ of interest earned on federal ~~entity~~ funds to use for administrative ~~expense.~~ expenses of the recipient or subrecipient. Any additional interest earned on federal ~~advance payments deposited in interest-bearing accounts must be remitted-~~ funds must be returned annually to the Department of Health and Human Services Payment Management System (PMS) through either the Automated Clearing House (ACH) network or a Fedwire Funds Service payment. All interest in excess of \$500 per year must be returned to PMS regardless of whether the recipient or subrecipient was paid through PMS. Instructions for returning interest can be found on the PMS website ~~as described by 2 C.F.R. 200.305(b)(9).~~¹

All other federal funds must be returned to the payment system of the federal agency. Returns should follow the instructions provided by the federal agency. All returns to PMS should follow the instructions provided on the PMS website.

2 C.F.R. 200.305(b)(1), ~~(7)-(9)-(13)~~

Budgets and
Program Plans

~~Recipients are required to~~ The recipient or subrecipient must report deviations from the approved budget ~~or~~ project or program scope, or objective, and (s) in accordance with 2 C.F.R. 200.329.

The recipient or subrecipient must request prior approvals from federal ~~awarding agencies~~ agency or pass-through entity for budget and program plan revisions, in accordance with 2 C.F.R. 200.308.

2 C.F.R. 200.308(b)

Cost Principles

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

1. Arrangements under which federal financing is in the form of loans, scholarships, fellowships, traineeships, or other fixed amounts based on such items as education allowance or published tuition rates and fees.

2. ~~For institutions of higher education,~~ Capitation awards, ~~which are awards~~ based on case counts or the number of beneficiaries ~~according to the terms and conditions of the federal award.~~
3. Fixed amount awards ~~;~~ except as provided in 2 C.F.R. 200.101(b). [See also 2 C.F.R. 200. ~~4-Definitions and 200-201-.~~]
4. Federal awards to hospitals ~~(.~~ [See Appendix IX to 2 C.F.R. Part 200).]
5. Food commodities provided through grants and cooperative agreements.
- ~~5-6.~~ Other awards under which the ~~non-federal entity~~ recipient or subrecipient is not required to account to the federal government for actual costs incurred.

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

1. The ~~non-federal entity is~~ recipient and subrecipient are responsible for the efficient and effective administration of the federal award through ~~the application of~~ sound management practices.
2. The ~~non-federal entity assumes responsibility~~ recipient and subrecipient are responsible for administering federal funds in a manner consistent with ~~underlying agreements, program objectives~~ federal statutes, regulations, and the terms and conditions of the federal award.
3. The ~~non-federal entity~~ recipient and subrecipient, in recognition of ~~its~~ their own unique combination of staff, facilities, and experience, ~~has the primary responsibility~~ are responsible for employing ~~whatever form of sound~~ organization and management techniques ~~may be~~ necessary in order to ~~assure~~ ensure the proper and efficient administration of the federal award.
4. The ~~application of these cost principles should require no significant changes in the internal accounting policies and practices of the non-federal entity. However, the accounting practices of the non-federal entity~~ recipient and subrecipient must be consistent with these cost principles and support the accumulation of costs as required by ~~the~~ these cost principles ~~and must provide for~~ including maintaining adequate documentation to support costs charged to the federal award.

5. ~~In~~When reviewing, negotiating, and approving cost allocation plans or indirect cost proposals, the cognizant agency for indirect costs should ~~generally assure~~ensure that the ~~non-federal entity is applying~~recipient consistently applies these cost ~~accounting principles on a consistent basis during their review and negotiation of indirect cost proposals.~~ Where wide variations exist in the treatment of a given cost item by the ~~non-federal entity~~recipient, the reasonableness and equity of such treatments should be fully considered. [See the definition of indirect (~~facilities & administrative (F&A)~~) costs in 2 C.F.R. 200.1-.]
6. For ~~non-federal entities~~recipients and subrecipients that educate and engage students in research, the dual role of students as both trainees and employees, including pre- and post-doctoral staff, contributing to the completion of federal awards for research must be recognized in the application of these principles.
7. The ~~non-federal entity may~~recipient and subrecipient must not earn or keep any profit resulting from federal financial assistance, unless explicitly authorized by the terms and conditions of the federal award. [See also 2 C.F.R. 200.307.] When the required activities of a fixed amount award were completed in accordance with the terms and conditions of the award, the unexpended funds retained by the recipient or subrecipient are not considered profit.

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

Cost Sharing

Cost sharing related to federal awards is subject to 2 C.F.R. 200.306. 2 C.F.R. 200.306

Program Income

~~Non-federal entities are~~The recipient or subrecipient is encouraged to earn income to defray program costs ~~where~~when appropriate. Such income is subject to 2 C.F.R. 200.307. 2 C.F.R. 200.307

Modifications to
Period of
Performance

~~If a~~When the federal ~~awarding~~ agency or pass-through entity approves an extension to a federal award, or if a recipient extends under 2 C.F.R. 200.308(~~eg~~)(2), the period of performance will be amended to end at the completion of the extension. If ~~a~~ termination occurs, the period of performance will be amended to end upon the effective date of termination. ~~If~~The start date of a renewal award ~~is issued, begins~~a new and distinct period of performance ~~will begin.~~
2 C.F.R. 200.309

Conflict of Interest

~~The non-~~Federal agencies must establish conflict of interest policies for federal ~~entity~~awards. A recipient or subrecipient must disclose in writing any potential conflict of interest to the federal

	<p>awarding agency or pass-through entity in accordance with ap- licable<u>the established</u> federal awarding agency policy<u>policies</u>. 2 C.F.R. 200.112</p>
Procurement	<p>The non-federal entity<u>recipient or subrecipient</u> must maintain writ- ten standards of conduct covering conflicts of interest and govern- ing the actions of its employees engaged in the selection, award, and administration of contracts. No employee, officer, or agent, <u>or board member with a real or apparent conflict of interest</u> may par- ticipate in the selection, award, or administration of a contract sup- ported by a<u>the</u> federal award if he or she has a real or apparent conflict of interest. Such. A conflict of interest would arise<u>includes</u> when the employee, officer, or agent, <u>or board member</u>, any mem- ber of his or her<u>their</u> immediate family, his or her<u>their</u> partner, or an organization which<u>that</u> employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tan- gible personal benefit from a firm<u>an entity</u> considered for a con- tract. The officers, employees, <u>An employee, officer, agent,</u> and agents<u>board member</u> of the non-federal entity<u>recipient or subrecip- ient</u> may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. How- ever, non-federal entities<u>the recipient or subrecipient</u> may set standards for situations in which<u>where</u> the financial interest is not substantial or the gift is an unsolicited item of nominal value. The<u>The recipient's or subrecipient's</u> standards of conduct must <u>also</u> provide for disciplinary actions to be applied for violations of such standards by officers, its employees, or officers, agents of the non-federal entity, <u>or board members</u>. 2 C.F.R. 200.318(c)(1)</p>
Restricted Contracts	<p>Federal awarding agencies and, recipients, <u>and subrecipients</u> are subject to the regulations<u>guidance</u> implementing Never Contract with the Enemy in 2 C.F.R. Part 183. The regulations<u>guidance</u> in 2 C.F.R. Part 183 affect<u>affects</u> covered contracts, grants and cooper- ative agreements that are expected to exceed \$50,000 within dur- ing the period of performance, are performed outside the United States and its territories, and are in support of a contingency oper- ation in which members of the Armed Forces are actively engaged in hostilities. 2 C.F.R. 200.215</p>
Property Standards Real Property	<p>Subject to the requirements and conditions set forth in 2 C.F.R. 200.311, title to real property acquired or improved under a federal award will vest upon acquisition in the non-federal entity<u>recipient or subrecipient</u>.</p> <p>Except as otherwise provided by federal statutes or by the federal awarding agency, real property will<u>must</u> be used for the originally authorized purpose as long as <u>it is</u> needed for that purpose, during which time. <u>While</u> the non-federal entity<u>property is being used for</u></p>

the originally authorized purpose, the recipient or subrecipient must not dispose of or encumber its title or other interests ~~except as provided by the federal agency. Easements for utility, cable, and similar services that benefit the real property and are consistent with the authorized use are not considered an encumbrance.~~

When an appraisal of real property is required and obtained by the recipient or subrecipient, it must be conducted by an independent appraiser (for example, certified real property appraiser or General Services Administration representative) and certified by a responsible official of the recipient or subrecipient as required by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, 42 U.S.C. 4601-4655, except as provided in the implementing regulations at 49 C.F.R. Part 24, "Uniform Relocation Assistance And Real Property Acquisition For Federal And Federally-Assisted Programs."

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

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

2 C.F.R. 200.311

Equipment

~~Subject to the requirements and conditions set forth in this section,~~ Title to equipment acquired under ~~a~~ the federal award will vest upon acquisition in the ~~non-federal entity~~ recipient or subrecipient ~~subject to the conditions of this provision. The title must be a conditional title~~ unless a federal statute specifically authorizes the federal agency to vest title in the ~~non-federal entity~~ recipient or subrecipient without further responsibility to the federal government, and the federal agency elects to do so, ~~the title must be~~. A conditional title- ~~Title must vest~~ means a clear title is withheld by the federal agency until conditions and requirements specified in the non-terms and conditions of a federal entity award have been fulfilled. Title for equipment vested in a recipient or subrecipient is subject to the following conditions:

1. Use the equipment for the authorized purposes of the project during the period of performance, or until the property is no longer needed for the purposes of the project.
2. ~~Not~~ While the equipment is being used for the originally-authorized purpose, the recipient or subrecipient must not dispose of or encumber ~~the property~~ its title or other interests without approval of the federal ~~awarding~~ agency or pass-through entity.
3. Use and dispose of the property in accordance with 2 C.F.R. 200.313(b), (c), and (e).

~~Procedures for managing equipment, including replacement equipment, Regardless of whether equipment is acquired in whole or in part or its entirety under a the federal award, until disposition takes place will, as a minimum, the recipient or subrecipient must manage equipment, including replacement equipment, utilizing procedures that~~ meet the requirements of 2 C.F.R. 200.313(d).

When included in the terms and conditions of the federal award, the federal agency may permit the recipient to retain equipment, or authorize a pass-through entity to permit the subrecipient to retain equipment, with no further obligation to the federal government unless prohibited by federal statute or regulation.

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

Supplies

Title to supplies acquired under the federal award will vest ~~in the non-federal entity~~ upon acquisition. ~~If in the recipient or subrecipient. When~~ there is a residual inventory of unused supplies exceeding \$~~5~~10,000 in ~~total~~ aggregate value ~~upon termination or completion at the end of the project or program period of performance~~ and the supplies are not needed for any other federal award, the ~~non-federal entity must~~ recipient or subrecipient may retain ~~the supplies for use on other activities or sell them, but must, the unused supplies. Unused supplies means supplies that are in either case, compensate the federal government for its share. new condition, not having been used or opened before.~~ The ~~amount of~~ aggregate value of unused supplies consists of all supply types, not just like-item supplies. The federal agency or pass-through entity is entitled to compensation must be computed in the same manner as for equipment under 2 C.F.R. 200.313(e)(2).

~~As long as the federal government retains an interest in the supplies, an amount calculated by multiplying the percentage of the federal agency's or pass-through entity's contribution towards the non-cost of the original purchase(s) by the current market value or proceeds from the sale. If the supplies are sold, the federal agency or pass-through entity may permit the recipient or subrecipient to~~

retain, from the federal ~~entity~~ share, \$1,000 of the proceeds to cover expenses associated with the selling and handling of the supplies.

Unless expressly authorized by federal statute, the recipient or subrecipient must not use supplies acquired under a federal award to provide services ~~to other organizations~~ for a fee that is less than a private ~~companies~~ company would charge for ~~equivalent~~ similar services, ~~unless specifically~~. This restriction is effective as long as the federal government retains an interest in the supplies or as authorized by federal statute.

2 C.F.R. 200.314

*Federally Owned
Property*

Title to federally owned property remains vested in the federal government. The ~~non-federal entity~~ recipient or subrecipient must submit ~~annually~~ an inventory listing of federally owned property in its custody to the federal ~~awarding agency~~ agency or pass-through entity on an annual basis. The recipient or subrecipient must request disposition instructions from the federal agency or pass-through entity upon completion of the federal award or when the property is no longer needed, ~~the non-federal entity must report the property to the federal awarding agency for further federal agency utilization.~~

Exempt property means property acquired under ~~at~~ the federal award where the federal ~~awarding agency~~ has chosen to vest title to the property to the ~~non-federal entity~~ recipient or subrecipient without further responsibility to the federal government, ~~based upon the explicit~~. The federal agency may only exercise this option when permitted by federal statute and set forth in the terms and conditions of the federal award. ~~The federal awarding agency may exercise this option when statutory authority exists.~~ Absent statutory authority and specific terms and conditions of the federal award, the title to exempt ~~federally owned~~ property acquired under the federal award remains with the federal government.

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

*Intangible
Property*

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

~~The non-federal entity~~ To the extent permitted by law, the recipient or subrecipient may copyright any work that is subject to copyright and was developed, or for which ownership was acquired, under a federal award. The federal ~~awarding~~ agency reserves a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use the work for federal purposes, and to authorize others to do so. This includes the right to require recipients and subrecipients to make such works available through agency-designated public access repositories.

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

~~2 C.F.R. 200.315~~

The recipient or subrecipient must provide research data relating to published research findings, described by 2 C.F.R. 200.315(e)(2), produced under the federal award and that were used by the federal government in developing an agency action that has the force and effect of law if requested by the federal agency in response to a Freedom of Information Act (FOIA) request.

2 C.F.R. 200.315(a)-(c), (e)(1)

Property Trust Relationship

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

Insurance Coverage

The ~~non-federal entity~~ recipient or subrecipient must, at a minimum, provide the equivalent insurance coverage for real property and equipment acquired or improved with federal funds as provided to property and equipment owned by the ~~non-federal entity~~ recipient or subrecipient. Insurance is not required for federally owned property ~~need not be insured~~ unless required by the terms and conditions of the federal award. 2 C.F.R. 200.310

Procurement Generally

The ~~non-federal entity~~ recipient or subrecipient must ~~have~~ maintain and use documented ~~procurement~~ procedures, ~~consistent with state, local, and tribal laws and regulations and the standards of this section,~~ for the procurement transactions under a federal award

	<p>or subaward, including for acquisition of property or services required under a federal award or subaward. The non-federal entity's. These documented procurement procedures must conform to the procurement <u>be consistent with state, local, and tribal laws and regulations and the</u> standards identified in 2 C.F.R. 200.317 through 200.327. 2 C.F.R. 200.318(a)</p>
Eligible Contractors	<p>The non-federal entity <u>recipient or subrecipient</u> must award contracts only to responsible contractors possessing <u>that possess</u> the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as <u>contract. The recipient or subrecipient must consider</u> contractor integrity, compliance with public policy, record <u>compliance, proper classification</u> of <u>employees [see the Fair Labor Standards Act, 29 U.S.C. 201, Chapter 8],</u> past performance <u>record</u>, and financial and technical resources when conducting a procurement transaction. <u>[See also 2 C.F.R. 200.214-.]</u> 2 C.F.R. 200.318(h)</p>
Contracting with Certain Businesses	<p>The non-federal entity must take all necessary affirmative steps, including those described by 2 C.F.R. 200.321, to assure <u>When possible, the recipient or subrecipient should ensure</u> that <u>small businesses, minority businesses, women's business enterprises, veteran-owned businesses, and labor surplus area firms</u> are used when possible. <u>[see U.S. Department of Labor's list] are considered as set forth in 2 C.F.R. 200.321.</u> 2 C.F.R. 200.321(a)</p>
Competition	<p>All procurement transactions for the acquisition of property or services required under a <u>the</u> federal award must be conducted in a manner providing <u>that provides</u> full and open competition <u>and is</u> consistent with the standards of 2 C.F.R. 200.319 and 200.320. 2 C.F.R. 200.319(a)</p>
Methods of Procurement	<p>The non-federal entity must have <u>There are three types of procurement methods described in this section: informal procurement methods for micro-purchases and simplified acquisitions; formal procurement methods through sealed bids or proposals; and non-competitive procurement methods. For any of these methods, the recipient or subrecipient must maintain</u> and use documented procurement procedures, consistent with the standards of 2 C.F.R. 200.320 and 2 C.F.R. 200.317, 200.318, and 200.319 for any of the methods of procurement used for the acquisition of property or services required under a federal award or sub-award. 2 C.F.R. 200.320</p>
Informal Procurement Methods <u>for Small Purchases</u>	<p><u>These procurement methods expedite the completion of transactions, minimize administrative burdens, and reduce costs. Informal procurement methods may be used</u> when the value of the procurement for property or services <u>transaction</u> under <u>a</u> the federal award</p>

does not exceed the simplified acquisition threshold (SAT) ~~or~~. Recipients and subrecipients may also establish a lower threshold ~~established by a non-federal entity, formal procurement methods are not required. The non-federal entity may use informal procurement methods to expedite the completion of its transactions and minimize the associated administrative burden and cost. The informal methods used for~~. Informal procurement ~~of property or services at or below the SAT methods~~ include:

1. Micro-purchases: The ~~acquisition of supplies or services, the aggregate dollar amount of which the procurement transaction does not exceed the micro-purchase threshold. To the maximum extent practicable, the non-federal entity~~ recipient or subrecipient should distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive price or rate quotations if the ~~non-federal entity~~ recipient or subrecipient considers the price to be reasonable based on research, experience, purchase history, or other information; and maintains documents ~~it files accordingly to support its conclusion.~~ Purchase cards ~~can~~ may be used as a method of payment for micro-purchases ~~if procedures are documented and approved by the non-federal entity.~~ The micro-purchase method is subject to the requirements of 2 C.F.R. 200.320(a)(1).
2. ~~Small purchases~~ Simplified acquisitions: The ~~acquisition of property or services, the aggregate dollar amount of which the procurement transaction is higher than the micro-purchase threshold but does not exceed the simplified acquisition threshold. If small purchases simplified acquisition procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources as determined appropriate by the non-federal entity. The small purchases. Unless specified by the federal agency, the recipient or subrecipient may exercise judgment in determining what number is adequate. The simplified acquisition method is subject to the requirements of 2 C.F.R. 200.320(a)(2).~~

2 C.F.R. 200.320(a)

Formal
Procurement
Methods

Formal procurement methods are required when the value of the procurement ~~for property or services transaction under a federal financial assistance award exceeds the SAT, or a lower threshold established by a non-federal entity, formal procurement methods are required.~~ of the recipient or subrecipient. Formal procurement methods ~~require following documented procedures. Formal procurement methods also~~ are competitive and require public ~~advertis-~~

~~ing unless a non-competitive procurement can be used in accordance with 2 C.F.R. 200.319 or the noncompetitive procurement procedures below.~~ notice. The following formal methods of procurement are used for procurement ~~of property or services above the simplified acquisition threshold or a value below the simplified acquisition threshold the non-federal entity determines to be appropriate;~~ transactions above the SAT determined by the recipient or sub-recipient in accordance with 2 C.F.R. 200.320(a)(2)(ii):

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

2 C.F.R. 200.320(b)

Noncompetitive
Procurement

There are specific circumstances in which the recipient or subrecipient may use a noncompetitive procurement ~~can be used.~~ method. The noncompetitive procurement ~~can~~ method may only be ~~awarded~~ used if one ~~or more~~ of the following circumstances ~~apply~~ applies:

1. ~~The acquisition of property or services,~~ The aggregate dollar amount of ~~which~~ the procurement transaction does not exceed the micro-purchase threshold;
2. The ~~item is available~~ procurement transaction can only ~~from be~~ fulfilled by a single source;
3. The public exigency or emergency for the requirement will not permit a delay resulting from ~~publicizing~~ providing public notice of a competitive solicitation;
4. The recipient or subrecipient requests in writing to use a non-competitive procurement method, and the federal ~~awarding~~

agency or pass-through entity ~~expressly authorizes a non-competitive procurement in response to a~~ provides written request from the non-federal entity approval; or

5. After ~~solicitation of a number of~~ soliciting several sources, competition is determined inadequate.

2 C.F.R. 200.320(c)

*Domestic
Preference*

~~As appropriate and to the extent consistent with law, the non-federal entity~~ The recipient or subrecipient should, to the greatest extent practicable ~~under a federal award~~ and consistent with law, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States, including but not limited to iron, aluminum, steel, cement, and other manufactured products. The requirements of 2 C.F.R. 300.022 must be included in all subawards ~~including all~~ contracts, and purchase orders ~~for work or products under this award~~ federal awards.

“Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

“Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

2 C.F.R. 200.322

*Contract
Provisions*

The ~~non-federal entity's~~ recipient's or subrecipient's contracts must contain the applicable provisions described in Appendix II ~~to~~ of 2 C.F.R. Part 200. 2 C.F.R. 200.327

*Time and
Materials
Contracts*

The ~~non-federal entity~~ recipient or subrecipient may use a time-and-materials type contract only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Time-and-materials type contract means a contract whose cost to a ~~non-federal entity~~ recipient or subrecipient is the sum of:

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

~~Since~~ Because this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. There-

fore, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the ~~non-federal entity~~ recipient or subrecipient awarding such a contract must assert a high degree of oversight ~~in order~~ to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

2 C.F.R. 200.318(j)

Contract Cost
and Price

The ~~non-federal entity~~ recipient or subrecipient must perform a cost or price analysis ~~in connection with~~ for every procurement ~~action in excess of the Simplified Acquisition Threshold~~ transaction, including contract modifications, ~~in excess of the SAT~~. The method and degree of analysis ~~is dependent~~ conducted depend on the facts surrounding the particular procurement ~~situation, but~~ transaction. For example, the recipient or subrecipient should consider potential workforce impacts in their analysis if the procurement transaction will displace public sector employees. However, as a starting point, the ~~non-federal entity~~ recipient or subrecipient must make independent estimates before receiving bids or proposals.

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

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

The recipient or subrecipient must not use the "cost plus a percentage of cost" and "percentage of construction ~~cost~~ costs" methods of contracting ~~must not be used~~.

2 C.F.R. 200.324

Cost
Effectiveness

The ~~non-federal entity's~~ recipient's or subrecipient's procedures must avoid the acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. ~~Where~~ When appropriate, an analysis ~~will~~ should be made ~~of lease versus purchase~~.

~~alternatives, between leasing and any other appropriate analysis purchasing property or equipment~~ to determine the most economical approach.

~~To foster greater economy and efficiency, When appropriate for the procurement or use of common or shared goods and services, recipients and in accordance with efforts to promote cost-effective use of shared services across the federal government, the non-federal entity is~~ subrecipients are encouraged to enter into state and local intergovernmental agreements or inter-entity agreements ~~where appropriate~~ for procurement transactions. These or use of common or shared goods similar procurement arrangements using strategic sourcing may foster greater economy and services. Competition requirements will be met with efficiency. Documented procurement actions of this type, using strategic sourcing, shared services, and other similar procurement arrangements, will meet the competition requirements of 2 C.F.R. Part 200.

The ~~non-federal entity~~ recipient or subrecipient is encouraged to use ~~federal~~ excess and surplus federal property ~~in lieu~~ instead of purchasing new equipment and property ~~whenever such use~~ when it is feasible and reduces project costs.

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

2 C.F.R. 200.318(d) ~~-(f)-(g)~~

Procurement of Certain Services and Equipment

Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to procure or obtain covered telecommunications equipment or services; extend or renew a contract to procure or obtain covered telecommunications equipment or services; or enter into a contract, or extend or renew a contract, to procure or obtain ~~equipment, services, or systems that uses~~ covered telecommunications equipment or services, as described by 2 C.F.R. 200.316, ~~as a substantial or essential component of any system, or as critical technology as part of any system.~~ 216. 2 C.F.R. 200.318 216(a)

Procurement of Recovered Materials

~~A non-federal entity~~ A recipient or subrecipient that is a state agency or agency of a political subdivision of a state and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, of 1976 as amended, 42 U.S.C. 6962. The requirements of

Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines. ~~2 C.F.R. 200.323~~

The recipient or subrecipient should, to the greatest extent practicable and consistent with law, purchase, acquire, or use products and services that can be reused, refurbished, or recycled; contain recycled content, are biobased, or are energy and water efficient; and are sustainable. This may include purchasing compostable items and other products and services that reduce the use of single-use plastic products. [See Executive Order 14057, Section 101, Policy.]

2 C.F.R. 200.323

*Bonding
Requirements*

~~For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold,~~ The federal ~~award-~~ing agency or pass-through entity may accept the recipient's or subrecipient's bonding policy and requirements ~~of the non-federal entity for construction or facility improvement contracts or subcontracts exceeding the SAT,~~ in accordance with 2 C.F.R. 200.326. 2 C.F.R. 200.326

Oversight

By Non-Federal
Entities

~~Non-federal entities~~ Recipients and subrecipients must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. [See also 2 C.F.R. 200.501(h).] 2 C.F.R. 200.318(b)

By Other
Governmental
Entities

The ~~non-federal entity must make available, upon request of the federal awarding~~ agency or pass-through entity, may review the technical specifications ~~on~~of proposed procurements ~~where under the federal award if~~ the federal ~~awarding~~ agency or pass-through entity believes ~~such~~the review is needed to ensure that the item or service specified is the one being proposed for acquisition. The recipient or subrecipient must submit the technical specifications of proposed procurements when requested by the federal agency or pass-through entity. This review ~~generally will~~should take place prior to the time the specification is incorporated into a solicitation document. ~~However, if~~When the ~~non-federal entity~~recipient or subrecipient desires to ~~have~~accomplish the review ~~accomplished~~ after a solicitation has been developed, the federal ~~awarding~~ agency or

pass-through entity may still review the specifications, ~~with such.~~ In those cases, the review ~~usually should be~~ limited to the technical aspects of the proposed purchase.

~~The non-federal entity must make available upon request, for the federal awarding agency or pass-through entity pre-procurement review.~~ When requested, the recipient or subrecipient must provide procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, to the federal agency or pass-through entity for pre-procurement review. The federal agency or pass-through entity may conduct a pre-procurement review when:

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

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

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

The ~~non-federal entity~~ recipient or subrecipient may self-certify its procurement system. ~~Such~~ However, self-certification ~~must~~ does not limit the federal ~~awarding~~ agency's or pass-through entity's right to

~~survey review~~ the system. Under a self-certification procedure, the federal ~~awarding~~ agency or pass-through entity may rely on written assurances from the ~~non-federal entity~~ recipient or subrecipient that it is complying with ~~these~~ the standards of 2 C.F.R. Part 200. The ~~non-federal entity~~ recipient or subrecipient must cite specific policies, procedures, regulations, or standards as ~~being in compliance~~ complying with these requirements and have its system available for review.

2 C.F.R. 200.325

Settlement of Contractual and Administrative Issues

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

Travel Costs

Travel costs ~~are~~ include the ~~expenses for~~ transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business of the ~~non-federal entity~~. ~~Such~~ recipient or subrecipient. ~~These~~ costs may be charged on an actual cost basis, on a per diem or mileage basis ~~in lieu of actual costs incurred~~, or on a combination of the two, provided the method used is applied to an entire trip and not to selected days of the trip ~~, and results in charges~~. The method used must be consistent with those normally allowed in like circumstances in the ~~non-federal entity's non-federally funded~~ recipient's or subrecipient's other activities and in accordance with ~~non-federal entity's~~ the recipient's or subrecipient's established written ~~travel reimbursement~~ policies. Notwithstanding the provisions of 2 C.F.R. 200.444, travel costs of officials covered by that section are allowable with the prior written approval of the federal ~~awarding~~ agency or pass-through entity when they are specifically related to the federal award. Charges for travel costs are subject to 2 C.F.R. 200.475. 2 C.F.R. 200.475(a)

Records

Records Retention Generally

~~Financial records, supporting documents, statistical records,~~ The recipient and ~~all other non-federal entity records pertinent to a sub-~~ recipient must retain all federal award ~~must be retained~~ records for ~~a period of~~ three years from the date of submission of ~~the~~ their final expenditure report ~~or, for federal~~. For awards that are renewed

quarterly or annually, the recipient and subrecipient must retain records for three years from the date of ~~the~~ submission of ~~the~~ their quarterly or annual financial report, respectively, ~~as reported~~. Records to be retained include but are not limited to the federal awarding agency or pass-through entity in the case of a subrecipient, financial records, supporting documentation, and statistical records. Federal ~~awarding~~ agencies ~~and~~ or pass-through entities ~~must~~ may not impose any other record retention requirements ~~upon non-federal entities with the exception of~~ except for those situations described by 2 C.F.R. 200.334. 2 C.F.R. 200.334

Procurement

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

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

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

Access to
Records

By
Governmental
Entities

The federal ~~awarding agency, Inspector or pass-through entity, Inspectors~~ General, ~~the~~ Comptroller General of the United States, ~~and the pass-through entity,~~ or any of their authorized representatives, must have the right of access to any ~~documents, papers, or other~~ records of the ~~non-federal entity which are~~ recipient or subrecipient pertinent to the federal award, ~~in order to make perform~~ audits, ~~examinations, excerpts, and transcripts.~~ execute site visits, or for any other official use. The right also includes timely and reasonable access to the ~~non-federal entity's~~ recipient's or subrecipient's personnel for the purpose of interview and discussion related to such documents. ~~The rights or the federal award in general.~~

The recipient or subrecipient and federal agency or pass-through entity must take measures to protect the name of victims of a crime when access ~~are not limited to the required retention period but last as long as the records are retained.~~

victim's name is necessary. Only under extraordinary and rare circumstances would such access include review of the true name of victims of a crime. Routine monitoring cannot be considered extraordinary and rare circumstances that would necessitate access to this information. ~~When~~ Any such access, other than under a court order or subpoena pursuant to the true name of victims of a crime is necessary, appropriate steps to protect this sensitive information a bona fide confidential investigation, must be ~~taken~~ ap-proved by ~~both the head or delegate of the non-federal entity and the federal awarding~~ agency.

The federal agency's or pass-through entity's rights of access are not limited to the required retention period of 2 C.F.R. Part 200 but last as long as the records are retained. Federal agencies or pass-through entities must not impose any other access requirements upon recipients and subrecipients.

2 C.F.R. 200.337

By the Public

~~No federal awarding agency~~ Federal agencies may not place restrictions on the ~~non-federal entity~~ recipient or subrecipient that limit public access to the records of the ~~non-federal entity~~ recipient or subrecipient pertinent to a federal award, except for protected personally identifiable information (PII) or other sensitive information when the federal ~~awarding~~ agency can demonstrate that such records will be kept confidential and would have been exempted from disclosure pursuant to the Freedom of Information Act, 5 U.S.C. 552, or controlled unclassified information pursuant to Executive Order 13556 if the records had belonged to the federal ~~awarding~~ agency. The Freedom of Information Act (FOIA), 5 U.S.C. 552, does not apply to ~~those~~ records that remain under ~~a non-federal entity's~~ the recipient's or subrecipient's control except as required

under 2 C.F.R. 200.315. Unless required by federal, state, local, ~~and/or~~ tribal ~~statute, non-federal entities~~ law, recipients and subrecipients are not required to permit public access to their records. The ~~non-federal entity's~~ recipient's or subrecipient's records provided to a federal agency generally will be subject to FOIA and applicable exemptions. 2 C.F.R. 200.338

Performance
Reports

*Monitoring
Required*

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

*Reporting
Generally*

The federal ~~awarding~~ agency must use OMB-approved common information collections, ~~as applicable,~~ (for example, Research Performance Progress Reports) when ~~providing financial and request-~~ ing performance reporting information. ~~As appropriate and in accordance with above-mentioned information collections, the~~ The federal ~~awarding~~ agency ~~must require the recipient to or pass-~~ through entity may not collect performance reports more frequently than quarterly unless a specific condition has been implemented in accordance with Section 200.208. To the extent practicable, the federal agency or pass-through entity should align the due dates of performance reports and financial reports. When reporting program performance, the recipient or subrecipient must relate financial data and project or program accomplishments to the performance goals and objectives of the federal award. Also, ~~in accordance with above-mentioned common information collections, and when required by the terms and conditions of the federal award, recipient-~~ the recipient or subrecipient must provide cost information to demonstrate cost-effective practices (~~e.g., for example,~~ through unit-cost data) ~~when required by the terms and conditions of the federal award.~~ In some instances (~~e.g., for example,~~ discretionary research awards), this ~~will~~ may be limited to the requirement to submit technical performance reports ~~(to be evaluated in accordance with federal awarding agency policy).~~ Reporting requirements must ~~be~~ clearly articulated such that, ~~where appropriate, perfor-~~ mance during the execution of the federal award has indicate a standard against which ~~non-federal entity~~ recipient's or subrecipient's performance can be measured. Reporting requirements should not solicit information from the recipient or subrecipient that is not necessary for the effective monitoring or evaluation of the

*Nonconstruction
Performance
Reports*

federal award. Federal agencies should consult monitoring framework documents such as the agency's Evaluation Plan to make that determination. As noted in OMB Circular A-11, Part 6, Section 280, measures of customer experience are of co-equal importance as traditional measures of financial and operational performance. 2 C.F.R. 200.329(b)

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

~~The non-federal entity~~recipient or subrecipient must submit performance reports ~~at the interval~~as required by the federal ~~awarding agency or pass-through entity to best inform improvements in program outcomes and productivity.~~award. Intervals must be no less frequent than annually nor more frequent than quarterly except ~~in unusual circumstances, for example where more frequent reporting is necessary for the effective monitoring of the federal award or could significantly affect program outcomes.~~if specific conditions are applied [see Section 200.208]. Reports submitted annually by the ~~non-federal entity and/or pass-through entity~~recipient or subrecipient must be due no later than 90 calendar days after the reporting period. Reports submitted quarterly or semiannually ~~reports~~ must be due no later than 30 calendar days after the reporting period. Alternatively, the federal ~~awarding~~ agency or pass-through entity may require annual reports before the anniversary dates of multiple year federal awards. The final performance report submitted by the ~~non-federal entity and/or pass-through entity~~recipient must be due no later than 120 calendar days after the period of performance ~~end date.~~ A subrecipient must submit a final performance report to the pass-through entity, no later than 90 calendar days after the conclusion of the period of performance ~~end date, all final performance reports as required by the terms and conditions of the federal award.~~] [See also 2 C.F.R. 200.344. ~~If a justified request is submitted by a non-federal entity,~~] The federal agency or pass-through entity may extend the due date for any performance report with justification from the recipient or subrecipient.

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

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

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

2. ~~The reasons~~Explanations on why established goals or objectives were not met, ~~if appropriate.~~
3. Additional ~~pertinent~~ information ~~including, when appropriate,~~ analysis, and explanation of cost overruns or ~~high~~higher-than-expected unit costs.

2 C.F.R. 200.329(c)

*Construction
Performance
Reports*

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

*Significant
Developments*

4. ~~Events may occur~~When a significant development that could impact the federal award occurs between ~~the scheduled~~ performance reporting due dates ~~that have significant impact upon~~ the supported activity. In such cases, the non-federal ~~entity~~recipient or subrecipient must ~~inform~~notify the federal ~~awarding~~ agency or pass-through entity ~~as soon as the following types of conditions become known:~~ Significant developments include events that enable meeting milestones and objectives sooner or at less cost than anticipated or that produce different beneficial results than originally planned. Significant developments also include problems, delays, or adverse conditions which will ~~materially impair the~~impact the recipient's or subrecipient's ability to meet milestones or the objective~~objectives~~ of the federal award. ~~This disclosure~~When significant developments occur that negatively impact the federal award, the recipient or subrecipient must include ~~a statement of the information on their plan for corrective~~ action ~~taken, or contemplated,~~ and any assistance needed to resolve the situation.

5. ~~Favorable developments which enable meeting time schedules and objectives sooner or at less cost than anticipated or~~

	<p>producing more or different beneficial results than originally planned.</p> <p>2 C.F.R. 200.329(e)</p>
Site Visits	<p>The federal awarding agency <u>or pass-through entity</u> may make <u>conduct in-person or virtual</u> site visits as warranted by program needs.</p> <p>2 C.F.R. 200.329(f)</p>
Waiver	<p>The federal awarding agency may waive any performance report required by 2 C.F.R. Part 200 if that is not needed. <u>necessary to ensure the goals and objectives of the federal award are being achieved.</u> 2 C.F.R. 200.329(g)</p>
Real Property Reports	<p>The federal awarding agency or pass-through entity must require a non-federal entity <u>the recipient or subrecipient</u> to submit reports at least annually on the status of real property in which the federal government retains an interest in accordance with 2 C.F.R. 200.330. <u>Such reports must be submitted at least annually.</u> 2 C.F.R. 200.330</p>
Audits	<p>A non-federal entity that expends \$750<u>1,000</u>,000 or more during the non-federal entity's fiscal year in federal awards must have a single or program-specific audit conducted for that year in accordance with the provisions of 2 C.F.R. Part 200.</p> <p>A non-federal entity that expends less than \$750<u>1,000</u> during the non-federal entity's fiscal year <u>,000</u> in federal awards <u>during its fiscal year</u> is exempt from federal audit requirements for that year, except as noted in 2 C.F.R. 200.503, but. <u>However, in all instances, the records of the non-federal entity must be available for review or audit by appropriate officials of the federal agency, pass-through entity, and the Government Accountability Office (GAO).</u> 2 C.F.R. 200.501(a), (d)</p> <p><u>2 C.F.R. 200.501(a), (e)</u></p>
Collection of Amounts Due	<p>Any <u>federal</u> funds paid to the non-federal entity <u>recipient or subrecipient</u> in excess of the amount to which that the non-federal entity <u>recipient or subrecipient</u> is finally determined to be entitled under the terms of the federal award constitute a debt to the federal government. If not paid within 90 calendar days after demand, the <u>The federal agency must collect all debts arising out of its</u> federal awarding agency may reduce the debt by:</p> <p>6. Making an administrative offset against other requests for reimbursements;</p> <p>7. Withholding advance payments otherwise due to the non-federal entity; or</p>

~~8.—Other action permitted by federal statute.~~

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

Part 901. 2 C.F.R. 200.346

Mandatory
Disclosure

~~The non-federal entity or An~~ applicant ~~for , recipient, or subrecipi-~~
~~ent of~~ a federal award must promptly disclose whenever, in ~~a timely~~
~~manner, in writing to the federal awarding agency or pass-through~~
~~entity all violations~~ connection with the federal award, including any
activities or subawards thereunder, it has credible evidence of the
commission of a violation of federal criminal law involving fraud,
conflict of interest, bribery, or gratuity violations ~~potentially affecting~~
~~the federal award. Non-federal entities that have received a federal~~
~~award including found in Title 18 of the term and condition outlined~~
~~in United States Code or a violation of the civil False Claims Act, 31~~
~~U.S.C. 3729-3733. The disclosure must be made in writing to the~~
~~federal agency, the agency's Office of Inspector General, and~~
~~pass-through entity, if applicable. Recipients and subrecipients are~~
~~also required to report matters related to recipient integrity and per-~~
~~formance in accordance with~~ Appendix XII to 2 C.F.R. Part 200 ~~are~~
~~required to report certain civil, criminal, or administrative proceed-~~
~~ings to the System for Award Management (SAM) (currently Fed-~~
~~eral Awardee Performance and Integrity Information System or~~
~~FAPIS).~~ Failure to make required disclosures can result in any of
the remedies described in 2 C.F.R. 200.339. ~~[See also 2 C.F.R.~~
~~Part 180, 31 U.S.C. 3321, and 41 U.S.C. 2313]~~ 2 C.F.R. 200.113

Noncompliance

~~If a non-~~ The federal entity agency or pass-through entity may imple-
ment specific conditions if the recipient or subrecipient fails to com-
ply with the U.S. Constitution, federal statutes, regulations, or ~~the~~
terms and conditions of ~~a the~~ federal award, ~~the federal awarding~~
~~agency or pass-through entity may impose additional conditions,~~
~~as described in.~~ [See 2 C.F.R. 200.208. ~~If for additional information~~
on specific conditions.] When the federal ~~awarding~~ agency or pass-
through entity determines that noncompliance cannot be remedied
by imposing ~~additional~~ specific conditions, the federal ~~awarding~~
agency or pass-through entity may take one or more of the follow-
ing actions, ~~as appropriate in the circumstances:~~

1. Temporarily withhold ~~cash~~ payments ~~pending correction of the~~
~~deficiency by the non-federal entity or more severe enforce-~~
~~ment~~ until the recipient or subrecipient takes corrective action
~~by the federal awarding agency or pass-through entity.~~

2. Disallow ~~(that is, deny both use of funds and any applicable matching credit for)~~ costs for all or part of the ~~cost of the~~ activity associated with the noncompliance of the recipient or action not in compliance subrecipient.
3. ~~Wholly or partly~~ Suspend or terminate the federal award in part or in its entirety.
4. Initiate suspension or debarment proceedings as authorized under 2 C.F.R. Part 180 and federal ~~awarding agency-~~ agency's regulations, or ~~in the case of a for~~ pass-through ~~entity~~ entities, recommend ~~such a proceeding~~ suspension or debarment proceedings be initiated by ~~a the~~ federal ~~awarding~~ agency.
5. Withhold further federal funds (new awards or continuation funding) for the project or program.
6. ~~Take~~ Pursue other ~~remedies that may be~~ legally available remedies.

2 C.F.R. 200.339

Opportunities to
Object

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

Suspension and
Debarment

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

Termination of
Federal Award

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

1. By the federal ~~awarding agency~~ or pass-through entity, if ~~a non-federal entity~~ the recipient or subrecipient fails to comply with the terms and conditions of ~~a the~~ federal award.

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

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

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

U.S. Education
Department
General
Administrative
Regulations

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

*Direct Grant
Programs*

The regulations in 34 C.F.R. Part 75 apply to each direct grant program of the U.S. Department of Education, except as specified in Part 75 for direct formula grant programs, as referenced in 34 C.F.R. 75.1(c)(3). 34 C.F.R. 75.1(a)

<i>State-administered Programs</i>	The regulations in 34 C.F.R. Part 76 apply to each state-administered formula grant program of the U.S. Department of Education. <i>34 C.F.R. 76.1(a)</i>
<i>General Education Provision Act</i>	The regulations in 34 C.F.R. Part 81 govern the enforcement of legal requirements under applicable programs administered by the U.S. Department of Education and implement Part E of the General Education Provisions Act (GEPA). <i>34 C.F.R. 81.1</i>
U.S. Department of Agriculture	Title 2 C.F.R. Part 400 adopts the OMB guidance in 2 C.F.R. Part 200, Subparts A-F, as supplemented by 2 C.F.R. Part 400, as U.S. Department of Agriculture (USDA) policies and procedures for uniform administrative requirements, cost principles, and audit requirements for federal awards. It thereby gives regulatory effect for the USDA to the OMB guidance, as supplemented by 2 C.F.R. Part 400. <i>2 C.F.R. 400.1</i>
U.S. Department of Defense	<p>U.S. Department of Defense (DOD) components must conform the format of new grants and cooperative agreements to the standard award format specified in 2 C.F.R. Part 1120. The standard format provides locations within the award for:</p> <ol style="list-style-type: none"> 1. General terms and conditions, including the administrative and national policy requirements discussed in 2 C.F.R. 1104.105(a) and (b), respectively; and 2. Any award-specific terms and conditions discussed in 2 C.F.R. 1104.110. <p><i>2 C.F.R. 1104.100</i></p> <p>On an interim basis pending completion of the update of the DOD Grant and Agreement Regulations (DODGARs) to implement OMB guidance published in 2 C.F.R. Part 200, the provisions of 2 C.F.R. Parts 1126 through 1138 govern the administrative requirements to be included in the general terms and conditions of DOD components' new grants and cooperative agreements awarded to institutions of higher education.</p> <p>2 C.F.R. Part 1122 governs the national policy requirements to be included in DOD components' new grants and cooperative agreements awarded to all types of entities.</p> <p><i>2 C.F.R. 1104.105(a)(1), (b)</i></p> <p>On an interim basis pending completion of the update of the DODGARs to implement OMB guidance published in 2 C.F.R. Part 200, the guidance in 2 C.F.R. Part 200 governs administrative requirements to be included in any award-specific terms and conditions used to supplement the general terms and conditions of a</p>

new grant or cooperative agreement awarded to an institution of higher education. 2 *C.F.R.* 1104.110(a)

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

U.S. Department of Health and Human Services

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

U.S. Department of Justice

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

U.S. Department of Labor

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

¹ Department of Health and Human Services Payment Management System (PMS) website: <https://pms.psc.gov/grant-recipients/returning-funds-interest.html>.

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Participation

An appraisal district is established in each county. The appraisal district is responsible for appraising property in the appraisal district for ad valorem tax purposes of each taxing unit that imposes ad valorem taxes on property in the appraisal district. *Tex. Const. Art. VIII, 18(b); Tax Code 6.01(a)-(b)*

**Appraisal District
Board of Directors**

Eligibility

The appraisal district is governed by a board of directors. Five directors are appointed by the taxing units that participate in the appraisal district as provided by Tax Code 6.03.

To be eligible to serve on the appraisal district board of directors, an individual other than a county assessor-collector serving as a nonvoting director must be a resident of the appraisal district and must have resided in the appraisal district for at least two years immediately preceding the date the individual takes office. An individual who is otherwise eligible to serve on the appraisal district board is not ineligible because of membership on the governing body of a taxing unit.

An employee of a taxing unit that participates in the appraisal district is not eligible to serve on the board of directors unless the individual is also a member of the governing body or an elected official of a taxing unit that also participates in the appraisal district.

Tax Code 6.03(a)

Restrictions

*Nepotism and
Delinquent Taxes*

An individual is ineligible to serve on an appraisal district board of directors and is disqualified from employment as chief appraiser if the individual:

1. Is related within the second degree by consanguinity or affinity, as determined under Government Code Chapter 573, Subchapter B [see DBE], to an individual who is engaged in the business of appraising property for compensation for use in proceedings under the Tax Code or of representing property owners for compensation in proceedings relating to property taxes in the appraisal district; or
2. Owns property on which delinquent taxes have been owed to a taxing unit for more than 60 days after the date the individual knew or should have known of the delinquency unless the delinquent taxes and any penalties and interest are being paid under an installment payment agreement under Tax Code 33.02 or a suit to collect the delinquent taxes is deferred or abated under Tax Code 33.06 or 33.065.

Tax Code 6.035(a)

*Prior Service or
Involvement with
Appraisals*

An individual is ineligible to serve on the board of directors of an appraisal district if the individual:

1. Has served as a member of the board of directors for all or part of five terms, unless the individual was the county assessor-collector at the time the individual served as a board member or the appraisal district is established in a county with a population of less than 120,000;
2. Has engaged in the business of appraising property for compensation for use in proceedings under the Tax Code at any time during the preceding three years;
3. Has engaged in the business of representing property owners for compensation in proceedings under the Tax Code in the appraisal district at any time during the preceding three years; or
4. Has been an employee of the appraisal district at any time during the preceding three years.

Tax Code 6.035(a-1)

*Conflict of
Interest*

An individual is not eligible to be [a candidate for, to be](#) appointed to, or to serve on the board of directors of an appraisal district if the individual or a business entity in which the individual has a substantial interest is a party to a contract with:

1. The appraisal district; or
2. A taxing unit that participates in the appraisal district, if the contract relates to the performance of an activity governed by the Tax Code.

An individual has a substantial interest in a business entity if the combined ownership of the individual and the individual's spouse is at least ten percent of the voting stock or shares of the business entity or the individual or the individual's spouse is a partner, limited partner, or officer of the business entity.

"Business entity" means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, or other entity recognized by law.

Tax Code 6.036(a), (d)-(e)

Recall

The governing board of a taxing unit may call for the recall of ~~an~~ [appointed](#) member of the board of directors of an appraisal district ~~appointed under Tax Code 6.03~~ for whom the [taxing](#) unit cast any of its votes in the appointment of the board ~~of directors~~. The call must be in the form of a resolution, be filed with the chief appraiser

of the appraisal district, and state that the [taxing](#) unit is calling for a recall of the member. *Tax Code 6.033(a)*

Terms

The taxing units participating in an appraisal district may provide that the terms of the appointed members of the appraisal district board of directors be staggered if the governing bodies of at least three-fourths of the taxing units that are entitled to vote on the appointment of appraisal district board members adopt resolutions providing for the staggered terms. *Tax Code 6.034(a)*

Prohibition on Contracts

[A taxing unit may not enter into a contract relating to the performance of an activity governed by Tax Code Title 1 with a member of the board of directors of an appraisal district in which the taxing unit participates or with a business entity in which a member of the board has a substantial interest, as defined in Tax Code 6.036. *Tax Code 6.036\(c\)*](#)

Appraisal District Employment Restriction

An individual may not be employed by an appraisal district if the individual:

1. Is an officer of a taxing unit that participates in the appraisal district;
2. Is an employee of a taxing unit that participates in the appraisal district; or
3. Has served as a member of the appraisal review board for the appraisal district at any time during the preceding two years.

Tax Code 6.054

Appraisal Office

The board of directors of an appraisal district may contract with an appraisal office in another appraisal district or with a taxing unit in the appraisal district to perform the duties of the appraisal office for the appraisal district. *Tax Code 6.05(b)*

Ownership or Lease of Real Property

The acquisition or conveyance of real property or the construction or renovation of a building or other improvement by an appraisal district must be approved by the governing bodies of three-fourths of the taxing units entitled to vote on the appointment of appraisal district board members.

The appraisal district board of directors by resolution may propose a property transaction or other action for which Tax Code 6.051 requires approval of the taxing units. The chief appraiser shall notify the presiding officer of each governing body entitled to vote on the approval of the proposal by delivering a copy of the appraisal district board's resolution, together with information showing the costs of other available alternatives to the proposal.

On or before the 30th day after the date the presiding officer receives notice of the proposal, the governing body of a taxing unit by resolution may approve or disapprove the proposal. If a governing body fails to act on or before that 30th day or fails to file its resolution with the chief appraiser on or before the tenth day after that 30th day, the proposal is treated as if it were disapproved by the governing body.

Tax Code 6.051(b)

Proceeds

The appraisal district's board of directors may convey real property owned by the district, and the proceeds shall be credited to each taxing unit that participates in the appraisal district in proportion to the unit's allocation of the appraisal district budget in the year in which the transaction occurs. *Tax Code 6.051(c)*

**Budget and
Financing**

Each year the chief appraiser shall prepare a proposed budget for the operations of the appraisal district for the following tax year as described in Tax Code 6.06(a) and shall submit copies to each taxing unit participating in the appraisal district and to the appraisal district board of directors before June 15. *Tax Code 6.06(a)*

Public Posting

Each taxing unit entitled to vote on the appointment of appraisal district board members shall maintain a copy of the proposed budget for public inspection at its principal administrative office. *Tax Code 6.06(a)*

Budget Adoption

The appraisal district board of directors shall hold a public hearing to consider the budget. The secretary of the appraisal district board shall deliver to the presiding officer of the governing body of each taxing unit participating in the appraisal district not later than the tenth day before the date of the hearing a written notice of the date, time, and place fixed for the hearing. The appraisal district board of directors shall complete its hearings, make any amendments to the proposed budget it desires, and finally approve a budget before September 15.

If governing bodies of a majority of the taxing units entitled to vote on the appointment of appraisal district board members adopt resolutions disapproving a budget and file them with the secretary of the appraisal district board within 30 days after its adoption, the budget does not take effect, and the appraisal district board shall adopt a new budget within 30 days of the disapproval.

Tax Code 6.06(b)

Amendments

The appraisal district board may amend the approved budget at any time, but the secretary of the appraisal district board must deliver a written copy of a proposed amendment to the presiding officer of the governing body of each taxing unit participating in the

	appraisal district not later than the 30th day before the date the appraisal district board acts on it. <i>Tax Code 6.06(c)</i>
Allocation	Each taxing unit participating in the appraisal district is allocated a portion of the amount of the budget and must pay its allocation as provided by Tax Code 6.06. <i>Tax Code 6.06(d)</i>
Changes in Method of Financing	<p>The board of directors of an appraisal district, by resolution adopted and delivered to each taxing unit participating in the appraisal district after June 15 and before August 15, may prescribe a different method of allocating the costs of operating the appraisal district unless the governing body of any taxing unit that participates in the appraisal district adopts a resolution opposing the different method, and files it with the appraisal district board of directors before September 1. If an appraisal district board proposal is rejected, the appraisal district board shall notify, in writing, each taxing unit participating in the appraisal district before September 15.</p> <p>The taxing units participating in an appraisal district may adopt a different method of allocating the costs of operating the appraisal district in accordance with Tax Code 6.061.</p> <p><i>Tax Code 6.061(a)-(b)</i></p>
Disapproval of Appraisal District Board Actions	If the governing bodies of a majority of the taxing units entitled to vote on the appointment of appraisal district board members adopt resolutions disapproving an action, other than adoption of the budget, by the appraisal district board of directors and file them with the secretary of the appraisal district board within 15 days after the action is taken, the action is revoked effective the day after the day on which the required number of resolutions is filed. <i>Tax Code 6.10</i>
Prohibited Communications	A member of the governing body, officer, or employee of a taxing unit commits an offense if the person directly or indirectly communicates with the chief appraiser or another employee of the appraisal district in which the taxing unit participates for the purpose of influencing the value at which property in the district is appraised unless the person owns or leases the property that is the subject of the communication. <i>Tax Code 6.155</i>
Appraisal Review Boards	An appraisal review board is established for each appraisal district, unless the boards of directors of two or more adjoining appraisal districts provide for the operation of a consolidated appraisal review board by interlocal contract. Members of the appraisal review board are appointed by the local administrative district judge under Government Code Chapter 74, Subchapter D, in the county in which the appraisal district is established.

The board of directors of an appraisal district, by resolution of a majority of the members, may provide for a number of auxiliary appraisal review board members that the appraisal district board considers appropriate to hear taxpayer protests before the appraisal review board and to assist the board in performing its duties.

Members of the appraisal review board, including auxiliary members, are subject to the eligibility restrictions described in Tax Code 6.412, including prohibitions on service by college district board members, officers, and employees, and Tax Code 6.413, including prohibitions on service by individuals who are parties to certain contracts.

Tax Code 6.41, .412–.413, .414(a)–(b)

Prohibition on
Contracts

A taxing unit may not enter into a contract with a member of the appraisal review board established for an appraisal district in which the taxing unit participates or with a business entity in which a member of the appraisal review board has a substantial interest as defined in Tax Code 6.413. *Tax Code 6.413(c)*

Challenge Before
Appraisal Review
Board

A taxing unit is entitled to challenge before the appraisal review board:

1. An exclusion of property from the appraisal records;
2. A grant in whole or in part of a partial exemption;
3. A determination that land qualifies for appraisal as provided by Tax Code Chapter 23, Subchapter C, D, E, or H; or
4. Failure to identify the taxing unit as one in which a particular property is taxable.

Tax Code 41.03(a)

Financial Accounting and Reporting

A public junior college must submit data through required reporting mechanisms established by the Coordinating Board. The Coordinating Board may use information obtained through required reporting for:

1. Calculating funding disbursed under 19 Administrative Code Chapter 13;
2. Providing timely data and analyses to inform management decisions by the governing body of each public junior college district;
3. Administering or evaluating the effectiveness of programs; or
4. Auditing the program.

Education Code 61.065(a), 130A.006; 19 TAC 13.524(a), .526(a)
[See CAAA]

Annual Financial Report

Each public junior college ~~district~~ must submit their Annual Financial Report (AFR) for the preceding fiscal year by January 1. The public junior college must submit the AFR following the requirements provided in the Coordinating Board's [Budget Requirements and Annual Financial Reporting Requirements for Texas Public Community Colleges](#)¹, also known as the AFR Manual, for that fiscal year, in accordance with Education Code 61.065.

Each public junior college must report AFR data for each completed fiscal year as prescribed in the Community College Reporting and Analysis Tool (CARAT) by January 31 of the following fiscal year.

19 TAC 13.524(b)(1)-(2); General Appropriations Act, 88th Leg., R.S., H.B. 1, III-231

Report of Fundable Operating Expenses

Each public junior college must report all instructional expenses from each completed fiscal year for each institutional discipline and unallocated administrative expenses as defined in the [Report of Fundable Operating Expenses \(RFOE\)](#)² by January 31 of the following fiscal year.

Coordinating Board staff shall use the data provided on expenses at public junior colleges to produce a study of costs for each instructional discipline each year. This study will review all expenses made by institutions for instruction and administration from all unrestricted sources of funds, including appropriated general revenue, tuition and fees, contract instruction, other educational and general revenue, and local tax revenue.

19 TAC 13.524(c)

Integrated Fiscal
Reporting System

Each public junior college shall report comprehensive tuition and fee financial data each fiscal year through the Integrated Fiscal Reporting System (IFRS).

The Coordinating Board may use data reported through IFRS to establish average annual tuition and fee charges as necessary to implement 19 Administrative Code Chapter 13.

19 TAC 13.143, 524(d); [Integrated Fiscal Reporting System \(IFRS\): Handbook for Reporting Officials, September 2023 \(PDF\)](#)³ [See FD]

**Annual Financial
Statement**

The governing body of a junior college district shall prepare an annual financial statement showing for each fund subject to the authority of the governing body during the fiscal year:

1. The total receipts of the fund, itemized by source of revenue, including taxes, assessments, service charges, grants of state money, gifts, or other general sources from which funds are derived;
2. The total disbursements of the fund, itemized by the nature of the expenditure; and
3. The balance in each fund at the close of the fiscal year.

Local Gov't Code 140.005

Publication and
Filing

The presiding officer of a governing body shall submit the financial statement to a newspaper in each county in which the district or any part of the district is located. If a district is located in more than one county, the financial statement may be published in a newspaper that has general circulation in the district. If a newspaper is not published in the county, the financial statement may be published in a newspaper in an adjoining county.

A statement shall be published not later than two months after the date the fiscal year ends.

Local Gov't Code 140.006

**Annual Local Debt
Report**

A political subdivision, including a college district, shall annually compile and report certain financial information in the manner prescribed by this section. The Annual Local Debt Report to be compiled and reported by a political subdivision must include the following financial information:

1. Regarding total authorized debt obligations:
 - a. The amount of all authorized debt obligations;
 - b. The principal of all outstanding debt obligations;

- c. The combined principal and interest required to pay all outstanding debt obligations on time and in full;
 - d. The amount of all authorized debt obligations secured by property taxes;
 - e. The principal of all outstanding debt obligations secured by property taxes;
 - f. The combined principal and interest required to pay all outstanding debt obligations secured by property taxes on time and in full;
 - g. The combined principal and interest required to pay all outstanding debt obligations on time and in full for all obligations secured by property taxes expressed as a per capita amount; and
 - h. The current credit rating on total debt obligations given by any nationally recognized credit rating organization.
2. Regarding each authorized debt obligation:
- a. The principal of each outstanding debt;
 - b. The combined principal and interest required to pay each outstanding debt obligation on time and in full;
 - c. The issued and unissued amounts, the spent and unspent amounts, the maturity date and the stated purpose for which each debt obligation was authorized; and
 - d. The current credit rating on each debt obligation given by any nationally recognized credit rating organization.
3. Any other information considered relevant or necessary to explain the above required data elements, such as explanations of payment sources for different kinds of debt or projections of per capita amounts of ad valorem taxation-secured obligations as of the last day of the maximum term of the most recent debt obligation issued by the political subdivision.

Local Gov't Code 140.008(b); 34 TAC 10.2

Form

The comptroller shall provide a location on the comptroller's internet website where a political subdivision may submit the financial information described in 34 Administrative Code 10.2 and any other related information required or requested by the comptroller for the Annual Local Debt Report. The comptroller shall prescribe the form and manner in which financial information, financial documents, and related information must be submitted under 34 Administrative Code Chapter 10, Subchapter A. These instructions and

other information related to local government debt reporting will be provided on the [comptroller's internet website](#).⁴

34 TAC 10.3

Availability and
Posting

On an annual basis, and within 180 days of the end of the most recently completed fiscal year, a political subdivision shall, in accordance with the reporting requirements set forth under Local Government Code 140.008, either:

1. Submit an Annual Local Debt Report to the comptroller as described in 34 Administrative Code 10.3, in the form and in the manner prescribed by the comptroller and, if the political subdivision maintains an internet website, continually maintain a link from its website to the location on the comptroller's website where the political subdivision's financial information may be viewed; or
2. Post its contact information and the information required in an Annual Local Debt Report on the political subdivision's own internet website and make the report available for inspection by any person in accordance with other law.

~~For fiscal year 2019 and fiscal year 2020, a political subdivision shall submit to the comptroller or post the annual debt information described in 34 Administrative Code 10.4(a) by the later of 180 days after the end of the respective fiscal year or 180 days after the effective date of Section 10.4, as amended.~~

A political subdivision that elects to post a report of its financial information on its own internet website as described in 34 Administrative Code 10.4(a)(2) shall provide upon request an electronic link to the location on the political subdivision's website where the information can be viewed to facilitate compliance with the requirements of Section 10.4(a) and to enable the comptroller to maintain a searchable database of local debt information that is comprehensive, accurate, and complete.

Local Gov't Code 140.008(c)-(d), (f); 34 TAC 10.4(a), (c)

State Expenditure
Database

A state agency, including a college district, is required to cooperate with and provide information to the comptroller as necessary to implement and administer the state expenditure database. A state agency is not required to record information or expend resources for the purpose of computer programming or other additional actions necessary to make information reportable under this section.

Each state agency that maintains a generally accessible internet site or for which a generally accessible internet site is maintained

shall include a link on the agency's internet site to the state expenditure database.

Gov't Code 403.024(g)-(h), 2054.126

**Publication of
Financial
Transactions**

Each institution of higher education, including each college district, shall post on the institution's internet website a copy of the institution's financial transactions to the extent necessary to provide, for each payment drawn from money appropriated from the state general revenue fund or received as student tuition or fee payments:

1. The amount of the payment;
2. The date of the payment;
3. A brief description of the purpose of the payment; and
4. The name of the payee.

An institution of higher education may comply by providing on the institution's internet website an easily noticeable direct link, the purpose of which is clearly identifiable, to an internet website maintained by the comptroller that provides information concerning the institution that is similar to the information required above.

Education Code 51.974

¹ Budget Requirements and Annual Financial Reporting Requirements for Texas Public Community Colleges, Fiscal Year ~~2023~~2024 (PDF): <https://reportcenter.highered.texas.gov/agency-publication/guidelines-manuals/annual-financial-reporting-manual-for-texas-public-community-colleges-2024/>

² Report of Fundable Operating Expenses (RFOE): <http://www.txhighered-data.org/index.cfm?objectid=65B6EE90-D879-11E8-BB650050560100A9>

³ Integrated Fiscal Reporting System (IFRS): Handbook for Reporting Officials, September 2023 (PDF): <https://reportcenter.highered.texas.gov/agency-publication/guidelines-manuals/integrated-fiscal-reporting-system-ifrs-manual/>

⁴ Comptroller's internet website: <https://comptroller.texas.gov/transparency/>

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**Section I: College
District Peace
Officers**

The governing board of each state institution of higher education, including each college district, may employ and commission peace officers to maintain law and order. The primary jurisdiction of a peace officer so commissioned includes all counties in which property is owned, leased, rented, or otherwise under the control of the institution of higher education that employs the peace officer.

Within a peace officer's primary jurisdiction, a peace officer:

1. Is vested with all the powers, privileges, and immunities of peace officers.
2. May, in accordance with Code of Criminal Procedure Chapter 14 arrest without a warrant any person who violates a law of the state.
3. May enforce all traffic laws on streets and highways.

Outside a peace officer's primary jurisdiction a peace officer commissioned under this section is vested with all the powers, privileges, and immunities of peace officers and may arrest any person who violates any law of the state if the peace officer:

1. Is summoned by another law enforcement agency to provide assistance;
2. Is assisting another law enforcement agency; or
3. Is otherwise performing duties as a peace officer for the institution of higher education that employs the peace officer.

Any officer assigned to duty and commissioned shall take and file the oath required of peace officers.

Any person commissioned under this section must be a certified police officer under the requirements of the Texas Commission on Law Enforcement (TCOLE).

Education Code 51.203; Code of Criminal Procedure Art.

~~2.12~~[2A.001](#)

Law Enforcement
Agency

To establish that an agency or a prospective agency meets the minimum standards for the creation or continued operation of a law enforcement agency, the agency must provide evidence that the agency:

1. Provides public benefit to the community;
2. Has sustainable funding sources that meet or exceed the continued operating expenses outlined in a line-item budget for the agency;

3. Has physical resources available to officers, including:
 - a. At least one firearm per officer on duty;
 - b. At least one less lethal force weapon per officer on duty;
 - c. Effective communications equipment, specifically:
 - (1) At least one radio communication device per officer on duty performing patrol, courtroom security, traffic enforcement, responding to calls for service, assigned to a controlled access point, acting as a visual deterrent to crime, surveillance, warrant execution, and service of civil process; and
 - (2) At least one cell phone device per officer on duty who may have contact with the general public and is not performing any of the duties described in item 3c(1);
 - d. At least one bullet-resistant vest per officer on duty with vest panels that have been certified as compliant by the National Institute of Justice (NIJ), are within the ballistic performance warranty period listed by the manufacturer on the affixed tags, and have never been shot or otherwise compromised;
 - e. At least one uniform per officer whose duties include any of the following: performing patrol, traffic enforcement, responding to calls for service, assigned to a controlled access point, acting as a visual deterrent to crime, warrant execution, or service of civil process;
 - f. At least one motor vehicle owned and insured by an agency created on or after June 1, 2024; and
 - g. Patrol vehicles owned, insured, and equipped by the agency and provided to officers whose duties include any of the following: performing patrol, traffic enforcement, or responding to calls for service;
4. Has physical facilities, including:
 - a. An evidence room or other acceptable secure evidence storage for officers whose duties include any of the following: performing patrol, traffic enforcement, criminal investigations, responding to calls for service, or executing search or arrest warrants;
 - b. A dispatch area for any agency appointing and employing telecommunicators; and

- c. A public area including written notices posted and visible 24 hours a day explaining how to receive the most immediate assistance in an emergency, how to make a nonemergency report of a crime, and how to make a compliment or complaint on a member of the agency by mail, online, or by phone;
- 5. Has policies, including policies on:
 - a. Use of force;
 - b. Vehicle pursuit;
 - c. Professional conduct of officers;
 - d. Domestic abuse protocols;
 - e. Response to missing persons;
 - f. Supervision of part-time officers;
 - g. Impartial policing;
 - h. Medical and psychological examination of licensees;
 - i. Active shooters;
 - j. Barricaded subjects;
 - k. Evidence collection and handling;
 - l. Eyewitness identification;
 - m. Misconduct investigations;
 - n. Hiring a license holder;
 - o. Personnel files;
 - p. Uniform and dress code;
 - q. Training required to maintain licensure; and
 - r. Outside and off-duty employment;
- 6. Has an established administrative structure, including:
 - a. An organizational chart for the agency that illustrates the division and assignment of licensed and unlicensed personnel;
 - b. A projection for the number of full-time peace officers, part-time peace officers, and unpaid peace officers that the agency would employ during the year if at full staffing; and

c. The number of School Resource Officer (SRO) positions employed by the agency and working in schools if the agency is not an independent school district (ISD) police department;

7. Has liability insurance for the agency and its vehicles;

8. Has a defined process by which the agency will receive by mail, online, and by phone and document compliments and complaints on its employees; and

9. Any other information TCOLE requires.

Occupations Code 1701.163; 37 TAC 211.16(a)

Report

All law enforcement agencies must complete and submit an annual report due between January 1st and March 1st of each year documenting their continued compliance with the requirements of 37 Administrative Code 211.16. 37 TAC 211.16(f)

Motor Vehicle Stops
Reports Required

A peace officer who stops a motor vehicle for an alleged violation of a law or ordinance shall report to the law enforcement agency that employs the officer information relating to the stop, including:

1. A physical description of any person operating the motor vehicle who is detained as a result of the stop, including:

- a. The person's gender;
- b. The person's race or ethnicity, as stated by the person or, if the person does not state the person's race or ethnicity, as determined by the officer to the best of the officer's ability;

2. The initial reason for the stop;

3. Whether the officer conducted a search as a result of the stop and, if so, ~~whether the person detained consented to the search;~~

a. Whether the individual detained consented to the search;

b. The reason for the search, including whether any contraband or other evidence was in plain view, any probable cause or reasonable suspicion existed to perform the search, or the search was performed because the motor vehicle was towed or because of the arrest of any individual in the motor vehicle; and

~~a.c.~~ Whether any contraband or other evidence was discovered in the course of the search and a description of the contraband or evidence;

~~4. The reason for the search, including whether:~~

~~a. Any contraband or other evidence was in plain view;~~

~~b. Any probable cause or reasonable suspicion existed to perform the search; or~~

~~c. The search was performed as a result of the towing of the motor vehicle or the arrest of any person in the motor vehicle;~~

4. Whether the officer made an arrest as a result of the stop or the search, ~~including~~ and if so, a statement of:

~~d.a.~~ Whether the arrest was based on a violation of the Penal Code, a violation of a traffic law or ordinance, or an outstanding warrant ~~and a statement of:~~ and ~~The offense charged;~~

~~e.b.~~ The offense charged:

5. The street address or approximate location of the stop;

6. Whether the officer issued a verbal or written warning or a ticket or citation as a result of the stop; and

7. Whether the officer used physical force that resulted in bodily injury, ~~as that term is defined by Penal Code 1.07~~ during the stop.

The chief administrator of a law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, is responsible for auditing the reports to ensure that the race or ethnicity of the person operating the motor vehicle is being reported.

Code of Criminal Procedure ~~2.133~~ 2B.0054

A law enforcement agency, including a college district police department, shall compile and analyze the information contained in each report received by the agency under Code of Criminal Procedure ~~2.133~~ 2B.0054. Not later than March 1 of each year, each law enforcement agency shall submit a report containing the incident-based data compiled during the previous calendar year, in accordance with Code of Criminal Procedure ~~2.134~~ 2B.0055, to TCOLE and to the governing body of each county or municipality served by the agency. *Code of Criminal Procedure* ~~2.134~~ (2B.0055(a)-(b))

<i>Civil Penalty</i>	If the chief administrator of a local law enforcement agency intentionally fails to submit the incident-based data as required by Code of Criminal Procedure 2-134 2B.0055 , the agency is liable to the state for a civil penalty in an amount not to exceed \$5,000 for each violation. <i>Code of Criminal Procedure</i> 2-1385 2B.0058 (a)
<i>Racial Profiling Prohibition</i>	A peace officer may not engage in racial profiling. <i>Code of Criminal Procedure</i> 2-131 2B.0052
<i>Departmental Policy Required</i>	<p>Each law enforcement agency in this state, including each college district police department, that employs peace officers who make motor vehicle stops in the routine performance of the officers' official duties shall adopt a detailed written policy on racial profiling. The policy must:</p> <ol style="list-style-type: none"> 1. Clearly define acts constituting racial profiling; 2. Strictly prohibit peace officers employed by the agency from engaging in racial profiling; 3. Implement a process by which an individual may file a complaint with the agency if the individual believes that a peace officer employed by the agency has engaged in racial profiling with respect to the individual; 4. Provide public education relating to the agency's complaint and complaint process, including providing the telephone number, mailing address, and email address to make a complaint or complaint with respect to each ticket, citation, or warning issued by a peace officer; 5. Require appropriate corrective action to be taken against a peace officer employed by the agency who, after an investigation, is shown to have engaged in racial profiling in violation of the agency's policy adopted under this section; 6. Require collection of information relating to motor vehicle stops in which a ticket, citation, or warning is issued and to arrests made as a result of those stops, including information relating to: <ol style="list-style-type: none"> a. The race or ethnicity of the individual detained; b. Whether a search was conducted and, if so, whether the individual detained consented to the search; c. Whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual;

- d. Whether the peace officer used physical force that resulted in bodily injury, ~~as that term is defined by Penal Code 1.07~~ during the stop;
 - e. The location of the stop; and
 - f. The reason for the stop; and
7. Require the chief administrator of the agency, regardless of whether the administrator is elected, employed, or appointed, to submit an annual report of the information collected under item 6 to:
- a. TCOLE; and
 - b. The governing body of each county or municipality served by the agency.

On adoption of a racial profiling policy, a law enforcement agency shall examine the feasibility of installing video camera and transmitter-activated equipment in each agency law enforcement motor vehicle regularly used to make motor vehicle stops and transmitter-activated equipment in each agency law enforcement motorcycle regularly used to make motor vehicle stops. The agency also shall examine the feasibility of equipping each peace officer who regularly detains or stops motor vehicles with a body-worn camera, as that term is defined by Occupations Code 1701.651. If a law enforcement agency installs video or audio equipment or equips peace officers with body-worn cameras, the policy adopted by the agency must include standards for reviewing video and audio documentation.

A report required under item 7, above, may not include identifying information about a peace officer who makes a motor vehicle stop or about an individual who is stopped or arrested by a peace officer.

A law enforcement agency shall review the data collected under item 6, above, to identify any improvements the agency could make in its practices and policies regarding motor vehicle stops.

Code of Criminal Procedure ~~2.132(a)~~ ~~(2B.0053(b))~~, ~~(d)~~ ~~(e)~~, ~~(h)~~ 0151

Duty to Request
and Render Aid

A peace officer who encounters an injured person while discharging the officer's official duties shall immediately and as necessary:

- 1. Request emergency medical services personnel to provide the person with emergency medical services; and

2. While waiting for emergency medical services personnel to arrive, provide first aid or treatment to the person to the extent of the officer's skill and training.

Code of Criminal Procedure 2.35(a)

Exception

The peace officer is not required to request emergency medical services or provide first aid or treatment if making the request or providing the treatment would expose the officer or another person to a risk of bodily injury or the officer is injured and physically unable to make the request or provide the treatment. *Code of Criminal Procedure 2.35(b)*

Excessive Force

Duty to Intervene

A peace officer has a duty to intervene to stop or prevent another peace officer from using force against a person suspected of committing an offense if the amount of force exceeds that which is reasonable under the circumstances and the officer knows or should know that the other officer's use of force:

1. Violates state or federal law;
2. Puts a person at risk of bodily injury, as that term is defined by Penal Code 1.07 and is not immediately necessary to avoid imminent bodily injury to a peace officer or other person; and
3. Is not required to apprehend the person suspected of committing an offense.

A peace officer who witnesses the use of excessive force by another peace officer shall promptly make a detailed report of the incident and deliver the report to the supervisor of the peace officer making the report.

Code of Criminal Procedure ~~2.1387~~[2B.0251](#)

Neck Restraints

A peace officer may not intentionally use a choke hold, carotid artery hold, or similar neck restraint in searching or arresting a person unless the restraint is necessary to prevent serious bodily injury to or the death of the officer or another person. *Code of Criminal Procedure 2.34*

Apprehension of
Certain Individuals

A peace officer, without a warrant, may take a person into custody, regardless of the age of the person, if the officer has reason to believe and does believe that the person is a person with mental illness and because of that mental illness there is a substantial risk of serious harm to the person or to others unless the person is immediately restrained and believes that there is not sufficient time to obtain a warrant before taking the person into custody.

In accordance with Health and Safety Code 573.001 and 573.002, the peace officer shall immediately transport the apprehended person to a mental health facility or transfer the apprehended person to emergency services personnel and file the notification of detention.

A law enforcement agency and an emergency medical services provider may execute a memorandum of understanding as described by Health and Safety Code 573.005 under which emergency medical services personnel employed by the provider may transport a person taken into custody under Section 573.001 by a peace officer employed by the law enforcement agency.

Health and Safety Code 573.001-.002, .005

Diversion of Certain
Individuals

Each law enforcement agency shall make a good faith effort to divert a person suffering a mental health crisis or suffering from the effects of substance abuse to a proper treatment center in the agency's jurisdiction if:

1. There is an available and appropriate treatment center in the agency's jurisdiction to which the agency may divert the person;
2. It is reasonable to divert the person;
3. The offense that the person is accused of is a misdemeanor, other than a misdemeanor involving violence; and
4. The mental health crisis or substance abuse issue is suspected to be the reason the person committed the alleged offense.

This section does not apply to a person who is accused of an offense under Penal Code 49.04, 49.045, 49.05, 49.06, 49.061, 49.065, 49.07, or 49.08.

Code of Criminal Procedure 16.23

Code of Criminal Procedure 14.035 applies only to a person with an intellectual or developmental disability who resides at one of the following types of facilities operated under the home- and community-based services waiver program in accordance with 42 U.S.C. 1396n:

1. A group home; or
2. An intermediate care facility for persons with an intellectual or developmental disability (ICF/IID) as defined by 40 Administrative Code 9.153.

In lieu of arresting a person described above, a peace officer may release the person at the person's residence if the officer:

1. Believes confinement of the person in a correctional facility as defined by Penal Code 1.07 is unnecessary to protect the person and the other persons who reside at the residence; and
2. Made reasonable efforts to consult with the staff at the person's residence and with the person regarding that decision.

Code of Criminal Procedure 14.035(a)-(b)

In lieu of arresting an individual who is not a child, as defined by Family Code 51.02, and who commits an offense under Penal Code 49.02, a peace officer may release the individual if:

1. The officer believes detention in a penal facility is unnecessary for the protection of the individual or others; and
2. The individual:
 - a. Is released to the care of an adult who agrees to assume responsibility for the individual;
 - b. Verbally consents to voluntary treatment for substance use in a program in a treatment facility licensed and approved by the Health and Human Services Commission, and the program admits the individual for treatment; or
 - c. Verbally consents to voluntary admission to a facility that provides a place for individuals to become sober under supervision, and the facility admits the individual for supervision.

Code of Criminal Procedure 14.031(a)

Investigating Family
Violence, Stalking,
Harassment, or
Terroristic Threats

A campus peace officer who responds to a disturbance call that may involve family violence, as defined by Family Code 71.004, or investigates an allegation of family violence, stalking under Penal Code 42.072, harassment under Penal Code 42.07, or terroristic threat under Penal Code 22.07 shall advise any possible adult victim of all reasonable means to prevent the occurrence of further offenses, including by providing the written notice adopted by the Health and Human Services Commission under Human Resources Code 51A.003. In addition to the required notice under this section, a campus peace officer shall provide to the possible victim any available written information regarding campus and local resources for victims of family violence, stalking, harassment, or terroristic threat. *Education Code 51.2825; Code of Criminal Procedure 2.1398*

Immigration
Enforcement

*Limitation on
Enforcement
Prohibited*

A local entity or campus police department may not:

1. Adopt, enforce, or endorse a policy under which the entity or department prohibits or materially limits the enforcement of immigration laws;
2. As demonstrated by pattern or practice, prohibit or materially limit the enforcement of immigration laws; or
3. For an entity that is a law enforcement agency or for a department, as demonstrated by pattern or practice, intentionally violate Code of Criminal Procedure ~~2-251~~[2A.060](#), below.

The prohibition on endorsing a policy as described at item 1 does not apply to an elected official.

Gov't Code 752.053(a); City of El Cenizo v. Texas, 890 F.3d 164 (5th Cir. 2018)

*Limitation on
Peace Officer
Enforcement
Activity*

In compliance with Government Code 752.053(a), a local entity or campus police department may not prohibit or materially limit a person who is a commissioned peace officer described by Code of Criminal Procedure ~~2-122~~[2A.001](#), a corrections officer, a booking clerk, a magistrate, or a district attorney, criminal district attorney, or other prosecuting attorney and who is employed by or otherwise under the direction or control of the entity or department from doing any of the following:

1. Inquiring into the immigration status of a person under a lawful detention or under arrest;
2. With respect to information relating to the immigration status, lawful or unlawful, of any person under a lawful detention or under arrest, including information regarding the person's place of birth:
 - a. Sending the information to or requesting or receiving the information from U.S. Citizenship and Immigration Services, U.S. Immigration and Customs Enforcement, or another relevant federal agency;
 - b. Maintaining the information; or
 - c. Exchanging the information with another local entity or campus police department or a federal or state governmental entity;
3. Assisting or cooperating with a federal immigration officer as reasonable or necessary, including providing enforcement assistance; or

4. Permitting a federal immigration officer to enter and conduct enforcement activities at a jail to enforce federal immigration laws.

Gov't Code 752.053(b)

Exception

Notwithstanding Government Code 752.053(b)(3), a local entity or campus police department may prohibit persons who are employed by or otherwise under the direction or control of the entity or department from assisting or cooperating with a federal immigration officer if the assistance or cooperation occurs at a place of worship.
Gov't Code 752.053(c)

*Detainer
Requests*

A law enforcement agency that has custody of a person subject to an immigration detainer request issued by U.S. Immigration and Customs Enforcement shall:

1. Comply with, honor, and fulfill any request made in the detainer request provided by the federal government; and
2. Inform the person that the person is being held pursuant to an immigration detainer request issued by U.S. Immigration and Customs Enforcement.

Code of Criminal Procedure ~~2-251~~2A.060(a)

Exception

A law enforcement agency is not required to perform a duty imposed by Code of Criminal Procedure ~~2-251~~2A.060(a) with respect to a person who has provided proof that the person is a citizen of the United States or that the person has lawful immigration status in the United States, such as a Texas driver's license or similar government-issued identification. *Code of Criminal Procedure ~~2-251~~2A.060(b)*

*Inquiry during a
Criminal
Investigation*

In the course of investigating an alleged criminal offense, a peace officer may inquire as to the nationality or immigration status of a victim of or witness to the offense only if the officer determines that the inquiry is necessary to:

1. Investigate the offense; or
2. Provide the victim or witness with information about federal visas designed to protect individuals providing assistance to law enforcement.

Code of Criminal Procedure ~~2-13(d)~~2A.059(a)

Exception

Code of Criminal Procedure ~~2-13(d)~~2A.059(a) does not prevent a peace officer from:

1. Conducting a separate investigation of any other alleged criminal offense; or

2. Inquiring as to the nationality or immigration status of a victim of or witness to a criminal offense if the officer has probable cause to believe that the victim or witness has engaged in specific conduct constituting a separate criminal offense.

Code of Criminal Procedure ~~2.13~~[2A.059\(b\)](#)

Community
Outreach

Each law enforcement agency that is subject to the requirements of Government Code Chapter 752, Subchapter C, may adopt a written policy requiring the agency to perform community outreach activities to educate the public that a peace officer may not inquire into the immigration status of a victim of or witness to an alleged criminal offense unless, as provided by Code of Criminal Procedure ~~2.13~~[2A.059](#), the officer determines that the inquiry is necessary to:

1. Investigate the offense; or
2. Provide the victim or witness with information about federal visas designed to protect individuals providing assistance to law enforcement.

A policy adopted under this section must include outreach to victims of family violence, as that term is defined by Family Code 71.004, including those receiving services at family violence centers under Human Resources Code Chapter 51, and sexual assault, including those receiving services under a sexual assault program, as those terms are defined by Government Code 420.003.

Gov't Code 752.057

*Discrimination
Prohibited*

A local entity, campus police department, or a person employed by or otherwise under the direction or control of the entity or department may not consider race, color, religion, language, or national origin while enforcing immigration laws except to the extent permitted by the U.S. Constitution or Texas Constitution. *Gov't Code* 752.054

Body-Worn
Cameras
Policy

A law enforcement agency that receives a grant to provide body-worn cameras to its peace officers or that otherwise operates a body-worn camera program shall adopt a policy for the use of body-worn cameras.

A policy described above must ensure that a body-worn camera is activated only for a law enforcement purpose and must include:

1. Guidelines for when a peace officer should activate a camera or discontinue a recording currently in progress, considering

the need for privacy in certain situations and at certain locations;

2. Provisions relating to data retention, including a provision requiring the retention of video for a minimum period of 90 days;
3. Provisions relating to storage of video and audio, creation of backup copies of the video and audio, and maintenance of data security;
4. Provisions relating to the collection of a body-worn camera, including the applicable video and audio recorded by the camera, as evidence;
5. Guidelines for public access, through open records requests, to recordings that are public information;
6. Provisions entitling an officer to access any recording of an incident involving the officer before the officer is required to make a statement about the incident;
7. Procedures for supervisory or internal review; and
8. The handling and documenting of equipment and malfunctions of equipment.

The policy must require a peace officer who is equipped with a body-worn camera and actively participating in an investigation to keep the camera activated for the entirety of the officer's active participation in the investigation unless the camera has been deactivated in compliance with that policy. The policy may not require a peace officer to keep a body-worn camera activated for the entire period of the officer's shift.

The policy must be consistent with the Federal Rules of Evidence and Texas Rules of Evidence.

Occupations Code 1701.655

Training

Before a law enforcement agency may operate a body-worn camera program, the agency must provide training to:

1. Peace officers who will wear the body-worn cameras; and
2. Any other personnel who will come into contact with video and audio data obtained from the use of body-worn cameras.

Occupations Code 1701.656(a)

Use of Body-Worn Cameras

A peace officer equipped with a body-worn camera shall act in a manner that is consistent with the policy of the law enforcement

agency that employs the officer with respect to when and under what circumstances a body-worn camera must be activated.

A peace officer equipped with a body-worn camera may choose not to activate a camera or may choose to discontinue a recording currently in progress for any encounter with a person that is not related to an investigation.

A peace officer who does not activate a body-worn camera in response to a call for assistance must include in the officer's incident report or otherwise note in the case file or record the reason for not activating the camera.

Any justification for failing to activate the body-worn camera because it is unsafe, unrealistic, or impracticable is based on whether a reasonable officer under the same or similar circumstances would have made the same decision.

Occupations Code 1701.657

Personal
Cameras

A peace officer who is employed by a law enforcement agency that has not received a grant described by Occupations Code 1701.658 or who has not otherwise been provided with a body-worn camera by the agency that employs the officer may operate a body-worn camera that is privately owned only if permitted by the employing agency.

An agency that authorizes the use of privately-owned body-worn cameras must make provisions for the security and compatibility of the recordings made by those cameras.

Occupations Code 1701.658(c)-(d)

Use of Drones

Each law enforcement agency that uses or intends to use a drone for law enforcement purposes shall:

1. Adopt a written policy regarding the agency's use of force by means of a drone, before the agency first uses a drone, and update the policy as necessary; and
2. Not later than January 1 of each even-numbered year, submit the policy to TCOLE in the manner prescribed by TCOLE.

The use of force, including deadly force, involving a drone is justified under Penal Code Chapter 9, Subchapter E, only if:

1. At the time the use of force occurred, the actor was employed by a law enforcement agency;
2. The use of force would have been justified under another provision of Subchapter E and did not involve the use of deadly force by means of an autonomous drone; and

3. Before the use of force occurred, the law enforcement agency employing the actor adopted and submitted to TCOLE a policy on the agency's use of force by means of a drone, as required by Code of Criminal Procedure ~~2.33~~[2B.0253](#) and the use of force conformed to the requirements of that policy.

Code of Criminal Procedure ~~2.33~~[2B.0253](#); *Penal Code* 9.54

Custodial
Interrogations

Unless good cause exists that makes electronic recording infeasible, in accordance with Code of Criminal Procedure Article ~~2.32~~[2B.0202](#), a law enforcement agency shall make a complete and contemporaneous electronic recording of any custodial interrogation that occurs in a place of detention and is of a person suspected of committing or charged with the commission of an offense under:

1. Penal Code 19.02 (murder);
2. Penal Code 19.03 (capital murder);
3. Penal Code 20.03 (kidnapping);
4. Penal Code 20.04 (aggravated kidnapping);
5. Penal Code 20A.02 (trafficking of persons);
6. Penal Code 20A.03 (continuous trafficking of persons);
7. Penal Code 21.02 (continuous sexual abuse of young child or disabled individual);
8. Penal Code 21.11 (indecent with a child);
9. Penal Code 21.12 (improper relationship between educator and student);
10. Penal Code 22.011 (sexual assault);
11. Penal Code 22.021 (aggravated sexual assault); or
12. Penal Code 43.25 (sexual performance by a child).

"Place of detention" means a police station or other building that is a place of operation for a law enforcement agency, including a municipal police department or county sheriff's department, and is owned or operated by the law enforcement agency for the purpose of detaining persons in connection with the suspected violation of a penal law. The term does not include a courthouse.

Code of Criminal Procedure Art. ~~2.32(b)~~[2B.0201\(3\), .0202\(a\)](#)

Eyewitness Identification Protocols	TCOLE shall establish a comprehensive education and training program on eyewitness identification, including material regarding variables that affect a witness's vision and memory, practices for minimizing contamination, and effective eyewitness identification protocols. Each law enforcement agency shall require each peace officer who is employed by the agency and who performs eyewitness identification procedures to complete the education and training. <i>Code of Criminal Procedure Art. 2.13862A.062(b)-(c)</i>
Trauma-Informed Investigation Training	A postsecondary educational institution shall ensure each of its employed peace officers completes training on trauma-informed investigation into allegations of sexual harassment, sexual assault, dating violence, and stalking. <i>Education Code 51.288; 19 TAC 3.12</i>
Notice to School	A law enforcement agency that arrests any person or refers a child to the office or official designated by the juvenile board who the agency believes is enrolled as a student in a public primary or secondary school for an offense listed in Code of Criminal Procedure 15.27(h) shall attempt to ascertain whether the person is so enrolled and provide the notice described by Code of Criminal Procedure 15.27. <i>Code of Criminal Procedure Art. 15.27</i>
Officer-Involved Injury or Death	<p>"Officer-involved injury or death" means an incident during which a peace officer discharges a firearm causing injury or death to another.</p> <p>Not later than the 30th day after the date of an officer-involved injury or death, the law enforcement agency employing an officer involved in the incident must complete and submit a written or electronic report using the form created under Code of Criminal Procedure 2.1392A.206(b) to the office of the attorney general. The report must include all information described in Code of Criminal Procedure 2.1392A.206(b).</p> <p>Not later than the 30th day after the date of the occurrence of an incident in which, while a peace officer is performing an official duty, a person who is not a peace officer discharges a firearm and causes injury or death to the officer, the law enforcement agency employing the injured or deceased officer at the time of the incident must complete and submit a written or electronic report, using the form created under Code of Criminal Procedure 2.1392A.207(a), to the office of the attorney general. The report must include all information described in Code of Criminal Procedure 2.1395Section 2A.207(a).</p> <p>A law enforcement agency that fails to submit a required report on or before the seventh day after the date of receiving notice from</p>

the attorney general that the agency failed to submit the report is liable for a civil penalty in the amount of \$1,000 for each day after the seventh day that the agency fails to submit the report.

Beginning on the day after the date of receiving notice from the attorney general, a law enforcement agency that, in the five-year period preceding the date the agency received the notice, has been liable for a civil penalty above or under this provision is liable for a civil penalty for each day the agency fails to submit the required report. The amount of a civil penalty under this provision is \$10,000 for the first day and \$1,000 for each additional day that the agency fails to submit the report.

Code of Criminal Procedure ~~2.139~~[2A.206\(a\)\(2\)](#), (c), ~~.1395-~~
~~.13951~~[;207\(a\)-\(b\)](#), [.208\(b\)-\(c\)](#); 1 TAC 54.70

Complaint Against Peace Officer

To be considered by the head of a fire department or local law enforcement agency, a complaint against a peace officer must be in writing and signed by the person making the complaint. A copy of a signed complaint against a peace officer appointed or employed by a political subdivision of this state shall be given to the officer within a reasonable time after the complaint is filed. Disciplinary action may not be taken against the officer unless a copy of the signed complaint is given to the officer. The officer may not be indefinitely suspended or terminated from employment based on the subject matter of the complaint unless the complaint is investigated and there is evidence to prove the allegation of misconduct.

On the commencement of an investigation by a law enforcement agency of a complaint that alleges that a peace officer employed by the department has engaged in racial profiling with respect to an individual and in which a video or audio recording of the occurrence on which the complaint is based was made, the agency shall promptly provide a copy of the recording to the peace officer who is the subject of the complaint on written request by the officer.

Gov't Code 614.022-.023; *Code of Criminal Procedure*
~~2.132(f)~~[2B.0053\(c\)](#)

[See DGBA, FLD, and GB for appeals]

Notice of Exposure to Communicable Disease

Each employer covered by workers' compensation insurance, including state and political subdivision employers, which employ emergency medical service employees, paramedics, firefighters, law enforcement officers or correctional officers must post the notice contained in 28 Administrative Code 110.108(d), in its workplace to inform employees about Health and Safety Code requirements which may affect qualifying for workers' compensation

benefits following a work-related exposure to a reportable communicable disease. The notice shall be posted in the personnel office, if the employer has a personnel office, and in the workplace where employees are likely to read the notice on a regular basis.
28 TAC 110.108(a)

Licensee Service
Report Database

TCOLE will exclude from the public database established under Occupations Code 1701.205 the licensee service report (LSR) of certain officers if including the LSR in the public database would create a safety risk for an undercover officer or an officer involved in an active sensitive operation. TCOLE, at the discretion of the executive director, may exclude the LSR of any licensee for good cause shown.

An appointed officer or a law enforcement agency employing the officer may request, on a form prescribed by TCOLE, the LSR of the officer to be excluded from the public database.

37 TAC 211.24(a)-(c)

Epinephrine Auto-
Injectors

A law enforcement agency may acquire and possess epinephrine auto-injectors, and a peace officer may possess and administer an epinephrine auto-injector in accordance with Occupations Code Chapter 1701, Subchapter O. *Occupations Code 1701.702(a)*

**Section II: Private
Security**

The security department of a private business or a political subdivision, including a college district, may not employ a commissioned security officer unless the security department provides notice to the Department of Public Safety (DPS) in the prescribed form of:

1. The security department's intent to employ a commissioned security officer and register with DPS under this section;
2. The name, title, and contact information of the person serving in the security department as the contact for the department; and
3. Any change in the information provided in item 1 or 2.

DPS shall maintain a registry of security departments that provide notice above and the name, title, and contact information of the person serving as contact for each security department.

Occupations Code 1702.181; 37 TAC 35.102

**Section III: School
Marshals**

The governing board of a public junior college may appoint one or more school marshals. "School marshal" means a person who is appointed to serve as a school marshal by the governing board of a public junior college under Education Code 51.220, is licensed

	under Occupations Code 1701.260, and has powers and duties described by Code of Criminal Procedure Article 2.127 2A.008 . <i>Education Code 51.220(b); Occupations Code 1701.001(8)</i>
Regulations	Any written regulations adopted for purposes of Education Code 51.220(d) must authorize a school marshal to carry a concealed handgun as described by Section 51.220(d) and require a handgun carried or possessed by a school marshal to be loaded only with frangible duty ammunition approved for that purpose by TCOLE and may not require a school marshal to store the handgun in a locked container while on duty. The regulations must provide that a school marshal may carry a concealed handgun on the school marshal's person or possess the handgun on the physical premises of a public junior college campus in a locked and secured safe or other locked and secured location. <i>Education Code 51.220(e)</i>
Authorization	A public junior college shall submit and receive approval for an application to appoint a person as a school marshal and upon authorization, notify TCOLE using approved format prior to appointment. <i>37 TAC 227.1(a)</i>
Eligibility	The governing board of a public junior college may select for appointment as a school marshal an applicant who is an employee of the public junior college and certified as eligible for appointment under Occupations Code 1701.260 and 37 Administrative Code 227.3. An appointing entity shall not appoint or employ an ineligible person as a school marshal. The governing board may, but shall not be required to, reimburse the amount paid by the applicant to participate in the training program under Section 1701.260. <i>Education Code 51.220(c); Code of Criminal Procedure 2.127(d)2A.008(b); 37 TAC 227.1(b), .3</i>
Authority	A school marshal may make arrests and exercise all authority given peace officers under the Code of Criminal Procedure, subject to written regulations adopted by the governing board of a public junior college under Education Code 51.220 and only act as necessary to prevent or abate the commission of an offense that threatens serious bodily injury or death of students, faculty, or visitors on school premises. <i>Code of Criminal Procedure 2.127(a)2A.008(c)</i>
Exception	A school marshal may not issue a traffic citation for a violation of Transportation Code Chapter 521 or Transportation Code Title 7, Subtitle C. <i>Code of Criminal Procedure 2.127(b)2A.008(d)</i>
Possession and Use of Handgun	A school marshal appointed by the governing board of a public junior college may carry a concealed handgun or possess a handgun on the physical premises of a public junior college campus, but only:

1. In the manner provided by written regulations adopted by the governing board; and
2. At a specific public junior college campus as specified by the governing board.

Education Code 51.220(d)

A school marshal may use a handgun the school marshal is authorized to carry or possess under Education Code 51.220 only under circumstances that would justify the use of deadly force under Penal Code 9.32 or 9.33. *Education Code 51.220(f)*

Status Inactivated

A public junior college employee's status as a school marshal becomes inactive on:

1. Expiration of the employee's school marshal license under Occupations Code 1701.260;
2. Suspension or revocation of the employee's license to carry a concealed handgun issued under Government Code Chapter 411, Subchapter H;
3. Termination of the employee's employment with the public junior college; or
4. Notice from the governing board of the public junior college that the employee's services as school marshal are no longer required.

Education Code 51.220(g)

Reports to TCOLE

A public junior college shall:

1. Report to TCOLE, within seven days, when a person previously authorized to act as a school marshal is no longer employed with the appointing entity;
2. Report to TCOLE, within seven days, when a person previously authorized to act as a school marshal is no longer authorized to do so by the appointing entity, TCOLE standards, another state agency, or under other law; and
3. Immediately report to TCOLE a school marshal's violation of any TCOLE standard, including the discharge of a firearm carried under the authorization of 37 Administrative Code Chapter 227 outside of a training environment.

37 TAC 227.1(a)

Requests for Information Regarding Marshals	If a parent or guardian of a student enrolled at a public junior college inquires in writing, the governing board of the public junior college shall provide the parent or guardian written notice indicating whether any employee of the public junior college is currently appointed a school marshal. The notice may not disclose information that is confidential under Education Code 51.220(h). <i>Education Code 51.220(i)</i>
<i>Identity Confidential</i>	The identity of a school marshal appointed under this section is confidential, except as provided by Occupations Code 1701.260(j), and is not subject to a request under the Public Information Act, Government Code Chapter 552. <i>Education Code 51.220(h)</i>
No State Benefits	A school marshal is not entitled to state benefits normally provided by the state to a peace officer. <i>Code of Criminal Procedure 2-127(e)</i> 2-127(e) 2A.008(e)
Records Retention	For five years, the appointing entity must retain documentation that it has met all requirements under law in a format readily accessible to TCOLE. This requirement does not relieve the appointing entity from retaining all other relevant records not otherwise listed. 37 <i>TAC 227.1(c)</i>

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Definitions

Campus

"Campus" means all land and buildings owned or leased by an institution of higher education. *Gov't Code 411.2031(a)(1), .2032*

Firearm

A "firearm" is any device designed, made, or adapted to expel a projectile through a barrel by using the energy generated by an explosion or burning substance or any device readily convertible to that use. *Penal Code 46.01(3)*

Location-Restricted
Knife

A "location-restricted knife" is a knife with a blade over five and one-half inches. *Penal Code 46.01(6)*

Club

A "club" is an instrument that is specially designed, made, or adapted for the purpose of inflicting serious bodily injury or death by striking a person with the instrument, and includes, but is not limited to, a blackjack, nightstick, mace, and tomahawk. *Penal Code 46.01(1)*

Prohibited Weapons

"Prohibited weapons" include:

1. Any of the following items, unless the item is registered in the National Firearms Registration and Transfer Record maintained by the Bureau of Alcohol, Tobacco, Firearms and Explosives or otherwise not subject to that registration requirement or unless the item is classified as a curio or relic by the U.S. Department of Justice:
 - a. An explosive weapon (any explosive or incendiary bomb, grenade, rocket, or mine that is designed, made, or adapted for the purpose of inflicting serious bodily injury, death, or substantial property damage, or for the principal purpose of causing such a loud report as to cause undue public alarm or terror, and includes a device designed, made, or adapted for delivery or shooting an explosive weapon). *Penal Code 46.01(2)*
 - b. A machine gun (any firearm that is capable of shooting more than two shots automatically, without manual reloading, by a single function of the trigger). *Penal Code 46.01(9)*
 - c. A short-barrel firearm (rifle with a barrel length of less than 16 inches or a shotgun with a barrel length of less than 18 inches, or any weapon made from a shotgun or rifle if, as altered, it has an overall length of less than 26 inches). *Penal Code 46.01(10)*
2. Armor-piercing ammunition (handgun ammunition that is designed primarily for the purpose of penetrating metal or body armor and to be used primarily in pistols and revolvers). *Penal Code 46.01(12)*

3. A chemical dispensing device (a device, other than a small chemical dispenser sold commercially for personal protection, that is designed, made, or adapted for the purpose of dispensing a substance capable of causing an adverse psychological or physiological effect on a human being). *Penal Code 46.01(14)*
4. A zip gun (a device or combination of devices that was not originally a firearm and is adapted to expel a projectile through a smooth-bore or rifled-bore barrel by using the energy generated by an explosion or burning substance). *Penal Code 46.01(16)*
5. A tire deflation device (a device, including a caltrop or spike strip, that, when driven over, impedes or stops the movement of a wheeled vehicle by puncturing one or more of the vehicle's tires; it does not include a traffic control device that is designed to puncture one or more of a vehicle's tires when driven over in a specific direction, and has a clearly visible sign posted in close proximity to the traffic control device that prohibits entry or warns motor vehicle operators of the traffic control device). *Penal Code 46.01(17)*
6. An improvised explosive device (a completed and operational bomb designed to cause serious bodily injury, death, or substantial property damage that is fabricated in an improvised manner using nonmilitary components. The term does not include unassembled components that can be legally purchased and possessed without a license, permit, or other governmental approval or an exploding target that is used for firearms practice, sold in kit form, and contains the components of a binary explosive). *Penal Code 46.01(19)*

Penal Code 46.05(a)

Premises

"Premises" means a building or a portion of a building. The term does not include any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area. *Penal Code 46.03(c)(4); Gov't Code 411.2031(a)(3)*

General Provisions

A person commits an offense if the person intentionally, knowingly, or recklessly possesses or goes with a firearm, location-restricted knife, or prohibited weapon on the premises of a school or postsecondary educational institution, on any grounds or building owned by and under the control of a school or postsecondary educational institution and on which an activity sponsored by the school or institution is being conducted, or in a passenger transportation vehicle of a school or postsecondary educational institution, unless:

1. Pursuant to written regulations or written authorization of the school or institution; or
2. The person possesses or goes with a concealed handgun that the person is licensed to carry under Government Code Chapter 411, Subchapter H, and no other weapon to which this section applies, on the premises of a postsecondary educational institution, on any grounds or building owned by and under the control of the institution and on which an activity sponsored by the institution is being conducted, or in a passenger transportation vehicle of the institution.

Penal Code 46.03(a)(1)

Polling Place

A person commits an offense if the person intentionally, knowingly, or recklessly possesses or goes with a firearm, location-restricted knife, or prohibited weapon on the premises of a polling place on the day of an election or while early voting is in progress. *Penal Code 46.03(a)(2)*

Persons Under 21
or Who Committed
Certain Felonies

Handgun

A person commits an offense if the person:

1. Intentionally, knowingly, or recklessly carries on or about his or her person a handgun;
2. At the time of the offense:
 - a. Is younger than 21 years of age; or
 - b. Has been convicted of an offense under Penal Code 22.01(a)(1), 22.05, 22.07, or 42.01(a)(7) or (8) committed in the five-year period preceding the date the instant offense was committed; and
3. Is not on the person's own premises or premises under the person's control or inside of or directly en route to a motor vehicle or watercraft that is owned by the person or under the person's control.

Penal Code 46.02(a)

*Location-
Restricted Knife*

A person commits an offense if the person intentionally, knowingly, or recklessly carries on or about his or her person a location-restricted knife, is younger than 18 years of age at the time of the offense, and is not:

1. On the person's own premises or premises under the person's control;
2. Inside of or directly en route to a motor vehicle or watercraft that is owned by the person or under the person's control; or

3. Under the direct supervision of a parent or legal guardian of the person.

Penal Code 46.02(a-4)

Sporting or
Interscholastic
Events

A person commits an offense if the person intentionally, knowingly, or recklessly possesses or goes with a firearm, location-restricted knife, club, or prohibited weapon on the premises where a high school, collegiate, or professional sporting event or interscholastic event is taking place, unless the person is a participant in the event and a firearm, location-restricted knife, club, or prohibited weapon is used in the event.

The prohibition does not apply if the actor carries a handgun on a premises where a collegiate sporting event is taking place, holds a license to carry a handgun issued under Government Code Chapter 411, Subchapter H, and was not given effective notice under Penal Code 30.06 or 30.07 ~~of this Code~~, as applicable.

Penal Code 46.03(a)(8), .15(q)

Board Meetings

A person commits an offense if the person intentionally, knowingly, or recklessly possesses or goes with a firearm, location-restricted knife, club, or prohibited weapon in the room or rooms where a meeting of a governmental entity is held, if the meeting is an open meeting subject to Government Code Chapter 551 and if the entity provided notice as required by that Chapter [see BD]. *Penal Code 46.03(a)(14)*

Exceptions

Penal Code 46.02 and 46.03 do not apply to the officers and officials listed in Penal Code 46.15(a), including:

1. Peace officers and neither Section 46.02 or Section 46.03 prohibits a peace officer from carrying a weapon in this state, including in an establishment in this state serving the public, regardless of whether the peace officer is engaged in the actual discharge of the officer's duties while carrying the weapon;
2. An honorably retired peace officer, qualified retired law enforcement officer, federal criminal investigator, or former reserve law enforcement officer who holds a certificate of proficiency issued under Occupations Code 1701.357 and is carrying a photo identification that is issued by a federal, state, or local law enforcement agency, as applicable, and that verifies that the officer is:
 - a. An honorably retired peace officer;
 - b. A qualified retired law enforcement officer;

- c. A federal criminal investigator; or
 - d. A former reserve law enforcement officer who has served in that capacity not less than a total of 15 years with one or more state or local law enforcement agencies;
- 3. The attorney general or a United States attorney, district attorney, criminal district attorney, county attorney, or municipal attorney who is licensed to carry a handgun;
 - 4. An assistant United States attorney, assistant attorney general, assistant district attorney, assistant criminal district attorney, or assistant county attorney who is licensed to carry a handgun; and
 - 5. A person who is volunteer emergency services personnel, as defined by Penal Code 46.01(18), if the person is carrying a handgun under the authority of Government Code Chapter 411, Subchapter H, and engaged in providing emergency services.

Penal Code 46.02 and 46.03(a)(14) (board meetings) do not apply to the persons listed in Penal Code 46.15(b), including a person who:

- 1. Is in the actual discharge of official duties as a member of the armed forces or state military forces as defined by Government Code 437.001;
- 2. Is traveling;
- 3. Is engaging in lawful hunting, fishing, or other sporting activity on the immediate premises where the activity is conducted, or is en route between the premises and the actor's residence, motor vehicle, or watercraft, if the weapon is a type commonly used in the activity;
- 4. Holds a security officer commission issued by the Texas Private Security Board, if the person is engaged in the performance of the person's duties as an officer commissioned under Occupations Code Chapter 1702 or is traveling to or from the person's place of assignment and is wearing the officer's uniform and carrying the officer's weapon in plain view;
- 5. Is carrying a license issued under Government Code Chapter 411, Subchapter H, to carry a handgun and a handgun in a concealed manner or in a holster; or

6. Is a student in a law enforcement class engaging in an activity required as part of the class, if the weapon is a type commonly used in the activity and the person is on the immediate premises where the activity is conducted or en route between those premises and the person's residence and is carrying the weapon unloaded.

Penal Code 46.02 and 46.03(a)(1) and (a)(2) do not apply to a person who carries a handgun if:

1. The person carries the handgun on the premises, as defined by the statute providing the applicable offense, of a location operating as an emergency shelter during a state of disaster declared under Government Code 418.014 or a local state of disaster declared under Government Code 418.108;
2. The owner, controller, or operator of the premises or a person acting with the apparent authority of the owner, controller, or operator, authorized the carrying of the handgun;
3. The person carrying the handgun complies with any rules and regulations of the owner, controller, or operator of the premises that govern the carrying of a handgun on the premises; and
4. The person is not prohibited by state or federal law from possessing a firearm.

Penal Code 46.02 and 46.03 do not apply to a first responder, as defined by Penal Code 46.01, who:

1. Was carrying a handgun in a concealed manner or in a shoulder or belt holster;
2. Holds an unexpired certificate of completion under Government Code 411.184 at the time of engaging in the applicable conduct;
3. Was engaged in the actual discharge of the first responder's duties while carrying the handgun; and
4. Was employed or supervised by a municipality or county to which Local Government Code Chapter 179 applies.

Penal Code 46.01(20), .15(a)-(b), (l)-(m)

Establishment

An establishment serving the public may not prohibit or otherwise restrict a peace officer or special investigator from carrying on the establishment's premises a weapon that the peace officer or special investigator is otherwise authorized to carry, regardless of whether the peace officer or special investigator is engaged in the

actual discharge of the officer's or investigator's duties while carrying the weapon.

"Establishment serving the public" means:

1. A hotel, motel, or other place of lodging;
2. A restaurant or other place where food is offered for sale to the public;
3. A retail business or other commercial establishment or an office building to which the general public is invited;
4. A sports venue; and
5. Any other place of public accommodation, amusement, convenience, or resort to which the general public or any classification of persons from the general public is regularly, normally, or customarily invited.

"Sports venue" means an arena, coliseum, stadium, or other type of area or facility that is primarily used or is planned for primary use for one or more professional or amateur sports or athletics events and for which a fee is charged or is planned to be charged for admission to the sports or athletics events, other than occasional civic, charitable, or promotional events.

Code of Criminal Procedure Art. ~~2-1305~~[2A.052](#)

Notice
General

A person may provide notice that firearms and other weapons are prohibited under Penal Code 46.03 on the premises or other property, as applicable, by posting a sign at each entrance to the premises or other property that:

1. Includes language that is identical to or substantially similar to the following: "Pursuant to Section 46.03, Penal Code (places weapons prohibited), a person may not carry a firearm or other weapon on this property";
2. Includes the language described by item 1 in both English and Spanish;
3. Appears in contrasting colors with block letters at least one inch in height; and
4. Is displayed in a conspicuous manner clearly visible to the public.

It is a defense to prosecution under Penal Code 46.03 that the actor:

1. Carries a handgun on a premises or other property on which the carrying of a weapon is prohibited under ~~that section~~ [Section 46.03](#);
2. Personally received from the owner of the property, or from another person with apparent authority to act for the owner, notice that carrying a firearm or other weapon on the premises or other property, as applicable, was prohibited; and
3. Promptly departed from the premises or other property.

The defense does not apply if:

1. A sign described by Penal Code 46.15(o) was posted prominently at each entrance to the premises or other property, as applicable; or
2. At the time of the offense, the actor knew that carrying a firearm or other weapon on the premises or other property was prohibited.

Penal Code 46.15(m)-(o)

*Criminal
Trespass*

A person may provide notice that firearms are prohibited on the property by posting a sign at each entrance to the property that:

1. Includes language that is identical to or substantially similar to the following: "Pursuant to Section 30.05, Penal Code (criminal trespass), a person may not enter this property with a firearm";
2. Includes the language described by item 1 in both English and Spanish;
3. Appears in contrasting colors with block letters at least one inch in height; and
4. Is displayed in a conspicuous manner clearly visible to the public.

It is a defense to prosecution under this section that:

1. The basis on which entry on the property or land or in the building was forbidden is that entry with a handgun was forbidden; and
2. The person was carrying a license issued under Government Code Chapter 411, Subchapter H, to carry a handgun and a handgun in a concealed manner or in a holster.

An offense under this section is a Class C misdemeanor punishable by a fine not to exceed \$200 if the person enters the property,

land, or building with a firearm or other weapon and the sole basis on which entry on the property or land or in the building was forbidden is that entry with a firearm or other weapon was forbidden, except that the offense is a Class A misdemeanor if it is shown on the trial of the offense that, after entering the property, land, or building with the firearm or other weapon, the actor:

1. Personally received from the owner of the property or another person with apparent authority to act for the owner notice that entry with a firearm or other weapon was forbidden, as given through:
 - a. Oral or written communication by the owner or someone with apparent authority to act for the owner; or
 - b. If the actor is unable to reasonably understand the notice described by item 1, other personal notice that is reasonable under the circumstances; and
2. Subsequently failed to depart.

Penal Code 30.05(b)(2), (c), (d-3), (f) [See also Penal Code 30.06 and 30.07, below]

Wrongful Exclusion
of Handgun License
Holder

A state agency or a political subdivision of the state, including a college district, may not take any action, including an action consisting of the provision of notice by a communication described by Penal Code 30.06 or 30.07, that states or implies that a license holder who is carrying a handgun under the authority of ~~Penal~~Gov-ernment Code Chapter 411, Subchapter H, is prohibited from entering or remaining on a premise or other place owned or leased by the governmental entity unless license holders are prohibited from carrying a handgun on the premises or other place by Penal Code 46.03 or other law. ~~Penal~~Gov't Code 411.209(a)

A state agency or a political subdivision of the state that violates ~~Penal~~Government Code 411.209(a) is liable for a civil penalty of:

1. Not less than \$1,000 and not more than \$1,500 for the first violation; and
2. Not less than \$10,000 and not more than \$10,500 for the second or a subsequent violation.

Each day of a continuing violation of ~~Penal~~Government Code 411.209(a) constitutes a separate violation.

~~Penal~~Gov't Code 411.209(b)-(c)

**Firearms and
Ammunition in
Private Vehicles**

An institution of higher education, including a college district, in this state may not adopt or enforce any rule, regulation, or other provision or take any other action, including posting notice under Penal Code 30.06 or 30.07, prohibiting or placing restrictions on the storage or transportation of a firearm or ammunition in a locked, privately owned or leased motor vehicle by a person, including a student enrolled at that institution, who holds a license to carry a handgun under Government Code Chapter 411, Subchapter H, and lawfully possesses the firearm or ammunition:

1. On a street or driveway located on the campus of the institution; or
2. In a parking lot, parking garage, or other parking area located on the campus of the institution.

Gov't Code 411.2032

**Carry by Employees
in Personal
Vehicles**

A public or private employer, including a college district, may not prohibit an employee who holds a license to carry a handgun under Government Code Chapter 411, Subchapter H, who otherwise lawfully possesses a firearm, or who lawfully possesses ammunition from transporting or storing a firearm or ammunition the employee is authorized by law to possess in a locked, privately owned motor vehicle in a parking lot, parking garage, or other parking area the college district provides for employees. *Labor Code 52.061*

Labor Code 52.061 does not apply to a vehicle owned or leased by a public or private employer and used by an employee in the course and scope of the employee's employment, unless the employee is required to transport or store a firearm in the official discharge of the employee's duties. *Labor Code 52.062(a)*

Section 52.061 does not authorize a person who holds a license to carry a concealed handgun under Government Code Chapter 411, Subchapter H, who otherwise lawfully possesses a firearm, or who lawfully possesses ammunition to possess a firearm or ammunition on any property where the possession of a firearm or ammunition is prohibited by state or federal law. Labor Code 52.061 does not prohibit an employer from prohibiting an employee who holds a license to carry a handgun under Government Code Chapter 411, Subchapter H, or who otherwise lawfully possesses a firearm, from possessing a firearm the employee is otherwise authorized by law to possess on the premises of the employer's business. *Labor Code 52.062(a)-(b)*

Immunity

Except in cases of gross negligence, a public or private employer, or the employer's principal, officer, director, employee, or agent, is

not liable in a civil action for personal injury, death, property damage, or any other damages resulting from or arising out of an occurrence involving a firearm or ammunition that the employer is required to allow on the employer's property under this section.

The presence of a firearm or ammunition on an employer's property under the authority of this section does not by itself constitute a failure by the employer to provide a safe workplace.

For purposes of Labor Code 52.063, a public or private employer, or the employer's principal, officer, director, employee, or agent, does not have a duty:

1. To patrol, inspect, or secure any parking lot, parking garage, or other parking area the employer provides for employees or any privately owned motor vehicle located in a parking lot, parking garage, or other parking area; or
2. To investigate, confirm, or determine an employee's compliance with laws related to the ownership or possession of a firearm or ammunition or the transportation and storage of a firearm or ammunition.

Labor Code 52.063

Concealed Carry

A license holder may carry a concealed handgun on or about the license holder's person while the license holder is on the campus of an institution of higher education or private or independent institution of higher education in this state. *Gov't Code 411.2031(b)*

Regulation of Carry

After consulting with students, staff, and faculty of the institution regarding the nature of the student population, specific safety considerations, and the uniqueness of the campus environment, the president or other chief executive officer of an institution of higher education in this state shall establish reasonable rules, regulations, or other provisions regarding the carrying of concealed handguns by license holders on the campus of the institution or on premises located on the campus of the institution.

An institution of higher education or private or independent institution of higher education in this state may establish rules, regulations, or other provisions concerning the storage of handguns in dormitories or other residential facilities that are owned or leased and operated by the institution and located on the campus of the institution.

The president or officer may not establish provisions that generally prohibit or have the effect of generally prohibiting license holders from carrying concealed handguns on the campus of the institution.

The president or officer may amend the provisions as necessary for campus safety.

Gov't Code 411.2031(d)-(d-1)

Except as provided by Government Code 411.2031(d), (d-1), or (e), an institution of higher education or private or independent institution of higher education in this state may not adopt any rule, regulation, or other provision prohibiting license holders from carrying handguns on the campus of the institution. *Gov't Code 411.2031(c)*

The provisions take effect as determined by the president or officer unless subsequently amended by the board of regents or other governing board under Government Code 411.2031(d-2). *Gov't Code 411.2031(d-1)*

Board Review

Not later than the 90th day after the date that the rules, regulations, or other provisions are established as described by Government Code 411.2031(d-1), the board of regents or other governing board of the institution of higher education shall review the provisions. The board of regents or other governing board may, by a vote of not less than two-thirds of the board, amend wholly or partly the established provisions. If amended, the provisions are considered to be those of the institution as established under Government Code 411.2031(d-1). *Gov't Code 411.2031(d-2)*

Notice Carry
Prohibited

The institution must give effective notice under Penal Code 30.06 with respect to any portion of a premises on which license holders may not carry. *Gov't Code 411.2031(d-1)*

Distribution of
Regulations

An institution of higher education shall widely distribute the rules, regulations, or other provisions above to the institution's students, staff, and faculty, including by prominently publishing the provisions on the institution's internet website. *Gov't Code 411.2031(d-3)*

Report to
Legislature

Not later than September 1 of each even-numbered year, each institution of higher education in this state shall submit a report to the legislature and to the standing committees of the legislature with jurisdiction over the implementation and continuation of this section that:

1. Describes its rules, regulations, or other provisions regarding the carrying of concealed handguns on the campus of the institution; and
2. Explains the reasons the institution has established those provisions.

Gov't Code 411.2031(d-4)

Concealed Carry in
Violation of
Regulations

Notwithstanding Penal Code 46.03(a) or Penal Code 46.02(a-5), a license holder commits an offense if the license holder intentionally carries a concealed handgun on a portion of a premises located on the campus of an institution of higher education in this state on which the carrying of a concealed handgun is prohibited by rules, regulations, or other provisions established under Government Code 411.2031(d-1) provided the institution gives effective notice under Penal Code 30.06 with respect to that portion.

This provision does not apply to an individual who carries a handgun as a participant in a historical reenactment performed in accordance with the rules of the Texas Alcoholic Beverage Commission.

Penal Code 46.03(a-4), .15(j)

As Trespass

A handgun license holder commits an offense if the license holder carries a concealed handgun under the authority of Government Code Chapter 411, Subchapter H, on property of another without effective consent and received notice that entry on the property by a license holder with a concealed handgun was forbidden.

A person receives notice if the owner of the property or someone with apparent authority to act for the owner provides notice to the person by oral or written communication.

“Written communication” means:

1. A card or other document on which is written language identical to the following: “Pursuant to Section 30.06, Penal Code (trespass by license holder with a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun”; or
2. A sign posted on the property that includes the language described above in both English and Spanish, appears in contrasting colors with block letters at least one inch in height, and is displayed in a conspicuous manner clearly visible to the public.

An offense under this section is a Class C misdemeanor punishable by a fine not to exceed \$200, except that the offense is a Class A misdemeanor if it is shown on the trial of the offense that, after entering the property, the license holder was personally given the notice by oral communication described by Penal Code 30.06(b) and subsequently failed to depart.

Penal Code 30.06(a)-(b), (c)(3), (d)

*Premise
Exception*

It is an exception to the application of Penal Code 30.06 that the property on which the license holder carries a handgun is owned or leased by a governmental entity, including a college district, and is not a premises or other place on which the license holder is prohibited from carrying the handgun under Government Code 46.03. *Penal Code 30.06(e)*

Open Carry

A person commits an offense if the person carries a handgun and intentionally displays the handgun in plain view of another person in a public place. It is an exception to the application of this prohibition that the handgun was partially or wholly visible but was carried in a holster. It is an exception to the application of this prohibition to a license holder that the handgun was partially or wholly visible but was in a holster, and the handgun and the license holder were in a motor vehicle.

This provision does not apply to an individual who carries a handgun as a participant in a historical reenactment performed in accordance with the rules of the Texas Alcoholic Beverage Commission.

Penal Code 46.02(a-5), .15(j)

At an Institution of
Higher Education

Notwithstanding Penal Code 46.02(a-5), a license holder commits an offense if the license holder carries a partially or wholly visible handgun, regardless of whether the handgun is holstered, on or about the license holder's person under the authority of Government Code Chapter 411, Subchapter H, and intentionally or knowingly displays the handgun in plain view of another person:

1. On the premises of an institution of higher education, including a college district; or
2. On any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area of an institution of higher education.

This provision does not apply to an individual who carries a handgun as a participant in a historical reenactment performed in accordance with the rules of the Texas Alcoholic Beverage Commission.

Penal Code 46.03(a-2), .15(j)

As Trespass

A license holder commits an offense if the license holder openly carries a handgun under the authority of Government Code Chapter 411, Subchapter H, on property of another without effective consent and received notice that entry on the property by a license holder openly carrying a handgun was forbidden.

A person receives notice if the owner of the property or someone with apparent authority to act for the owner provides notice to the person by oral or written communication.

“Written communication” means:

1. A card or other document on which is written language identical to the following: "Pursuant to Section 30.07, Penal Code (trespass by license holder with an openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a handgun that is carried openly"; or
2. A sign posted on the property that:
 - a. Includes the language described above in item 1 in both English and Spanish;
 - b. Appears in contrasting colors with block letters at least one inch in height; and
 - c. Is displayed in a conspicuous manner clearly visible to the public at each entrance to the property.

An offense under this section is a Class C misdemeanor punishable by a fine not to exceed \$200, except that the offense is a Class A misdemeanor if it is shown on the trial of the offense that, after entering the property, the license holder was personally given the notice by oral communication described by Penal Code 30.07(b) and subsequently failed to depart.

Penal Code 30.07(a)-(b), (c)(3), (d)

*Premise
Exception*

It is an exception to the application of Penal Code 30.07 that the property on which the license holder openly carries the handgun is owned or leased by a governmental entity and is not a premises or other place on which the license holder is prohibited from carrying the handgun under Penal Code 46.03. *Penal Code 30.07(e)*

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Options

A political subdivision, including a college district, shall extend workers' compensation benefits to its employees by:

1. Becoming a self-insurer;
2. Providing insurance under a workers' compensation insurance policy; or
3. Entering into an interlocal agreement with other political subdivisions providing for self-insurance.

Labor Code 504.011

Employee

In Labor Code Chapter 504, unless a different meaning is plainly required by the context, "employee" means a person in the service of a political subdivision, including a college district, who has been employed as provided by law, or a person for whom optional coverage is provided under Labor Code 504.012 or 504.013. A person is not an employee and is not entitled to compensation under Chapter 504 if the person:

1. Is in the service of a political subdivision and is paid on a piecework basis other than by the hour, day, week, month, or year; or
2. Performs services that may benefit a political subdivision, or is employed by or under contract with a performer providing those services, but does not receive payment from the political subdivision for the performance of the services, if the services are performed in connection with the operation or production of a musical, vocal, or theatrical performance, or another entertainment event.

Labor Code 504.001(2), .014

Notice to TDI

A political subdivision, including a college district, shall notify the Texas Department of Insurance (TDI) of the method by which its employees will receive benefits, the approximate number of employees covered, and the estimated amount of payroll. *Labor Code 504.018(a)*

Notice to Employees

A political subdivision shall notify its employees of the method by which the employees will receive benefits and the effective date of the coverage.

Employers shall post notices in the workplace to inform employees about workers' compensation issues as required by 28 Administrative Code 110.101. These notices shall be posted in the personnel office, if the employer has a personnel office, and in the workplace where each employee is likely to see the notice on a regular basis. The notices shall be printed with a title in at least 26-point bold

type, subject in at least 18-point bold type, and text in at least 16-point normal type, and shall include English, Spanish, and any other language common to the employer's employee population. The text for the notices shall be the text provided by TDI on the sample notice without any additional words or changes.

Labor Code 504.018(b); 28 TAC 110.101(e)

Report to Carrier

First Report of
Injury

The employer, including a college district, shall report to the employer's insurance carrier each death, each occupational disease of which the employer has received notice of injury or has knowledge, and each injury that results in more than one day's absence from work for the injured employee. The term "knowledge" includes receipt of written or oral information regarding diagnosis of an occupational disease, or diagnosis of an occupational disease through direct examination or testing by a doctor employed by the employer.

TDI shall prescribe the form, format, and manner of the employer's first report of injury (report). The report shall contain the information required by 28 Administrative Code 120.1(a) (relating to Employer's Record of Injuries), any additional information prescribed by TDI in accordance with the Labor Code 402.00128(b)(10), and the information necessary for an insurance carrier to electronically transmit a first report of injury to TDI. The report shall be filed with the insurance carrier not later than the eighth day after having received notice of or having knowledge of an occupational disease or death, or not later than the eighth day after the employee's absence from work for more than one day due to a work-related injury. A report is filed when personally delivered, mailed, reported via tele-claims, electronically submitted, or sent via facsimile.

The employer shall maintain a record of the date the report of injury is filed with the insurance carrier.

Labor Code 409.005-.006; 28 TAC 120.2(a)-(c), (f)

Copy to Employee

The employer shall provide a written copy of the report and a written copy of the Notice of Injured Employee Rights and Responsibilities in the Texas Workers' Compensation System (Notice of Rights and Responsibilities) adopted by the Public Counsel of the Office of Injured Employee Counsel to the injured employee by personal delivery, mail, electronic submission or facsimile at the time that the report is made with the insurance carrier. The Notice of Rights and Responsibilities shall be in English and Spanish, or in English and any other language common to the employee. The written report may be the report specified in 28 Administrative Code 120.2(b), or at a minimum shall contain the information listed in 28 Administrative Code 120.1(a).

The employer shall maintain a record of the date the copy of the report of injury and the date the Notice of Rights and Responsibilities were provided to the employee.

Labor Code 409.005(c), (g); 28 TAC 120.2(d), (f)

Notice of Modified
Duty Program

The employer shall, on the written request of the employee, a doctor, the insurance carrier, or TDI, notify the employee, the employee's treating doctor if known to the employer, and the insurance carrier of the existence or absence of opportunities for modified duty or a modified duty return-to-work program available through the employer. If those opportunities or that program exists, the employer shall identify the employer's contact person and provide other information to assist the doctor, the employee, and the insurance carrier to assess modified duty or return-to-work options.
Labor Code 409.005(j)

Supplemental
Report of Injury

As provided in 28 Administrative Code 129.4 relating to adjustment of temporary income benefit amount, the employer shall file the supplemental report of injury, in the form, format and manner prescribed by TDI. The report shall be filed with the employer's carrier and provided to the employee within ~~ten~~¹⁰ days after:

1. The end of each pay period in which the employee has a change in earnings, including reporting all post-injury earnings as that term is used in 28 Administrative Code Chapter 129 [see Offsetting Paid Leave Against Workers' Compensation Income Benefits, below], as a result of the injury; or
2. The employee resigns or is terminated.

The employer's duty to file supplemental reports continues until the employee reaches maximum medical improvement (MMI) or is no longer employed by the employer and the employer has made the required report. The employer may contact the insurance carrier for information regarding the employee's MMI status.

For injuries requiring a First Report of Injury, above, unless the information required in this subsection is provided on the first report, the employer shall file the supplemental report with the employer's carrier and provide a copy to the employee within three days after:

1. The employee begins to lose time from work as a result of the injury;
2. The employee returns to work; or
3. The employee, after returning to work, experiences an additional day(s) of disability as a result of the injury.

The employer shall file the supplemental report of injury with the carrier by personal delivery, telephone, facsimile or electronic

transmission. The employer shall provide a copy of the report to the employee by facsimile or electronic transmission if the employee has identified a personal facsimile number or a personal email address to be used and the employer has the means of sending such a transmission. Otherwise, the report shall be provided by personal delivery or sent by mail.

The employer shall maintain a record of the date the supplemental report is filed with the carrier and provided to the employee.

Labor Code 409.005(i); 28 TAC 120.3

Injury and Occupational Disease Report

An employer that has workers' compensation insurance coverage (subscriber) shall file a report of injury with TDI pursuant to Labor Code 411.032. A subscribing employer's report of injury filed in accordance with Labor Code 409.005 and applicable TDI rules satisfies that employer's requirement to file an injury and occupational disease report under Labor Code 411.032, unless TDI requests that the employer file a report with TDI for a specific injury. *28 TAC 160.3(a)*

Wage Reports

The employer is required to timely file a complete wage statement in the form and manner prescribed by TDI. The term "filed" means "received."

The wage statement shall be filed with the carrier, the claimant, and the claimant's representative, if any, within 30 days of the earliest of:

1. The date the employer is notified that the employee is entitled to income benefits; or
2. The date of the employee's death as a result of a compensable injury.

A subsequent wage statement shall be filed with the carrier, the claimant, and the claimant's representative, if any, within seven days of a change in any wage information provided on the previous wage statement, such as because the employer has discontinued providing a nonpecuniary wage that was originally continued after the injury. A wage statement shall be filed with TDI within seven days of receiving a request from TDI.

28 TAC 120.4(a)

Record of Injuries

An employer shall keep a record of all injuries and fatal injuries to employees as reported to an employer, or otherwise made known to an employer. The record shall include:

1. The name, address, date of birth, sex, wage, length of service, social security number, and occupation of the employee;

2. The reported cause and nature of the injury, the part of the body affected, and a description of any equipment involved;
3. The date, time, and location where the injury occurred;
4. The name of the employee's immediate supervisor;
5. The names of any witnesses (if known);
6. The name and address of the treating health-care provider, if known; and
7. Any voluntary benefits paid by the employer under the Texas Workers' Compensation Act.

These records shall be open to inspection by TDI, upon at least five working days' notice to the employer, at a reasonable time and place. The employer shall retain a record of an injury until the expiration of five years from the last day of the year in which the injury occurred.

28 TAC 120.1(a)-(c)

**Ombudsman
Program**

The Office of Injured Employee Counsel (OIEC) shall maintain an ombudsman program as provided by Labor Code Chapter 404, Subchapter D, to assist injured employees and persons claiming death benefits in obtaining benefits under the Texas Workers' Compensation Act.

All employers participating in the workers' compensation system shall post notice of the OIEC's Ombudsman Program. This notice shall be posted in the workplace where each employee is likely to see the notice on a regular basis. This notice of the Ombudsman Program shall be publicly posted in English, Spanish, and any other language that is common to the employer's employees. The text of the notice shall be as described by 28 Administrative Code 276.5(c), [Notice to Employees Concerning Assistance Available in the Workers' Compensation System from the Office of Injured Employee Counsel](#)¹, without any additional words or changes.

Labor Code 404.151(a), .153(a); 28 TAC 276.5(a)-(c)

**First Responder
Liaison**

An employer that employs first responders or supervises volunteer first responders shall notify the first responders of the first responder liaison. The notice shall be posted in the personnel office and in the workplace where employees or volunteers are likely to read the notice on a regular basis. The notice shall be printed in English and Spanish or in English and any other language common to the employer's affected employee population. The text of the notice shall be that contained in 28 Administrative Code 276.5(d)(3), [Office of Injured Employee Counsel Notice Regarding](#)

[First Responder Liaison to Assist in Workers' Compensation Disputes](#)², without any additional words or changes.

"First responder" means:

1. An individual employed by a political subdivision of this state who is:
 - a. A peace officer under Code of Criminal Procedure ~~Article 2.12~~2A.001;
 - b. A person licensed under Health and Safety Code Chapter 773, as an emergency care attendant, emergency medical technician, emergency medical technician-intermediate, emergency medical technician-paramedic, or licensed paramedic; or
 - c. A firefighter subject to certification by the Texas Commission on Fire Protection under Government Code Chapter 419, whose principal duties are firefighting and aircraft crash and rescue; or
2. An individual covered under Labor Code 504.012(a) who is providing volunteer services to a political subdivision of this state as:
 - a. A volunteer firefighter, without regard to whether the volunteer firefighter is certified under Government Code Chapter 419, Subchapter D; or
 - b. An emergency medical services volunteer, as defined by Health and Safety Code 773.003.

Labor Code 404.153(a-1), 504.055(a); 28 TAC 276.5(d)

Reports of Safety Violations

TDI shall maintain a 24-hour toll-free telephone service in English and Spanish for reports of violations of occupational health or safety law. Each employer, including each college district, shall notify its employees of this service.

These notices shall be posted in the personnel office, if the employer has a personnel office, and in the workplace where each employee is likely to see the notice on a regular basis. The notices shall be printed with a title in at least 26-point bold type, subject in at least 18-point bold type, and text in at least 16-point normal type, and shall include English, Spanish, and any other language common to the employer's employee population. The text for the notices shall be the text provided by TDI on the sample notice without any additional words or changes.

An employer may not suspend or terminate the employment of or otherwise discriminate against an employee for using the telephone service to report in good faith an alleged violation of an occupational health or safety law.

Labor Code 411.081-.082; 28 TAC 110.101(e)

**Relation to Paid
Leave**

Once temporary income benefits (TIBs) accrue, an injured employee is entitled to TIBs to compensate the employee for lost wages due to the compensable injury during a period in which the employee has a disability and has not reached maximum medical improvement.

"Lost wages" are the difference between the employee's gross average weekly wage (AWW) and the employee's gross post-injury earnings (PIE). If the employee's PIE equals or exceeds the employee's AWW, the employee has no lost wages.

PIE shall include, but not be limited to, the documented weekly amount of:

1. The value of any full days of accrued sick leave or accrued annual leave that the employee voluntarily elects to use after the date of injury; and
2. The value of any partial days of accrued sick leave or accrued annual leave that the employee has voluntarily elected to use after the date of injury that, when combined with the employee's TIBs, exceeds AWW.

28 TAC 129.2

**Offsetting Paid
Leave Against
Workers'
Compensation
Income Benefits**

The governing body of a political subdivision, including a college district board of trustees, by majority vote, may provide that while an employee of the political subdivision is receiving workers' compensation benefits, the employee may elect to receive previously accrued sick leave benefits, whether statutory or contractual, in an amount equal to the difference between the workers' compensation benefits and the weekly compensation that the employee was receiving before the injury that resulted in the claim. Sick leave benefits that are received shall be deducted proportionately from the employee's sick leave balance. *Labor Code 504.052*

Unless the governing body adopts the option provided by Labor Code 504.052, sick leave benefits and annual leave benefits shall not be offset against benefits paid under the Workers' Compensation Law. [See DEC] *Atty. Gen. Op. JC-0040 (1999)*

**Prohibited
Discrimination**

A person may not discharge or in any other manner discriminate against an employee because the employee has:

1. Filed a workers' compensation claim in good faith.
2. Hired a lawyer to represent the employee in a claim.
3. Instituted or caused to be instituted in good faith a proceeding under the Texas Workers' Compensation Act.
4. Testified or is about to testify in a proceeding under the Texas Workers' Compensation Act.

Labor Code 451.001

A person who violates the discrimination prohibition is liable for reasonable damages incurred by the employee as a result of the violation. An employee discharged in violation of the discrimination prohibition is entitled to reinstatement in the former position of employment. *Labor Code 451.002(a)-(b)*

A first responder who alleges a violation of Labor Code 451.001 by a state or local governmental entity, including a college district that employs the first responder, may sue the governmental entity for the relief provided by Labor Code Chapter 451. Sovereign or governmental immunity from suit is waived and abolished to the extent of liability created by Chapter 451. To the extent a person has official or individual immunity from a claim for damages, this section does not affect that immunity.

"First responder" means a public safety employee or volunteer whose duties include responding rapidly to an emergency. The term includes:

1. A peace officer whose duties include responding rapidly to an emergency;
2. Fire protection personnel under Government Code 419.021;
3. A volunteer firefighter who is certified by the Texas Commission on Fire Protection or by the State Firemen's and Fire Marshalls' Association of Texas or a member of an organized volunteer fire-fighting unit as described by Government Code 615.003;
4. An individual certified as emergency medical services personnel by the Department of State Health Services;
5. An emergency response operator or emergency services dispatcher who provides communication support services for an agency by responding to requests for assistance in emergencies; and

6. Other emergency response personnel employed by an agency.

Labor Code 451.0025; Gov't Code 421.095(1)

Leaves of Absence

The employer shall not terminate an employee who is on an unpaid leave of absence and receiving workers' compensation benefits, except when the termination is for a legitimate reason independent from the employee's workers' compensation claim. [See DEC] *Atty. Gen. Op. JM-227 (1984)*

¹ Office of Injured Employee Counsel Notice Regarding First Responder Liaison to Assist in Workers' Compensation Disputes:

<https://texreg.sos.state.tx.us/fids/201801348-2.pdf>

² Office of Injured Employee Counsel Notice Regarding First Responder Liaison to Assist in Workers' Compensation Disputes:

<https://texreg.sos.state.tx.us/fids/201801348-2.pdf>

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Electronic Transactions

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

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

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

Electronic Signatures

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

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

Education Code 51.9336

Electronic Payments

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

Application of Government Code Chapter 2054

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

Statewide Technology Centers

This section applies to all information resources technologies, other than telecommunications services governed by Government Code Chapter 2170, that are obtained by a state agency using state money or used by a participating eligible entity, including a

college district. This section applies to electronic messaging services and outsourced managed services that are obtained by a state agency using state money or used by a participating eligible entity.

DIR may establish or expand a statewide technology center to include participation by an eligible entity. DIR may operate statewide technology centers to provide participating eligible entities, on a cost-sharing basis, services relating to:

1. Information resources and information resources technology; and
2. The deployment, development, and maintenance of software applications.

Gov't Code 2054.376(a)-(a-1), .3771, .378(a)

Web and Mobile Accessibility

A public entity, including a college district, shall ensure that the following are readily accessible to and usable by individuals with disabilities:

1. Web content that a public entity provides or makes available, directly or through contractual, licensing, or other arrangements; and
2. Mobile apps that a public entity provides or makes available, directly or through contractual, licensing, or other arrangements.

Beginning April 24, 2026, a public entity, other than a special district government, with a total population of 50,000 or more and, beginning April 26, 2027, a public entity with a total population of less than 50,000 or any public entity that is a special district government shall ensure that the web content and mobile apps that the public entity provides or makes available, directly or through contractual, licensing, or other arrangements, comply with Level A and Level AA success criteria and conformance requirements specified in [Web Content Accessibility Guidelines \(WCAG\) 2.1¹](#), World Wide Web Consortium (W3C) Recommendation 05 June 2018, unless the public entity can demonstrate that compliance with this section would result in a fundamental alteration in the nature of a service, program, or activity or in undue financial and administrative burdens.

"Special district government" means a public entity, other than a county, municipality, township, or independent school district, authorized by state law to provide one function or a limited number of designated functions with sufficient administrative and fiscal autonomy to qualify as a separate government and whose population is

not calculated by the U.S. Census Bureau in the most recent decennial Census or Small Area Income and Poverty Estimates.

28 C.F.R. 35.104, .200

Exceptions

The requirements of 28 C.F.R. 35.200 do not apply to the following:

1. Archived web content: Archived web content as defined in 28 C.F.R. 35.104.
2. Preexisting conventional electronic documents: Conventional electronic documents that are available as part of a public entity's web content or mobile apps before the date the public entity is required to comply with Subpart H, unless such documents are currently used to apply for, gain access to, or participate in the public entity's services, programs, or activities.
3. Content posted by a third party: Content posted by a third party, unless the third party is posting due to contractual, licensing, or other arrangements with the public entity.
4. Individualized, password-protected or otherwise secured conventional electronic documents: Conventional electronic documents that are:
 - a. About a specific individual, their property, or their account; and
 - b. Password-protected or otherwise secured.
5. Preexisting social media posts: A public entity's social media posts that were posted before the date the public entity is required to comply with Subpart H.

28 C.F.R. 35.201

Fundamental Alteration or Undue Burden

Where a public entity can demonstrate that compliance with the requirements of 28 C.F.R. 35.200 would result in a fundamental alteration in the nature of a service, program, or activity or in undue financial and administrative burdens, compliance with Section 35.200 is required to the extent that it does not result in a fundamental alteration or undue financial and administrative burdens.

In those circumstances where personnel of the public entity believe that the proposed action would fundamentally alter the service, program, or activity or would result in undue financial and administrative burdens, a public entity has the burden of proving that compliance with Section 35.200 would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the head of a public entity or their designee after considering all resources available for use in the funding and operation of the service, program, or activity, and must be

accompanied by a written statement of the reasons for reaching that conclusion.

If an action would result in such an alteration or such burdens, a public entity shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that individuals with disabilities receive the benefits or services provided by the public entity to the maximum extent possible.

28 C.F.R. 35.204

Alternatives

Nothing in 28 C.F.R. Part 35, Subpart H, prevents the use of designs, methods, or techniques as alternatives to those prescribed, provided that the alternative designs, methods, or techniques result in substantially equivalent or greater accessibility and usability of the web content or mobile app.

A public entity may use conforming alternate versions of web content, as defined by WCAG 2.1, to comply with 28 C.F.R. 35.200 only where it is not possible to make web content directly accessible due to technical or legal limitations.

28 C.F.R. 35.202(a), .203

Noncompliance with Minimal Impact

A public entity that is not in full compliance with the requirements of 28 C.F.R. 35.200(b) will be deemed to have met the requirements of 28 C.F.R. 35.200 in the limited circumstance in which the public entity can demonstrate that the noncompliance has such a minimal impact on access that it would not affect the ability of individuals with disabilities to use the public entity's web content or mobile app to do any of the following in a manner that provides substantially equivalent timeliness, privacy, independence, and ease of use:

1. Access the same information as individuals without disabilities;
2. Engage in the same interactions as individuals without disabilities;
3. Conduct the same transactions as individuals without disabilities; and
4. Otherwise participate in or benefit from the same services, programs, and activities as individuals without disabilities.

28 C.F.R. 35.205

Access to Electronic CommunicationsElectronic
Communication
Privacy Act

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

1. Intentionally intercepts, endeavors to intercept, or procures any other person to intercept or endeavor to intercept any wire, oral, or electronic communication;
2. Intentionally uses, endeavors to use, or procures any other person to use or endeavor to use any electronic, mechanical, or other device to intercept any oral communication when:
 - a. Such device is affixed to, or otherwise transmits a signal through, a wire, cable, or other like connection used in wire communication;
 - b. Such device transmits communications by radio or interferes with the transmission of such communication;
 - c. Such person knows, or has reason to know, that such device or any component thereof has been sent through the mail or transported in interstate or foreign commerce;
 - d. Such use or endeavor to use takes place on the premises of any business or other commercial establishment the operations of which affect interstate or foreign commerce; or obtains or is for the purpose of obtaining information relating to the operations of any business or other commercial establishment the operations of which affect interstate or foreign commerce; or
 - e. Such person acts in the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.
3. Intentionally discloses, or endeavors to disclose, to any other person the contents of any wire, oral, or electronic communication, knowing or having reason to know that the information was obtained through the prohibited interception of a wire, oral, or electronic communication;
4. Intentionally uses, or endeavors to use, the contents of any wire, oral, or electronic communication, knowing or having reason to know that the information was obtained through the prohibited interception of a wire, oral, or electronic communication; or
5. Intentionally discloses, or endeavors to disclose, to any other person the contents of any wire, oral, or electronic communication, intercepted by means authorized by 18 U.S.C. 2511(2)(a)(ii), 2511(2)(b)-(c), 2511(2)(e), 2516, and 2518; knowing or having reason to know that the information was

obtained through the interception of such a communication in connection with a criminal investigation; having obtained or received the information in connection with a criminal investigation; and with intent to improperly obstruct, impede, or interfere with a duly authorized criminal investigation.

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

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

Stored Wire and
Electronic
Communications
and Transactional
Records Access Act

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

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

Exceptions

- This section does not apply with respect to conduct authorized:
1. By the person or entity providing a wire or electronic communications service;
 2. By a user of that service with respect to a communication of or intended for that user; or
 3. By sections 18 U.S.C. 2703, 2704, or 2518.

18 U.S.C. 2701(c)

Definitions
*Electronic
Communication*

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

*Electronic
Storage*

- “Electronic storage” means:
1. Any temporary, intermediate storage of a wire or electronic communication incidental to the electronic transmission thereof; and

2. Any storage of such communication by an electronic communication service for purposes of backup protection of such communication.

18 U.S.C. 2510(17)

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

*Electronic
Communications
System*

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

*Electronic
Communications
Service*

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

Facility

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

**Impeding Electronic
Mail Prohibited**

An electronic mail service provider may not intentionally impede the transmission of another person's electronic mail message based on the content of the message unless:

1. The provider is authorized to block the transmission under Business and Commerce Code 321.114 or other applicable state or federal law; or
2. The provider has a good faith, reasonable belief that the message contains malicious computer code, obscene material, material depicting sexual conduct, or material that violates other law.

"Electronic mail service provider" means a person who:

1. Is authorized to transact business in this state;
2. Is an intermediary in transmitting or receiving electronic mail; and
3. Provides to an end user of an electronic mail service the ability to transmit or receive electronic mail.

Business and Commerce Code 321.001(3), .054

Drones**Federal Law***Small Unmanned Aircraft*

“Small unmanned aircraft” means an unmanned aircraft weighing less than 55 pounds on takeoff, including everything that is on board or otherwise attached to the aircraft. [14 C.F.R. 107.3](#)

Small Unmanned Aircraft System

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

C.F.R. Title 14, Part 107 applies to the registration, airman certification, and operation of civil small UASs within the United States. Part 107 also applies to the eligibility of civil small unmanned aircraft systems to operate over human beings in the United States. Part 107 does not apply to the following:

1. Air carrier operations;
2. Any aircraft subject to the provisions of 49 U.S.C. 44809;
3. Any operation that the holder of an exemption under Section 333 of Public Law 112–95 or 49 U.S.C. 44807 elects to conduct pursuant to the exemption, unless otherwise specified in the exemption; or
4. Any operation that a person elects to conduct under 14 C.F.R. Part 91 with a small UAS that has been issued an airworthiness certificate.

*14 C.F.R. 107.1, .3***Recreational Use**

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

1. The aircraft is flown strictly for recreational purposes.
2. The aircraft is operated in accordance with or within the programming of a community-based organization's set of safety guidelines that are developed in coordination with the FAA.
3. The aircraft is flown within the visual line of sight of the person operating the aircraft or a visual observer co-located and in direct communication with the operator.
4. The aircraft is operated in a manner that does not interfere with and gives way to any manned aircraft.

5. In Class B, Class C, or Class D airspace or within the lateral boundaries of the surface area of Class E airspace designated for an airport, the operator obtains prior authorization from the FAA administrator or designee before operating and complies with all airspace restrictions and prohibitions.
6. Except for circumstances when the administrator establishes alternative altitude ceilings or as otherwise authorized in Section 49 U.S.C. 44809(c), in Class G airspace, the aircraft is flown from the surface to not more than 400 feet above ground level and complies with all airspace and flight restrictions and prohibitions established under U.S.C. Title 49, Subtitle VII, such as special use airspace designations and temporary flight restrictions.
7. The operator has passed an aeronautical knowledge and safety test described in 49 U.S.C. 44809(g) and maintains proof of test passage to be made available to the FAA administrator or law enforcement upon request.
8. The aircraft is registered and marked in accordance with 49 U.S.C. Chapter 441, and proof of registration is made available to the FAA administrator or a designee of the FAA administrator or law enforcement upon request.

49 U.S.C. 44809(a)

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

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

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

49 U.S.C. 44809 note; Pub. L. ~~115-254, Div. B~~ 118-63, Title III, 350 ~~(Oct. 5, 2018)~~ IX, 928(b) (May 16, 2024)

State Law <i>Regulation Limited</i>	A political subdivision, including a college district, may not adopt or enforce any ordinance, order, or other similar measure regarding the operation of an unmanned aircraft. An ordinance, order, or other similar measure that violates this provision is void and unenforceable. <i>Gov't Code 423.009(b), (d)</i>
Exception	<p>A political subdivision may adopt and enforce an ordinance, order, or other similar measure regarding:</p> <ol style="list-style-type: none"> 1. The use of an unmanned aircraft during a special event; 2. The political subdivision's use of an unmanned aircraft; or 3. The use of an unmanned aircraft near a facility or infrastructure owned by the political subdivision, if the political subdivision: <ol style="list-style-type: none"> a. Applies for and receives authorization from the Federal Aviation Administration to adopt the regulation; and b. After providing reasonable notice, holds a public hearing on the political subdivision's intent to apply for the authorization. <p>"Special event" means a festival, celebration, or other gathering that involves the reservation and temporary use of all or a portion of a public park, road, or other property of a political subdivision; and entertainment, the sale of merchandise, food, or beverages, or mass participation in a sports event; and requires a significant use or coordination of a political subdivision's services.</p> <p><i>Gov't Code 423.009(a)(2), (c)</i></p>
<i>Privacy Law</i>	<p>It is lawful to capture an image using an unmanned aircraft in this state for the reasons listed in Government Code 423.002, including:</p> <ol style="list-style-type: none"> 1. For the purpose of professional or scholarly research and development or for another academic purpose by a person acting on behalf of an institution of higher education or a private or independent institution of higher education, as those terms are defined by Education Code 61.003, including a person who: <ol style="list-style-type: none"> a. Is a professor, employee, or student of the institution; or b. Is under contract with or otherwise acting under the direction or on behalf of the institution; 2. With the consent of the individual who owns or lawfully occupies the real property captured in the image; or

3. From a height no more than eight feet above ground level in a public place, if the image was captured without using any electronic, mechanical, or other means to amplify the image beyond normal human perception.

Gov't Code 423.002(a)

¹ [Web Content Accessibility Guidelines \(WCAG\) 2.1, World Wide Web Consortium \(W3C\) Recommendation 05 June 2018:](https://perma.cc/UB8A-GG2F)
<https://perma.cc/UB8A-GG2F>

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	<p>Note: For complaints of discrimination, harassment, and retaliation targeting employees on the basis of a protected characteristic, see DIAA(LEGAL) and DIAB(LEGAL).</p>
	<p>No governmental entity, including a college district, shall deny to any person within its jurisdiction the equal protection of the laws. <i>U.S. Const. Amend. XIV</i></p>
<p>Title VII— Discrimination on the Basis of Sex, Race, Color, Religion, or National Origin</p>	<p>It shall be an unlawful employment practice for an employer to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to the individual's compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin or to limit, segregate, or classify the individual's employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect the individual's status as an employee, because of such individual's race, color, religion, sex, or national origin. <i>42 U.S.C. 2000e-2(a)</i></p>
<p>Generally</p>	<p>Terminating an employee on the basis of the employee's homosexuality or transgender status violates Title VII's prohibition against sex discrimination in employment. <i>Bostock v. Clayton County, Georgia, 140 S. Ct. 1731 (2020)</i></p> <p>Title VII proscribes not only overt discrimination (disparate treatment) but also employment practices that are fair in form but discriminatory in operation (disparate impact). <i>Wards Cove Packing Co. v. Atonio, 490 U.S. 642 (1989)</i></p>
<p><i>Disparate Treatment</i></p>	<p>Disparate treatment occurs where members of a race, sex, or ethnic group have been denied the same employment, promotion, membership, or other employment opportunities as have been available to other employees or applicants. <i>29 C.F.R. 1607.11</i></p>
<p><i>Disparate Impact</i></p>	<p>An unlawful employment practice based on disparate impact is established only if a complaining party demonstrates that a respondent uses a particular employment practice that causes a disparate impact on the basis of race, color, religion, sex, or national origin, and the respondent fails to demonstrate that the challenged practice is job-related and consistent with business necessity. <i>42 U.S.C. 2000e-2(k)(1)(A)</i></p>
<p>Training</p>	<p>It shall be an unlawful employment practice for any employer controlling apprenticeship or other training or retraining, including on-the-job training programs, to discriminate against any individual be-</p>

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

	<p>sex in such establishment for equal work on jobs the performance of which requires equal skill, effort, or responsibility, and which are performed under similar working conditions, except where such payment is pursuant to a seniority system, a merit system, a system which measures earnings by quantity or quality of production, or a differential based on any other factor other than sex. <i>29 U.S.C. 206(d); 34 C.F.R. 106.54</i></p>
<p><i>Religious Discrimination</i></p>	<p>The prohibition against discrimination on the basis of religion includes all aspects of religious observances and practice, as well as religious belief, unless an employer demonstrates that it is unable to reasonably accommodate an employee's or prospective employee's religious observance or practice without undue hardship to the employer's business. "Undue hardship" means more than a <i>de minimus</i> (minimal) cost. <i>42 U.S.C. 2000e(j); 29 C.F.R. 1605.2</i></p> <hr/> <p>Note: See State Law, below, for state prohibitions on discrimination based on race, color, religion, sex, or national origin.</p> <hr/>
<p>Title VII— Harassment of Employees on the Basis of Sex, Race, Color, Religion, and National Origin</p>	<p>Harassment violates Title VII if it is sufficiently severe and pervasive to alter the conditions of employment. <u><i>Pennsylvania State Police v. Suders</i></u>, 542 U.S. 129 (2004)</p> <p>Harassment on the basis of sex is a violation of Title VII, 42 U.S.C. 2000e-2.</p> <p>The Equal Employment Opportunity Commission (EEOC) has consistently held that harassment on the basis of national origin is a violation of Title VII. An employer has an affirmative duty to maintain a working environment free of harassment on the basis of national origin.</p> <p><i>42 U.S.C. 2000e-2; 29 C.F.R. 1606.8(a), 1604.11(a)</i></p> <p>Title VII does not prohibit all verbal and physical harassment in the workplace. For example, harassment between men and women is not automatically unlawful sexual harassment merely because the words used have sexual content or connotations. <u><i>Oncale v. Sundowner Offshore Services, Inc.</i></u>, 523 U.S. 75 (1998)</p>
<p>Hostile Environment</p>	<p>Verbal or physical conduct based on a person's sex, race, color, religion, or national origin constitutes unlawful harassment when the conduct:</p> <ol style="list-style-type: none">1. Has the purpose or effect of creating an intimidating, hostile, or offensive working environment;

2. Has the purpose or effect of unreasonably interfering with an individual's work performance; or
3. Otherwise adversely affects an individual's employment opportunities.

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

Quid Pro Quo

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

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

29 C.F.R. 1604.11(a)

Same-Sex Sexual Harassment

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

Sexual Harassment Policy

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

Corrective Action

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

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

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

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

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

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

**Title IX – Sex
Discrimination**

No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination in employment, or recruitment, consideration, or selection therefor, whether full-time or part-time, under any education program or activity operated by a recipient which receives federal financial assistance.

The provisions of 34 C.F.R. Part 106, Subpart E, apply to:

1. Recruitment, advertising, and the process of application for employment;
2. Hiring, upgrading, promotion, consideration for and award of tenure, demotion, transfer, layoff, termination, application of nepotism policies, right of return from layoff, and rehiring;
3. Rates of pay or any other form of compensation, and changes in compensation;
4. Job assignments, classifications and structure, including position descriptions, lines of progression, and seniority lists;
5. The terms of any collective bargaining agreement;
6. Granting and return from leaves of absence, leave for pregnancy, childbirth, false pregnancy, termination of pregnancy, leave for persons of either sex to care for children or dependents, or any other leave;
7. Fringe benefits available by virtue of employment, whether or not administered by the recipient;
8. Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, selection for tuition assistance, selection for sabbaticals and leaves of absence to pursue training;
9. Employer-sponsored activities, including those that are social or recreational; and

	<p>10. Any other term, condition, or privilege of employment.</p> <p>20 U.S.C. 1681; 34 C.F.R. 106.51(a)(1), (b)</p>
Marital, Parental, or Family Status	<p>A recipient shall not apply any policy or take any employment action:</p> <ol style="list-style-type: none">1. Concerning the potential marital, parental, or family status of an employee or applicant for employment which treats persons differently on the basis of sex; or2. Which is based upon whether an employee or applicant for employment is the head of household or principal wage earner in such employee's or applicant's family unit. <p>34 C.F.R. 106.57(a)</p>
Pregnancy	<p>A recipient shall not discriminate against or exclude from employment any employee or applicant for employment on the basis of pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery therefrom. [See DEC for pregnancy leave] 34 C.F.R. 106.57(b)</p>
Pregnancy as a Temporary Disability	<p>A recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy, and recovery therefrom and any temporary disability resulting therefrom as any other temporary disability for all job-related purposes, including commencement, duration and extensions of leave, payment of disability income, accrual of seniority and any other benefit or service, and reinstatement, and under any fringe benefit offered to employees by virtue of employment. 34 C.F.R. 106.57(c)</p>
<hr/> <p>Note: For related information regarding Title IX and the prohibition on sex discrimination under Title IX and campus dating violence, domestic violence, sexual assault, and stalking prevention programs under the Clery Act, see FA(LEGAL).</p> <hr/>	

**ADEA—Age
Discrimination**

It shall be unlawful for an employer:

- To fail or refuse to hire or to discharge any individual or otherwise discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment because of such individual's age;
- To limit, segregate, or classify his employees in any way that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee because of such individual's age; or

3. To reduce the wage rate of any employee in order to comply with 29 U.S.C. Chapter 14.

29 U.S.C. 623(a)

It shall be unlawful for an employer to print or publish, or cause to be printed or published, any notice or advertisement relating to employment by such an employer indicating any preference, limitation, specification, or discrimination, based on age. 29 U.S.C. 623(e)

It shall not be unlawful for an employer:

1. To take any action otherwise prohibited under 29 U.S.C. 623(a) or (e) where age is a bona fide occupational qualification reasonably necessary to the normal operation of the particular business, or where the differentiation is based on reasonable factors other than age, or where such practices involve an employee in a workplace in a foreign country, and compliance with ~~such subsections~~ Section 623(a) or (e) would cause such employer, or a corporation controlled by such employer, to violate the laws of the country in which such workplace is located;
2. To take any action otherwise prohibited under 29 U.S.C. 623(a) or (e):
 - a. To observe the terms of a bona fide seniority system that is not intended to evade the purposes of 29 U.S.C. Chapter 14, except that no such seniority system shall require or permit the involuntary retirement of any individual specified by 29 U.S.C. 631(a) because of the age of such individual; or
 - b. To observe the terms of a bona fide employee benefit plan in compliance with 29 U.S.C. 623. No such employee benefit plan shall excuse the failure to hire any individual, and no such employee benefit plan shall require or permit the involuntary retirement of any individual specified by 29 U.S.C. 631(a) because of the age of such individual.
3. To discharge or otherwise discipline an individual for good cause.

29 U.S.C. 623(f)

It shall be unlawful for an employer to discriminate against any of his employees or applicants for employment because such individ-

ual has opposed any practice made unlawful by this section, or because such individual has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or litigation under 29 U.S.C. Chapter 14. *29 U.S.C. 623(d)*

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

**ADA and Section 504
—Disability
Discrimination**

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

Discrimination
Based on Lack of
Disability

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

Definition of
Disability

“Disability” means, with respect to an individual:

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

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

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

*Regarded as
Having Such an
Impairment*

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

Transitory and
Minor

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

*Mitigating
Measures*

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

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

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

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

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

Other Definitions

*Major Life
Activities*

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

1. Caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, and working; and
2. The operation of a major bodily function, including functions of the immune system, special sense organs and skin, normal cell growth, and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions. The operation of a major bodily function includes the operation of an individual organ within the body system.

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

*Physical or
Mental
Impairment*

“Physical or mental impairment” means:

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

syndrome, emotional or mental illness, and specific learning disabilities.

29 C.F.R. 1630.2(h)

*Qualified
Individual*

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

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

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

*Reasonable
Accommodation*

A covered entity is required, absent undue hardship, to provide a reasonable accommodation to an otherwise qualified individual who meets the definition of disability under the “actual disability” prong or “record of disability” prong, but is not required to provide a reasonable accommodation to an individual who meets the definition of disability solely under the “regarded as” prong. [See DBB regarding medical examinations and inquiries under the Americans with Disabilities Act] *29 U.S.C. 794, 42 U.S.C. 12112(b)(5); 29 C.F.R. 1630.2(o)(4), .9, 34 C.F.R. 104.11*

“Reasonable accommodation” may include:

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

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

Undue Hardship

“Undue hardship” means an action requiring significant difficulty or expense, when considered in light of the following factors. In determining whether an accommodation would impose an undue hardship on a covered entity, factors to be considered include the nature and cost of the accommodation needed, the overall financial

	resources of the facility or facilities involved in the provision of the reasonable accommodation, the overall financial resources of the covered entity, the type of operation or operations of the covered entity, and other factors set out in 42 U.S.C. 12111(10). 42 U.S.C. 12111(10); 29 C.F.R. 1630.2(p); 34 C.F.R. 104.12(c)
Discrimination Based on Relationship	It is unlawful for a covered entity to exclude or deny equal jobs or benefits to, or otherwise discriminate against, a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a family, business, social, or other relationship or association. 42 U.S.C. 12112(b)(4); 29 C.F.R. 1630.8
Illegal Drugs and Alcohol	A qualified individual with a disability shall not include any employee or applicant who is currently engaging in the illegal use of drugs, when the covered entity acts on the basis of such use. 42 U.S.C. 12114(a); 29 C.F.R. 1630.3(a)
<i>Drug Testing</i>	Nothing in 42 U.S.C. Chapter 126, Subchapter I, shall be construed to encourage, prohibit, or authorize the conducting of drug testing for the illegal use of drugs by job applicants or employees or making employment decisions based on the results of such tests. [See DHA] 42 U.S.C. 12114(d)(2); 29 C.F.R. 1630.3(c), .16(c)
<i>Alcohol Use</i>	The term “individual with a disability” does not include any individual who is an alcoholic whose current use of alcohol prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol abuse, would constitute a direct threat to property or the safety of others. 29 U.S.C. 705(20)(C)(v), 42 U.S.C. 12114(a); 29 C.F.R. 1630.16(b)
Qualification Standards	It is unlawful for a covered entity to use qualification standards, employment tests, or other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities, on the basis of disability, unless the standard, test, or other selection criteria, as used by the covered entity, is shown to be job-related for the position in question and is consistent with business necessity. 29 C.F.R. 1630.10(a)
<i>Direct Threat to Health or Safety</i>	The term “qualification standards” may include a requirement that an individual shall not pose a direct threat to the health or safety of other individuals in the workplace. “Direct threat” means a significant risk to the health or safety of the individual or others that cannot be eliminated by reasonable accommodation. The determination that an individual poses a “direct threat” shall be based on an individualized assessment of the individual’s present ability to safely perform the essential functions of the job. This assessment shall be based on a reasonable medical judgment that relies on the

most current medical knowledge and/or on the best available objective evidence. In determining whether an individual would pose a direct threat, the factors to be considered include the duration of the risk; the nature and severity of the potential harm; the likelihood that the potential harm will occur; and the imminence of the potential harm. 42 U.S.C. 12111(3), 12113(b); 29 C.F.R. 1630.2(r)

*Vision Standards
and Tests*

A covered entity shall not use qualification standards, employment tests, or other selection criteria based on an individual's uncorrected vision unless the standard, test, or other selection criteria, as used by the covered entity, is shown to be job-related for the position in question and consistent with business necessity. 42 U.S.C. 12113(c); 29 C.F.R. 1630.10(b)

*Communicable
Diseases*

In any case in which an individual has an infectious or communicable disease that is transmitted to others through the handling of food, that is included on the list developed by the U.S. Secretary of Health and Human Services under 42 U.S.C. 12113(e)(1), and that cannot be eliminated by reasonable accommodation, a covered entity may refuse to assign or continue to assign an individual to a job involving food handling. 42 U.S.C. 12113(e)(2); 29 U.S.C. 705(20)(D); 29 C.F.R. 1630.16(e)

Service Animals

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

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

28 C.F.R. 35.140

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

Pregnant Workers
Fairness Act—
Accommodations
Based on Pregnancy
and Related
Conditions

It ~~shall be~~is an unlawful employment practice for a covered entity, including a college district, not to:

~~Not~~ make reasonable accommodations to the known limitations related to the pregnancy, childbirth, or related medical conditions of a qualified employee, unless such covered entity can demonstrate that the accommodation would impose an undue hardship on the

	<p>operation of the business of such covered entity; <u>42 U.S.C. 2000gg-1(1); 29 C.F.R. 1636.3(a)</u></p>
<p><u>Denial of Employment Opportunities</u></p>	<p><u>It is an unlawful employment practice for a covered entity to deny employment opportunities to a qualified employee if such denial is based on the need, or potential need, of the covered entity to make reasonable accommodations to the known limitations related to the pregnancy, childbirth, or related medical conditions of the qualified employee. 42 U.S.C. 2000gg-1(3); 29 C.F.R. 1636.4(c)</u></p>
<p><u>Interactive Process</u></p>	<p><u>It is an unlawful employment practice for a covered entity to require a qualified employee affected by pregnancy, childbirth, or related medical conditions to accept an accommodation other than any reasonable accommodation arrived at through the interactive process; referred to in 42 U.S.C. 2000gg(7) and described in 29 C.F.R. 1636.3(k). 42 U.S.C. 2000gg-1(2); 29 C.F.R. 1636.4(b)</u></p>
<p><u>Deny Required Leave</u></p>	<p><u>It is an unlawful employment opportunities to practice for a covered entity to require a qualified employee to take leave, whether paid or unpaid, if such denial is based on the need of the covered entity to make another reasonable accommodations accommodation can be provided to the known limitations related to the pregnancy, childbirth, or related medical conditions of the qualified employee; or that does not result in an undue hardship for the covered entity; but nothing in this section prohibits leave as a reasonable accommodation if that is the reasonable accommodation requested or selected by the employee, or if it is the only reasonable accommodation that does not cause an undue hardship. [See DEC] 42 U.S.C. 2000gg-1(4); 29 C.F.R. 1636.4(d)</u></p>
<p><u>Unnecessary Delay</u></p>	<p><u>An unnecessary delay in providing a reasonable accommodation to the known limitations related to the pregnancy, childbirth, or related medical conditions of a qualified employee may result in a violation of the PWFA even if the covered entity eventually provides the reasonable accommodation. In determining whether there has been an unnecessary delay, factors to be considered are described in 29 C.F.R. 1636.4(a)(1)(i)-(vii). 29 C.F.R. 1636.4(a)(1)</u></p>
<p><u>Temporary Suspension of an Essential Function</u></p>	<p><u>If an employee with a known limitation under the PWFA meets the definition of “qualified employee” and needs one or more essential functions of the relevant position to be temporarily suspended, the covered entity must provide the accommodation unless doing so would impose an undue hardship on the covered entity when considered in light of the factors provided in the definition of “undue hardship” as well as the following additional factors where they are relevant and with no one factor to be dispositive:</u></p> <ol style="list-style-type: none"><u>1. The length of time that the employee will be unable to perform the essential function(s);</u>

2. Whether, through the factors listed in 29 C.F.R. 1636.3(f)(2)(iii) or otherwise, there is work for the employee to accomplish;
3. The nature of the essential function(s), including its frequency;
4. Whether the covered entity has provided other employees in similar positions who are unable to perform the essential function(s) of their position with temporary suspensions of the essential function(s);
5. If necessary, whether there are other employees, temporary employees, or third parties who can perform or be hired to perform the essential function(s); and
6. Whether the essential function(s) can be postponed or remain unperformed for any length of time and, if so, for how long.

29 C.F.R. 1636.3(j)(3)

Adverse Action

It is an unlawful employment practice for a covered entity to take adverse action in terms, conditions, or privileges of employment against a qualified employee on account of the employee requesting or using a reasonable accommodation to the known limitations related to the pregnancy, childbirth, or related medical conditions of the employee. 42 U.S.C. 2000gg-1(5); 29 C.F.R. 1636.4(e)

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

Retaliation and Coercion Prohibited

No person shall discriminate against any employee because such employee has opposed any act or practice made unlawful by ~~this section~~the Pregnant Workers Fairness Act (PWFA) or because such employee made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under ~~this section~~the PWFA.

It shall be unlawful to coerce, intimidate, threaten, harass, or interfere with any individual in the exercise or enjoyment of, or on account of such individual having exercised or enjoyed, or on account of such individual having aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected by the PWFA.

42 U.S.C. 2000gg-2(f); 29 C.F.R. 1636.5(f)

Definitions

Pregnancy,
Childbirth, or
Related Medical
Conditions

“Pregnancy” and “childbirth” refer to the pregnancy or childbirth of the specific employee in question and include, but are not limited to, current pregnancy; past pregnancy; potential or intended pregnancy, which can include infertility, fertility treatment, and the use of contraception; labor; and childbirth, including vaginal and cesarean delivery.

“Related medical conditions” are medical conditions relating to the pregnancy or childbirth of the specific employee in question, as described by 29 C.F.R. 1636.3(b).

29 C.F.R. 1636.3(b)

Qualified
Employee

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

1. Any inability to perform an essential function is for a temporary period, where “temporary” means lasting for a limited time, not permanent, and may extend beyond “in the near future.”
2. The essential function could be performed in the near future. This determination is made on a case-by-case basis. If the employee is pregnant, it is presumed that the employee could perform the essential function(s) in the near future because they could perform the essential function(s) within generally 40 weeks of its suspension.
3. The inability to perform the essential function(s) can be reasonably accommodated. This may be accomplished by temporary suspension of the essential function(s) and the employee performing the remaining functions of their position or, depending on the position, other arrangements, including, but not limited to: the employee performing the remaining functions of their position and other functions assigned by the covered entity; the employee performing the functions of a different job to which the covered entity temporarily transfers or assigns the employee; or the employee being assigned to light duty or modified duty or participating in the covered entity’s light or modified duty program.

42 U.S.C. 2000gg(6); 29 C.F.R. 1636.3(f)

Exception

An employee with known limitations related to pregnancy, childbirth, or related medical conditions is not required to accept an accommodation. However, if such employee rejects a reasonable accommodation that is necessary to enable the employee to perform an essential function(s) of the position held or desired or to apply

for the position, or rejects the temporary suspension of an essential function(s) if the employee is qualified under 29 C.F.R. 1636.3(f)(2), and, as a result of that rejection, cannot perform an essential function(s) of the position, or cannot apply, the employee will not be considered “qualified.” 29 C.F.R. 1636.3(a)(2)

Known Limitation

The term “known limitation” means physical or mental condition related to, affected by, or arising out of pregnancy, childbirth, or related medical conditions that the employee or employee’s representative has communicated to the employer whether or not such condition meets the definition of disability specified in the Americans with Disabilities Act (ADA) of 1990, 42 U.S.C. 12102. 42 U.S.C. 2000gg(4); 29 C.F.R. 1636.3(a)

~~Qualified
Employee~~

~~The term “qualified employee” means an employee or applicant who, with or without reasonable accommodation, can perform the essential functions of the employment position, except that an employee or applicant shall be considered qualified if: Any inability to perform an essential function is for a temporary period;~~

~~2. The essential function could be performed in the near future; and~~

~~3. The inability to perform the essential function can be reasonably accommodated.~~

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

Physical or
Mental
Condition

“Physical or mental condition” is an impediment or problem that may be modest, minor, and/or episodic. The physical or mental condition may be that an employee affected by pregnancy, childbirth, or related medical conditions has a need or a problem related to maintaining their health or the health of the pregnancy. The definition also includes when an employee is seeking health-care related to pregnancy, childbirth, or a related medical condition itself. The physical or mental condition can be a limitation whether or not such condition meets the definition of disability specified in Section 3 of the Americans with Disabilities Act of 1990, 42 U.S.C. 12102. 42 U.S.C. 2000gg(4); 29 C.F.R. 1636.3(a)(2)

Communicated
to the Employer

“Communicated to the employer,” with respect to a known limitation, means an employee or the employee’s representative has made the employer aware of the limitation by communicating with a supervisor, a manager, someone who has supervisory authority for the employee or who regularly directs the employee’s tasks (or the equivalent for an applicant), human resources personnel, or another appropriate official, or by following the steps in the covered entity’s policy to request an accommodation. The communication may be made orally, in writing, or by another effective means. The

	<u>communication need not be in writing, be in a specific format, use specific words, or be on a specific form in order for it to be considered “communicated to the employer.” 29 C.F.R. 1636.3(d)</u>
<u>Consideration of Mitigating Measures</u>	<u>The determination of whether an employee has a limitation shall be made without regard to the ameliorative effects of mitigating measures. The non-ameliorative effects of mitigating measures, such as negative side effects of medication or burdens associated with following a particular treatment regimen, may be considered when determining whether an employee has a limitation. 29 C.F.R. 1636.3(e)</u>
<u>Reasonable Accommodation</u>	<p><u>With respect to an employee or applicant with a known limitation under the PWFA, “reasonable accommodation” includes:</u></p> <ol style="list-style-type: none"><u>1. Modifications or adjustments to a job application process that enable a qualified applicant with a known limitation under the PWFA to be considered for the position such qualified applicant desires;</u><u>2. Modifications or adjustments to the work environment, or to the manner or circumstances under which the position held or desired is customarily performed, that enable a qualified employee with a known limitation under the PWFA to perform the essential functions of that position;</u><u>3. Modifications or adjustments that enable a covered entity's employee with a known limitation under the PWFA to enjoy equal benefits and privileges of employment as are enjoyed by its other similarly situated employees without known limitations; or</u><u>4. Temporary suspension of essential function(s) and/or modifications or adjustments that permit the temporary suspension of essential function(s).</u> <p><u>42 U.S.C. 2000gg(7); 29 C.F.R. 1636.3(h)</u></p>
<u>Undue Hardship</u>	<p><u>“Undue hardship” means, with respect to the provision of an accommodation, significant difficulty or expense incurred by a covered entity, when considered in light of the following factors, with no one factor to be dispositive:</u></p> <ol style="list-style-type: none"><u>1. The terms “nature and net cost of the accommodation needed under the PWFA;</u><u>2. The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation and “undue hardship” have the meanings given, the number of persons employed at such terms in the ADA, 42 U.S.C.</u>

~~12111~~facility, and ~~shall be construed as such terms are construed under the ADA~~the effect on expenses and ~~as set forth in the regulations required by this section~~resources;

3. The overall financial resources of the covered entity, the overall size of the business of the covered entity with respect to the number of its employees, and the number, type, and location of its facilities;
4. The type of operation or operations of the covered entity, including ~~with regard to the interactive process that will typically be used to determine an appropriate~~the composition, structure, and functions of the workforce of such entity, and the geographic separateness and administrative or fiscal relationship of the facility or facilities in question to the covered entity; and
5. The impact of the accommodation upon the operation of the facility, including the impact on the ability of other employees to perform their duties and the impact on the facility's ability to conduct business.

42 U.S.C. 2000gg(7); 29 C.F.R. 1636.3(j)(1)-(2)

Predictable
Assessments

The individualized assessment of whether a modification listed in this provision is a reasonable accommodation that would cause undue hardship will, in virtually all cases, result in a determination that the four modifications are reasonable accommodations that will not impose an undue hardship under the PWFA when they are requested as workplace accommodations by an employee who is pregnant. Therefore, with respect to these modifications, the individualized assessment should be particularly simple and straightforward: ~~42 U.S.C. 2000gg(7)~~

1. Allowing an employee to carry or keep water near and drink, as needed;
2. Allowing an employee to take additional restroom breaks, as needed;
3. Allowing an employee whose work requires standing to sit and whose work requires sitting to stand, as needed; and
4. Allowing an employee to take breaks to eat and drink, as needed.

29 C.F.R. 1636.3(j)(4)

Note: See Title VII—Discrimination on the Basis of Sex, Race, Color, Religion, or National Origin, above, for additional

federal prohibitions on discrimination based on pregnancy, and State Law, below, for state prohibitions on discrimination based on pregnancy.

Military Service

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

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

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

Bankruptcy

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

Retaliation

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

12203 (ADA); Jackson v. Birmingham Bd. of Educ., 544 U.S. 167 (2005) (Title IX)

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

State Law

Unlawful
Employment
Practice

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

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

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

Disparate Impact

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

Exception

An employer does not commit an unlawful employment practice by engaging in a practice that has a discriminatory effect and that would otherwise be prohibited by Chapter 21 if the employer establishes that the practice is not intentionally devised or operated to

contravene the prohibitions of Chapter 21 and is justified by business necessity. *Labor Code 21.115(a)*

Job Training
Programs

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

Selection Criterion

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

*Bona Fide
Occupational
Qualification*

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

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

Labor Code 21.119

Job Advertisement

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

1. Indicates a preference, limitation, specification, or discrimination based on race, color, disability, religion, sex, national origin, or age; and

2. Concerns an employee's status, employment, or admission to or membership or participation in a labor union or training or retraining program.

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

Labor Code 21.059; 40 TAC 819.12(i)

Bona Fide
Employee Benefit
Plan

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

Exception

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

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

Labor Code 21.102(b)-(c)

Diversity, Equity,
and Inclusion
Initiatives

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

1. Compel, require, induce, or solicit any person to provide a diversity, equity, and inclusion statement or give preferential consideration to any person based on the provision of a diversity, equity, and inclusion statement;
2. Give preference on the basis of race, sex, color, ethnicity, or national origin to an applicant for employment, an employee, or a participant in any function of the institution; or
3. Require as a condition of performing any institution function any person to participate in diversity, equity, and inclusion training, which:
 - a. Includes a training, program, or activity designed or implemented in reference to race, color, ethnicity, gender identity, or sexual orientation; and

- b. Does not include a training, program, or activity developed by an attorney and approved in writing by the institution's general counsel and the Coordinating Board for the sole purpose of ensuring compliance with any applicable court order or state or federal law.

Education Code 51.3525(b)(1)

Exceptions

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

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

This section may not be construed to apply to:

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

Education Code 51.3525(c)-(d)

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

Additional
Considerations

*Sexual
Harassment*

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

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

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

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

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

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

*Pregnancy
Discrimination*

A provision in Labor Code Chapter 21 referring to discrimination because of sex or on the basis of sex includes discrimination because of or on the basis of pregnancy, childbirth, or a related medical condition. A woman affected by pregnancy, childbirth, or a related medical condition shall be treated for all purposes related to employment, including receipt of a benefit under a fringe benefit program, in the same manner as another individual not affected but similar in the individual's ability or inability to work. *Labor Code 21.106*

*Hair Texture or
Style*

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

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

“Protective hairstyle” includes braids, locks, and twists.

Labor Code 21.1095 [See DH]

*Religious
Discrimination*

A provision in Chapter 21 referring to discrimination because of religion or on the basis of religion applies to discrimination because of or on the basis of any aspect of religious observance, practice, or belief, unless an employer demonstrates that the employer is unable reasonably to accommodate the religious observance or practice of an employee or applicant without undue hardship to the conduct of the employer's business. *Labor Code 21.108*

A government agency, including a college district, may not substantially burden a person's free exercise of religion. The prohibition does not apply if the government agency demonstrates that the application of the burden to the person is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that interest. *Civ. Prac. and Rem. Code 110.003(a)-(b)*

*Association with
a Religious
Organization*

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

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

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

	<p>6. Withhold, reduce, exclude, terminate, or otherwise deny access to a property, educational institution, speech forum, or charitable fundraising campaign from or to a person.</p> <p><i>Gov't Code 2400.001(1), .002 [See GA]</i></p>
Access for Religious Organizations During Disasters	<p>A governmental entity may not:</p> <ol style="list-style-type: none"> 1. At any time, including during a declared state of disaster, prohibit a religious organization from engaging in religious and other related activities or continuing to operate in the discharge of the organization's foundational faith-based mission and purpose; or 2. During a declared state of disaster order a religious organization to close or otherwise alter the organization's purposes or activities. <p><i>Gov't Code 2401.002(b) [See GA]</i></p>
Age Discrimination	<p>The provisions of Labor Code Chapter 21 referring to discrimination because of age or on the basis of age apply only to discrimination against an individual 40 years of age or older. <i>Labor Code 21.101</i></p>
Discrimination Based on Lack of Disability	<p>Nothing in Chapter 21 may be construed as the basis for a claim by an individual without a disability that the individual was subject to discrimination because of the individual's lack of a disability. <i>Labor Code 21.005(c)</i></p>
Reasonable Accommodation	<p>It is an unlawful employment practice for a respondent covered under this chapter to fail or refuse to make a reasonable workplace accommodation to a known physical or mental limitation of an otherwise qualified individual with a disability who is an employee or applicant for employment, unless the respondent demonstrates that the accommodation would impose an undue hardship on the operation of the business of the respondent. A showing of undue hardship by the respondent is a defense to a complaint of discrimination made by an otherwise qualified individual with a disability. <i>Labor Code 21.128(a)-(b)</i></p>
Official Oppression	<p>A public servant acting under color of the public servant's office or employment commits an offense if the public servant intentionally subjects another to sexual harassment.</p> <p>"Sexual harassment" means unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, submission to which is made a term or condition of a person's exercise or enjoyment of any right, privilege, power, or immunity, either explicitly or implicitly. An offense under this section is a Class A misdemeanor.</p>

Penal Code 39.03(a), (c)-(d)

Sexual Harassment
of Unpaid Interns

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

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

An individual is considered to be an unpaid intern of an employer if:

1. The individual's internship, even though it includes engagement in the employer's operations or the performance of productive work for the employer, is similar to training that would be given in an educational environment;
2. The individual's internship experience is for the individual's benefit;
3. The individual does not displace the employer's regular employees but works under close supervision of the employer's existing staff;
4. The employer does not derive any immediate advantage from the individual's internship activities and on occasion the employer's operations may be impeded by those activities;
5. The individual is not entitled to a job at the conclusion of the internship; and
6. The individual is not entitled to wages for the time spent in the internship.

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

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

4. The advance, request, or conduct has the purpose or effect of creating an intimidating, hostile, or offensive working environment.

Labor Code 21.1065

Retaliation

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

Notices

Title VII

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

ADEA

Every employer shall post and keep posted in conspicuous places upon its premises a notice to be prepared or approved by the EEOC setting forth information as the EEOC deems appropriate to effectuate the purposes of the ADEA. *29 U.S.C. 627*

Section 504 Notice

A recipient of federal funds that employs 15 or more persons shall take appropriate steps to notify applicants and employees, including those with impaired vision or hearing, that it does not discriminate on the basis of disability in violation of Section 504 of the Rehabilitation Act or 34 C.F.R. Part 104.

The notification shall state, where appropriate, that the recipient does not discriminate in employment in its program or activity. The notification shall also include an identification of the responsible employee designated pursuant to 34 C.F.R. 104.7(a) (Section 504 coordinator).

Methods of initial and continuing notification may include:

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

If a recipient publishes or uses recruitment materials or publications containing general information that it makes available to applicants or employees, it shall include in those materials or publications a statement of its nondiscrimination policy.

34 C.F.R. 104.8

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Fair Labor Standards Act

Unless an exemption applies, each employer, including each college district, shall pay each of its employees not less than minimum wage for all hours worked. *29 U.S.C. 206(a)*

Independent Contractors

The Fair Labor Standards Acts' (FLSA) minimum wage, overtime pay, and recordkeeping obligations apply only to workers who are covered employees. Workers who are independent contractors are not covered by these protections. A determination of whether a worker is an employee or independent contractor under the FLSA focuses on the economic realities of the worker's relationship with the worker's potential employer and whether the worker is either economically dependent on the potential employer for work or in business for themselves. *29 C.F.R. 795.105(a)*

Economic Reality Test

The factors described below should guide an assessment of the economic realities of the working relationship and the question of economic dependence. Consistent with a totality-of-the-circumstances analysis, no one factor or subset of factors is necessarily dispositive, and the weight to give each factor may depend on the facts and circumstances of the particular relationship:

1. Opportunity for profit or loss depending on managerial skill: this factor considers whether the worker has opportunities for profit or loss based on managerial skill, including initiative or business acumen or judgment, that affect the worker's economic success or failure in performing the work, as described by 29 C.F.R. 795.110(b)(1).
2. Investments by the worker and the potential employer: this factor considers whether any investments by a worker are capital or entrepreneurial in nature, as described by 29 C.F.R. 795.110(b)(2).
3. Degree of permanence of the work relationship: this factor weighs in favor of the worker being an independent contractor when the work relationship is definite in duration, non-exclusive, project-based, or sporadic based on the worker being in business for themselves and marketing their services or labor to multiple entities, as described by 29 C.F.R. 795.110(b)(3).
4. Nature and degree of control: this factor considers the potential employer's control, including reserved control, over the performance of the work and the economic aspects of the working relationship, as described by 29 C.F.R. 795.110(b)(4).
5. Extent to which the work performed is an integral part of the potential employer's business: this factor considers whether the work performed is an integral part of the potential employer's business, as described by 29 C.F.R. 795.110(b)(5).

6. Skill and initiative: this factor considers whether the worker uses specialized skills to perform the work and whether those skills contribute to business-like initiative, as described by 29 C.F.R. 795.110(b)(6).
7. Additional factors: Additional factors may be relevant in determining whether the worker is an employee or independent contractor for purposes of the FLSA, if the factors in some way indicate whether the worker is in business for themselves, as opposed to being economically dependent on the potential employer for work.

29 C.F.R. 795.110(a)(1)-(2), (b)

Minimum Wage and
Overtime

Unless an exemption applies, an employer shall pay an employee not less than one and one-half times the employee's regular rate of pay for all hours worked in excess of 40 in any workweek, in accordance with 29 C.F.R. Part 778. *29 U.S.C. 207(a)(1); 29 C.F.R. 778*

*Law Enforcement
Officers*

No public agency shall be deemed to have violated 29 U.S.C. 207(a) with respect to the employment of any employee in law enforcement activities if:

1. In a work period of 28 consecutive days the employee receives for tours of duty which in the aggregate exceed 171 hours compensation at a rate not less than one and one-half times the regular rate at which he is employed; or
2. In the case of such an employee to whom a work period of at least seven but less than 28 days applies, in his work period the employee receives for tours of duty which in the aggregate exceed a number of hours which bears the same ratio to the number of consecutive days in his work period as 171 hours bears to 28 days, compensation at a rate not less than one and one-half times the regular rate at which he is employed.

29 U.S.C. 207(k); 29 C.F.R. 553.230(b)-(c)

Breaks for
Nonexempt
Employees

Rest periods of up to 20 minutes must be counted as hours worked. Coffee breaks or time for snacks are rest periods, not meal periods.

Bona fide meal periods of 30 minutes or more are not counted as hours worked if the employee is completely relieved from duty. The employee is not relieved from duty if the employee is required to perform any duties, whether active or inactive, while eating. For example, an office employee who is required to eat at the employee's desk is working while eating. It is not necessary that an employee

be permitted to leave the premises if the employee is otherwise completely freed from duties during the meal period. [See DG(LEGAL) for provisions requiring breaks for nursing mothers]

29 C.F.R. 785.18-.19

Compensatory Time
Accrual

Nonexempt employees may receive, in lieu of overtime compensation, compensatory time off at a rate of not less than one and one-half hours for each hour of overtime work, pursuant to an agreement or understanding arrived at between the employer and employee before the performance of the work. Such agreement or understanding may be informal, such as when an employee works overtime knowing that the employer rewards overtime with compensatory time.

An employee may accrue not more than 240 hours of compensatory time. If the employee's overtime work included a public safety activity, an emergency response activity, or a seasonal activity, the employee may accrue not more than 480 hours of compensatory time. After the employee has reached these limits, the employee shall be paid overtime compensation for additional overtime work.

29 U.S.C. 207(o)(1)-(2), (3)(A); 29 C.F.R. 553.23(c)(1); Christensen v. Harris County, 529 U.S. 576 (2000)

*Payment for
Accrued Time*

Compensation paid to an employee for accrued compensatory time shall be paid at the regular rate earned by the employee at the time of payment. An employee who has accrued compensatory time off shall be paid for any unused compensatory time upon separation from employment at the rates set forth at 29 U.S.C. 207(o)(4). 29 U.S.C. 207(o)(3)(B), (4)

Use

An employee who has requested the use of compensatory time shall be permitted to use such time within a reasonable period after making the request if the use of the compensatory time does not unduly disrupt the operations of the employer.

The Fair Labor Standards Act (FLSA) does not prohibit an employer from compelling the use of accrued compensatory time.

29 U.S.C. 207(o)(5); Christensen v. Harris County, 529 U.S. 576 (2000); Houston Police Officers' Union v. City of Houston, 330 F.3d 298 (5th Cir. 2003)

Exempt Employees

The minimum wage and overtime provisions do not apply to any employee employed in a bona fide executive, administrative, or professional capacity. 29 U.S.C. 213(a)(1)

*Administrative
Employee*

The term "employee employed in a bona fide administrative capacity" shall mean any employee:

1. Compensated on a salary or fee basis at a rate of not less than ~~\$684~~844 per week, exclusive of board, lodging, or other facilities;
2. Whose primary duty is the performance of office or non-manual work directly related to the management or general business operations of the employer or the employer's customers; and
3. Whose primary duty includes the exercise of discretion and independent judgment with respect to matters of significance.

29 C.F.R. 541.200(a), .600(a)

Academic
Administrator

The term “employee employed in a bona fide administrative capacity” also includes an employee:

1. Who is compensated for services on a salary or fee basis at a rate of not less than ~~\$684~~844 per week exclusive of board, lodging, or other facilities, or on a salary basis that is at least equal to the entrance salary for teachers in the educational establishment by which employed; and
2. Whose primary duty is performing administrative functions directly related to academic instruction or training in an educational establishment or department or subdivision thereof.

“Performing administrative functions directly related to academic instruction or training” means work related to the academic operations and functions in a school rather than to administration along the lines of general business operations. Such academic administrative functions include operations directly in the field of education. Jobs relating to areas outside the educational field are not within the definition of academic administration.

Employees engaged in academic administrative functions include:

1. Department heads in institutions of higher education responsible for the administration of the mathematics department, the English department, the foreign language department, and the like;
2. Academic counselors who perform work such as administering school testing programs, assisting students with academic problems and advising students concerning degree requirements; and
3. Other employees with similar responsibilities.

Jobs relating to building management and maintenance, jobs relating to the health of the students, and academic staff such as social

workers, psychologists, lunchroom managers, or dietitians do not perform academic administrative functions, although such employees may qualify for another exemption.

29 C.F.R. 541.204, .600(a)

*Professional
Employee*

An “employee employed in a bona fide professional capacity” shall mean any employee:

1. Compensated on a salary or fee basis at a rate of not less than ~~\$684~~844 per week, exclusive of board, lodging, or other facilities; and
2. Whose primary duty is the performance of work requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction; or requiring invention, imagination, originality, or talent in a recognized field of artistic or creative endeavor.

29 C.F.R. 541.300(a), .600(a)

Faculty

The term “employee employed in a bona fide professional capacity” also means any employee with a primary duty of teaching, tutoring, instructing, or lecturing in the activity of imparting knowledge and who is employed and engaged in this activity as a teacher in an educational establishment by which the employee is employed. The term “educational establishment” means an institution of higher education or other educational institution. The salary basis requirements do not apply to teaching professionals.

Exempt teachers include: regular academic teachers; teachers of kindergarten or nursery school pupils; teachers of gifted or disabled children; teachers of skilled and semi-skilled trades and occupations; teachers engaged in automobile driving instruction; aircraft flight instructors; home economics teachers; and vocal or instrumental music instructors. Those faculty members who are engaged as teachers but also spend a considerable amount of their time in extracurricular activities such as coaching athletic teams or acting as moderators or advisors in such areas as drama, speech, debate, or journalism are engaged in teaching. Such activities are a recognized part of the schools’ responsibility in contributing to the educational development of the student.

The possession of an elementary or secondary teacher’s certificate provides a clear means of identifying the individuals contemplated as being within the scope of the exemption for teaching professionals. Teachers who possess a teaching certificate qualify for the exemption regardless of the terminology (e.g., permanent, conditional, standard, provisional, temporary, emergency, or unlimited)

used by the state to refer to different kinds of certificates. However, a teacher's certificate is not generally necessary for employment in institutions of higher education or other educational establishments. Therefore, a teacher who is not certified may be considered for exemption, provided that such individual is employed as a teacher by the employing school or school system.

29 C.F.R. 541.204(b), .303

Other
Professionals

The professional employee exemption also applies to learned professionals, as described by 29 C.F.R. 541.301; creative professionals, as described by 29 C.F.R. 541.302; and employees engaged in the practice of law or medicine, as described by 29 C.F.R. 541.304.

*Computer
Employees*

Computer systems analysts, computer programmers, software engineers, or other similarly skilled workers in the computer field are eligible for exemption as professionals. Because job titles vary widely and change quickly in the computer industry, job titles are not determinative of the applicability of this exemption.

The exemption applies to any computer employee compensated on a salary or fee basis at a rate of not less than \$~~684~~⁸⁴⁴ per week, exclusive of board, lodging or other facilities and to any computer employee compensated on an hourly basis at a rate not less than \$27.63 an hour. In addition, the exemption applies only to computer employees whose primary duty consists of:

1. The application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software, or system functional specifications;
2. The design, development, documentation, analysis, creation, testing, or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications;
3. The design, documentation, testing, creation, or modification of computer programs related to machine operating systems; or
4. A combination of the aforementioned duties, the performance of which requires the same level of skills.

Computer employees within the scope of this exemption, as well as those employees not within its scope, may also have executive and administrative duties that qualify the employees for exemption under 29 C.F.R. Part 541, Subpart B or Subpart C. For example, systems analysts and computer programmers generally meet the duties requirements for the administrative exemption if their primary duty includes work such as planning, scheduling, and coordinating

activities required to develop systems to solve complex business, scientific, or engineering problems of the employer or the employer's customers. Similarly, a senior or lead computer programmer who manages the work of two or more other programmers in a customarily recognized department or subdivision of the employer, and whose recommendations as to the hiring, firing, advancement, promotion, or other change of status of the other programmers are given particular weight, generally meets the duties requirements for the executive exemption.

29 C.F.R. 541.400, .402, [.600\(a\)](#)

Salary Basis

To qualify as an exempt executive, administrative, or professional employee, the employee must be compensated on a salary basis as described in 29 C.F.R. 541.600, unless the employee is a teacher or the employee holds a valid license or certificate permitting the practice of law or medicine or any of their branches and is actually engaged in the practice thereof. Subject to the exceptions listed in 29 C.F.R. 541.602, an employee must receive the full salary for any week in which the employee performs any work, without regard to the number of days or hours worked. An employer that makes improper deductions from salary shall lose the exemption if the facts demonstrate that the employer did not intend to pay exempt employees on a salary basis. *29 C.F.R. 541.600, .602(a), .603*

Highly
Compensated
Employees

An employee with total annual compensation, as described by 29 C.F.R. 541.601, of at least \$107,432 is deemed exempt if the employee customarily and regularly performs any one or more of the exempt duties or responsibilities of an executive, administrative or professional employee identified in 29 C.F.R. Part 541, Subparts B, C, or D. *29 C.F.R. 541.601*

Partial-Day
Deductions

An employee of a public agency who otherwise meets the salary basis requirements shall not be disqualified from exemption on the basis that the employee is paid according to a pay system established by statute, ordinance, or regulation, or by a policy or practice established pursuant to principles of public accountability, under which the employee accrues personal leave and sick leave and that requires the employee's pay to be reduced or the employee to be placed on leave without pay for absences for personal reasons or because of illness or injury of less than one workday when accrued leave is not used by an employee because:

1. Permission for its use has not been sought or has been sought and denied;
2. Accrued leave has been exhausted; or
3. The employee chooses to use leave without pay.

Deductions from the pay of an employee of a public agency for absences due to a budget-required furlough shall not disqualify the employee from being paid on a salary basis except in the work-week in which the furlough occurs and for which the employee's pay is accordingly reduced.

29 C.F.R. 541.710

*Safe Harbor
Policy*

If an employer has a clearly communicated policy that prohibits improper pay deductions and includes a complaint mechanism, reimburses employees for any improper deductions, and makes a good faith commitment to comply in the future, the employer will not lose the deduction unless the employer willfully violates the policy by continuing to make improper deductions after receiving employee complaints.

The best evidence of a clearly communicated policy is a written policy that was distributed to employees before the improper pay deductions by, for example, providing a copy of the policy to employees upon hire, publishing the policy in an employee handbook, or publishing the policy on the employer's intranet.

29 C.F.R. 541.603(d)

Wage and Hour
Records

Every employer shall maintain and preserve payroll or other records for nonexempt employees containing the information required by 29 C.F.R. 516.2. *29 C.F.R. 516.2(a)*

**Employee with
Multiple
Appointments**

A full-time employee of an institution of higher education, including a college district, who has appointments to more than one position at the same institution may receive pay for working more than 40 hours in a week if the institution determines that pay in lieu of compensatory time is in the best interests of the institution. *Education Code 51.963*

**Payday Law
Exemption**

The Texas Payday Law does not apply to the state or a political subdivision. *Labor Code 61.003*

Note: This policy addresses leaves in general. For provisions regarding the Family and Medical Leave Act (FMLA), including family and medical leave for an employee seeking leave because of a relative's military service, see DECA. For provisions addressing leave for an employee's military service, see DECB.

The governing board of each college or university supported in whole or in part by state funds shall issue regulations concerning the authorized and unauthorized absence from duty of faculty members, as defined by Education Code 51.101(3) [see Development Leaves of Absence, below], including teaching assistants and research assistants.

Each governing board shall file a copy of these regulations concerning employee absences with the Coordinating Board. Each governing board shall file any amendment to its regulations with the Coordinating Board not later than 30 days after the effective date of the amendment.

Education Code 51.108

**Pregnancy and
Related Conditions**

Title VII

Disabilities caused or contributed to by pregnancy, childbirth, or related medical conditions, for all job-related purposes, shall be treated the same as disabilities caused or contributed to by other medical conditions, under any health or disability insurance or sick leave plan available in connection with employment. 29 C.F.R. 1604.10(b)

Title IX

Comparable
Treatment

A recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy, and recovery therefrom and any temporary disability resulting therefrom as any other temporary disability for all job-related purposes, including commencement, duration, and extensions of leave. 34 C.F.R. 106.57(c)

Voluntary Leaves
of Absence

In the case of a recipient which does not maintain a leave policy for its employees, or in the case of an employee with insufficient leave or accrued employment time to qualify for leave under such a policy, a recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy, and recovery therefrom as a justification for a leave of absence without pay for a reasonable period of time, at the conclusion of which the employee shall be reinstated to the status which she held when the leave began or to a comparable position, without decrease in rate of compensation or loss of promotional opportunities, or any other right or privilege of employment. 34 C.F.R. 106.57(d)

Pregnant Workers
Fairness Act

It is an unlawful employment practice for a covered entity to require a qualified employee to take leave, whether paid or unpaid, if another reasonable accommodation can be provided to the known limitations related to the pregnancy, childbirth, or related medical conditions of the qualified employee that does not result in an undue hardship for the covered entity; but nothing in 29 C.F.R. 1636.4 prohibits leave as a reasonable accommodation if that is the reasonable accommodation requested or selected by the employee, or if it is the only reasonable accommodation that does not cause an undue hardship.

The reasonable accommodation of leave includes, but is not limited to:

1. The ability to use paid leave, whether accrued, short-term disability, or another employer benefit, or unpaid leave, including, but not limited to, leave during pregnancy; to recover from childbirth, miscarriage, stillbirth, or other related medical conditions; and to attend health-care appointments or receive health-care treatments related to pregnancy, childbirth, or related medical conditions;
2. The ability to use paid leave, whether accrued, short-term disability, or another employer benefit, or unpaid leave for a known limitation under the Pregnant Workers Fairness Act (PWFA); and
3. The ability to choose whether to use paid leave, whether accrued, short-term disability, or another employer benefit, or unpaid leave to the extent that the covered entity allows employees using leave for reasons not related to, affected by, or arising out of pregnancy, childbirth, or related medical conditions to choose between the use of paid leave and unpaid leave.

42 U.S.C. 2000gg-1(4); 29 C.F.R. 1636.3(i)(3), .4(d)

Definitions

“Pregnancy” and “childbirth” refer to the pregnancy or childbirth of the specific employee in question and include, but are not limited to, current pregnancy; past pregnancy; potential or intended pregnancy, which can include infertility, fertility treatment, and the use of contraception; labor; and childbirth, including vaginal and cesarean delivery.

“Related medical conditions” are medical conditions relating to the pregnancy or childbirth of the specific employee in question, as described by 29 C.F.R. 1636.3(b).

29 C.F.R. 1636.3(b)

**Religious
Observances**

An employer, including a college district, shall reasonably accommodate an employee's request to be absent from duty in order to participate in religious observances and practices, so long as it does not cause undue hardship on the conduct of the employer's business. An employer has met its obligation when it demonstrates that it has offered a reasonable accommodation to the employee. The employer need not further show that each of the employee's alternative accommodations would result in undue hardship.
42 U.S.C. 2000e(j), 2000e-2(a); 29 C.F.R. 1605.2; Ansonia Bd. of Educ. v. Philbrook, 479 U.S. 60 (1986)

Religious Holy Days

An institution of higher education, including a college district, may not discriminate against or penalize in any way a faculty member who is absent from work for the observance of a religious holy day and gives proper notice of that absence if the customary and generally applicable educational practices of the institution permit general personal absence by faculty members. If personal absence is customarily penalized, the penalty for absence due to observance of a religious holy day under this section shall be forfeiture of one day's pay equivalent for each day of absence.

"Proper notice" means that the faculty member shall provide a listing of religious holy days to be observed during the semester to the chairman of the department and shall provide notice of such days in advance to all students whose class would be canceled due to the faculty member's absence. This notice shall be in writing and shall be personally delivered to the chairman of the department, receipt therefore being acknowledged and dated by the chairman, or shall be sent by certified mail return receipt requested, addressed to the chairman.

A "religious holy day" shall be defined as a holy day observed by a religion whose places of worship are exempt from property taxation under Tax Code 11.20.

Education Code 51.925

**Leave for Certain
Law Enforcement
and EMS Personnel**

**Mental Health
Leave**

Each law enforcement agency, and each agency of the state or of a political subdivision of the state that employs a full-time telecommunicator as defined by Occupations Code 1701.405, shall develop and adopt a policy allowing the use of mental health leave by the peace officers and full-time telecommunicators employed by the agency who experience a traumatic event in the scope of that employment.

A mental health leave policy adopted under this section must:

1. Provide clear and objective guidelines establishing the circumstances under which a peace officer or telecommunicator is granted and may use mental health leave;
2. Entitle a peace officer or telecommunicator to mental health leave without a deduction in salary or other compensation;
3. Enumerate the number of mental health leave days available to a peace officer or telecommunicator; and
4. Detail the level of anonymity for a peace officer or telecommunicator who takes mental health leave.

A mental health leave policy adopted under this section may provide a list of mental health services available to peace officers and telecommunicators in the area of the law enforcement or employing agency.

Gov't Code 614.015

Paid Quarantine
Leave

The governing body of a political subdivision, including a college district, shall develop and implement a paid quarantine leave policy for peace officers and emergency medical technicians who are employed by or appointed by the political subdivision and ordered to quarantine or isolate due to a possible or known exposure to a communicable disease while on duty.

A paid quarantine leave policy must:

1. Provide that a peace officer or emergency medical technician on paid quarantine leave receive:
 - a. All employment benefits and compensation, including leave accrual, pension benefits, and health benefit plan benefits for the duration of the leave; and
 - b. Reimbursement for reasonable costs related to the quarantine, including lodging, medical, and transportation; and
2. Require that the leave be ordered by the person's supervisor or the political subdivision's health authority.

A political subdivision may not reduce a peace officer's or emergency medical technician's sick leave balance, vacation leave balance, holiday leave balance, or other paid leave balance in connection with paid quarantine leave taken in accordance with a policy adopted under this section.

Local Gov't Code 180.009

Line of Duty Illness
or Injury Leave

A political subdivision, including a college district, shall provide to a police officer or emergency medical services personnel a leave of absence for an illness or injury related to the person's line of duty. The leave is with full pay for a period commensurate with the nature of the line of duty illness or injury. If necessary, the political subdivision shall continue the leave for at least one year.

At the end of the leave of absence, the governing body of the political subdivision may extend the leave of absence at full or reduced pay.

If the police officer or emergency medical services personnel is temporarily disabled by a line of duty injury or illness and the leave of absence and any extension granted by the governing body has expired, the person may use accumulated sick leave, vacation time, and other accrued benefits before the person is placed on temporary leave.

If the leave of absence and any extension granted by the governing body has expired, a police officer or emergency medical services personnel who requires additional leave described by this section shall be placed on temporary leave.

If able, a police officer or emergency medical services personnel may return to light duty while recovering from a temporary disability. If medically necessary, the light duty assignment may continue for at least one year.

After recovery from a temporary disability, a police officer or emergency medical services personnel shall be reinstated at the same rank and with the same seniority the person had before going on temporary leave. Another police officer, or emergency medical services personnel may voluntarily do the work of the injured police officer, or emergency medical services personnel until the person returns to duty.

Local Gov't Code 177A.003-.004

Definitions

"Emergency medical services personnel" means a person described by Health and Safety Code 773.003 who is a paid employee of a political subdivision.

"Police officer" means a paid employee who is full-time, holds an officer license issued under Occupations Code Chapter 1701, and regularly services in a professional law enforcement capacity in the police department of a political subdivision. The term includes the chief of the department.

Local Gov't Code 177A.001(1), (3)

Leave to Care for Sick Foster Child

An employer, including a college district, commits an unlawful employment practice if the employer administers a leave policy under which an employee is entitled to personal leave to care for or otherwise assist the employee's sick child and the leave policy does not treat in the same manner as an employee's biological or adopted minor child any foster child of the employee who resides in the same household as the employee and is under the conservatorship of the Department of Family and Protective Services. *Labor Code 21.0595*

Compliance with a Subpoena

An employer, including a college district, may not discharge, discipline, or penalize in any manner an employee because the employee complies with a valid subpoena to appear in a civil, criminal, legislative, or administrative proceeding. *Labor Code 52.051(a)*

Jury Duty

An employer, including a college district, may not discharge, threaten to discharge, intimidate, or coerce any permanent employee because the employee serves as a juror, or grand juror, or for the employee's attendance or scheduled attendance in connection with the service, in any court in the United States. ~~Civil Practice & Remedies~~ *Civ. Prac. & Rem. Code 122.001(a)*

Attendance at Truancy Hearing

An employer, including a college district, may not terminate the employment of a permanent employee because the employee is required under Family Code 65.062(b) to attend a hearing. Notwithstanding any other law, an employee whose employment is terminated in violation of this section is entitled to return to the same employment that the employee held when notified of the hearing if the employee, as soon as practical after the hearing, gives the employer actual notice that the employee intends to return. *Family Code 65.063(a)-(b)*

Development Leaves of Absence

For the purposes of this policy on development leaves, "faculty member" shall mean a person who is employed by an institution of higher education, including a college district, on a full-time basis as a member of the faculty or staff and whose duties include teaching, research, administration, including professional librarians, or the performance of professional services. However, the term does not include a person employed in a position that is in the institution's classified personnel system or a person employed in a similar type of position if the institution does not have a classified personnel system. *Education Code 51.101*

Granting Leaves of Absence

On the application of a faculty member, the governing board of an institution of higher education may grant a faculty development leave of absence for study, research, writing, field observations, or other suitable purpose, if:

1. The faculty member is eligible by reason of service.

- 2. The purpose for which a faculty development leave is sought is one for which a faculty development leave may be granted.
- 3. Granting the leave will not place on faculty development leave a greater number of faculty members than that authorized.

The governing board by regulation shall establish a procedure whereby the applications for faculty development leaves of absence are received by a committee elected by the general faculty for evaluation and whereby the faculty committee shall then make recommendations to the chief executive officer of the institution of higher education, who shall then make recommendations to the governing board as to which applications should be granted.

Education Code 51.103

Service Required	A faculty member shall be eligible to be considered for a faculty development leave when the individual has served as a member of the faculty in the same institution of higher education for at least two consecutive academic years. This service may be as an instructor or as an assistant, associate, or full professor, or an equivalent rank, and must be full-time academic duty but need not include teaching. <i>Education Code 51.104</i>
Duration and Compensation Additional Employment	<p>The governing board may grant to a faculty member development leave either for one academic year at one-half of the faculty member's regular salary or for one-half academic year at full regular salary. Payment of salary to the faculty member on a development leave may be made from the funds appropriated by the legislature specifically for that purpose or from such other funds as might be available to the institution.</p> <p>A faculty member on a development leave may accept a grant for study, research, or travel from any institution of higher education or from a charitable, religious, or educational corporation or foundation, from any business enterprise, or from any federal, state, or local governmental agency. An accounting of all grants shall be made to the governing board of the institution by the faculty member.</p> <p>A faculty member on development leave may not accept employment from any other person, corporation, or government, unless the governing board determines that the employment would be in the public interest to do so and expressly approves the employment.</p> <p><i>Education Code 51.105</i></p>
Number on Leave at One Time	No more than six percent of the faculty members of any institution of higher education may be on faculty development leave at any one time.

A faculty member on faculty development leave shall continue to be a member of the Teacher Retirement System of Texas or of the Optional Retirement Program, or of both, just as any other faculty member on full-time duty.

The institution of higher education shall cause to be deducted from the compensation paid to a member of the faculty on faculty development leave the deposit and membership dues required to be paid by him to the Teacher Retirement System of Texas or to the Optional Retirement Program, or both, the contribution for Old Age and Survivors Insurance, and any other amounts required or authorized to be deducted from the compensation paid any faculty member. [See CDDA]

A member of the faculty on faculty development leave is a faculty member for purposes of participating in the programs and of receiving the benefits made available by or through the institution of higher education or the state to faculty members.

Education Code 51.106-107

Administrator
Development Leave

An employment contract entered into by the governing board of an institution of higher education with an administrator that is to be paid in whole or in part from appropriated funds may not allow for development leave that is inconsistent with Education Code 51.105.

An institution of higher education must require an administrator who receives development leave to:

1. Return to work at the institution for an amount of time equal to the amount of time the administrator received for development leave; or
2. Repay the institution for all the costs of the development leave, including the amount of the administrator's salary, if any, paid during the leave.

Notwithstanding Education Code 51.948(b)(3), the governing board of an institution may grant development leave at the faculty member's full, regular salary for one year to a faculty member who has held an administrative position at the institution for more than four years.

"Administrator" means a person who has significant administrative duties relating to the operation of the institution, including the operation of a department, college, program, or other subdivision of the institution.

"Contract" includes a letter of agreement or letter of understanding.

Education Code 51.948(a)-(b), (d), (f)-(g)

Absence Control

Uniform enforcement of a reasonable absence-control rule is not retaliatory discharge. For example, an employer that terminates an employee for violating a reasonable absence-control provision cannot be liable for retaliatory discharge as long as the rule is uniformly enforced. Continental Coffee Products Co. v. Cazarez, 937 S.W.2d 444 (Tex. 1996) (workers' compensation discrimination case); Texas Division-Tranter, Inc. v. Carrozza, 876 S.W.2d 312 (Tex. 1994) (workers' compensation discrimination case); Swearingen v. Owens-Corning Fiberglas Corp., 968 F.2d 559 (5th Cir. 1992) (workers' compensation discrimination case); Howell v. Standard Motor Prods., Inc., No. 4:99-CV-987-E, 2001 WL 912387, (N.D. Tex. Aug. 10, 2001) (Family and Medical Leave Act case); Specialty Retailers v. DeMoranville, 933 S.W.2d 490 (Tex. 1996) (age discrimination case); Gonzalez v. El Paso Natural Gas Co., EP-81-CA-323, 1986 WL 4796, No. (W.D. Texas Mar. 5, 1986) (sex discrimination case)

[Some employees may have protected status even after the expiration of all other leave. See CKE and DAA]

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Note: This policy addresses leave for an employee's military service. For provisions on leaves in general, see DEC. For provisions regarding the Family and Medical Leave Act (FMLA), including family and medical leave for an employee seeking leave because of a relative's military service, see DECA.

**Federal Military
Leave**

Reemployment

Any person who is absent from a position of employment by reason of voluntary or involuntary service in the uniformed services shall be entitled to certain reemployment rights and benefits under the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), 38 U.S.C. 4301-4335, and its regulations at 20 C.F.R. Part 1002 if:

1. Unless notice is precluded by military necessity or is otherwise unreasonable or impossible, the person, or an appropriate officer of the uniformed service in which such service is performed, has given advance written or verbal notice of such service to such person's employer;
2. The cumulative length of the absence and of all previous absences from a position of employment with that employer by reason of service in the uniformed services does not exceed five years, calculated in accordance with 38 U.S.C. 4312(c); and
3. The person reports to or submits an application for reemployment to such employer in accordance with the provisions of 38 U.S.C. 4312(e) and (f) and 20 C.F.R. Part 1002, Subpart C.

38 U.S.C. 4312(a)-(c); 20 C.F.R. 1002.5(1)

For purposes of federal military leave, the term "uniformed services" means the Armed Forces; the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty; the commissioned corps of the Public Health Services; the commissioned officer corps of the National Oceanic and Atmospheric Administration (NOAA); system members of the National Urban Search and Rescue Response System during a period of appointment into federal service under Section 327 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act; [intermittent personnel who are appointed into Federal Emergency Management Agency service under Section 306\(b\)\(1\) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act or to train for such service, 42 U.S.C. 5149\(b\)\(1\)](#); and any other category of persons designated by the president in time of war or emergency.

The term “service in the uniformed services” means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty, state active duty for a period of 14 days or more, state active duty in response to a national emergency declared by the president under the National Emergencies Act, 50 U.S.C. 1601 et seq., state active duty in response to a major disaster declared by the president under Section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5170, a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person to perform any such duty, a period for which a system member of the National Urban Search and Rescue Response System is absent from a position of employment due to an appointment into federal service under Section 327 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, [a period for which a person is absent from a position of employment due to an appointment into service in the Federal Emergency Management Agency as intermittent personnel under Section 306\(b\)\(1\) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5149\(b\)\(1\)](#), and a period for which a person is absent from employment for the purpose of performing funeral honors duty.

The term “state active duty” means training or other duty, other than inactive duty, performed by a member of the National Guard of a state not under 32 U.S.C. 502 or under U.S.C. Title 10; in service to the governor of a state; and for which the member is not entitled to pay from the federal government.

A person who is reemployed under USERRA is entitled to the seniority and other rights and benefits determined by seniority that the person had on the date of the commencement of uniformed service, plus the additional seniority rights, and benefits that such person would have attained if the person had remained continuously employed.

38 U.S.C. 4303(13), (15)~~-(16)~~, (17), 4316(a)

Exceptions

An employer, including a college district, is not required to reemploy a person if:

1. The employer’s circumstances have so changed as to make reemployment impossible or unreasonable;

2. The person is entitled to reemployment under 38 U.S.C. 4313(a)(3), 4313(a)(4), or 4313(b)(2)(B), and the reemployment of the person would impose an undue hardship on the employer; or
3. The employment from which the person leaves to serve in the uniformed services is for a brief, nonrecurrent period and there is no reasonable expectation that such employment will continue indefinitely or for a significant period.

38 U.S.C. 4312(d)

A person's entitlement to the benefits of 38 U.S.C. Chapter 43 by reason of the service of such person in one of the uniformed services terminates upon the occurrence of any of the following events:

1. A separation of such person from such uniformed service with a dishonorable or bad conduct discharge.
2. A separation of such person from such uniformed service under other than honorable conditions, as characterized pursuant to regulations prescribed by the U.S. Secretary concerned.
3. A dismissal of such person permitted under or a dropping of such person from the rolls pursuant to 10 U.S.C. 1161(a) (dismissal of commissioned officers).

38 U.S.C. 4304

Notice

Each employer shall provide to persons entitled to rights and benefits under 38 U.S.C. Chapter 43 a notice of the rights, benefits, and obligations of such persons and such employers. The requirement for the provision of notice may be met by the posting of the notice where employers customarily place notices for employees. The U.S. Secretary of Labor shall provide to employers the text of the notice. *38 U.S.C. 4334*

**State Protections for
Member of Military or
Rescue Team**

Paid Leave of
Absence

A person who is an officer or employee of the state, a municipality, a county, or another political subdivision of the state, including a college district, and who is a member of the state military forces, a reserve component of the armed forces, or a member of a state or federally authorized urban search and rescue team is entitled to a paid leave of absence from the person's duties on a day on which the person is engaged in authorized training or duty ordered or authorized by proper authority for not more than 15 workdays in a fiscal year. During a leave of absence, the person may not be subjected to loss of time, efficiency rating, personal time, sick leave, or vacation time. *Gov't Code 437.202(a)*

In addition to the leave provided under Government Code 437.202(a), a person described by Section 437.202(a) called to state active duty by the governor or another appropriate authority in response to a disaster is entitled to a paid leave of absence from the person's duties for each day the person is called to active duty during the disaster, not to exceed seven workdays in a fiscal year. During a leave of absence under this provision, the person may not be subjected to loss of time, efficiency rating, personal time, sick leave, or vacation time. For purposes of this provision, "disaster" has the meaning assigned by Government Code 418.004. *Gov't Code 437.202(a-1)*

Notice

This state, a municipality, a county, or another political subdivision of this state shall provide written notice of the number of workdays of paid leave to which an officer or employee is entitled each fiscal year under Government Code 437.202(a) on employment, in the case of an employee or as soon as practicable after appointment or election, in the case of an officer.

This state, a municipality, a county, or another political subdivision of this state shall, on the request of an officer or employee described by Section 437.202(a), provide to that officer or employee a statement that contains the number of workdays for which the officer or employee claimed paid leave under Section 437.202(a) in that fiscal year.

Gov't Code 437.202(e)-(f)

Return to
Employment

An employee of this state or a municipality, a county, or another political subdivision of this state with at least five full-time employees who is a member of the Texas military forces, a reserve component of the armed forces, or a member of a state or federally authorized urban search and rescue team and who is ordered to duty by proper authority is entitled, when relieved from duty, to be restored to the position that the employee held when ordered to duty. An employer, including a college district, may not terminate the employment of an employee who is a member of the state military forces of this state or any other state because the employee is ordered to authorized training or duty by a proper authority. The employee is entitled to return to the same employment held when ordered to training or duty and may not be subjected to loss of time, efficiency rating, vacation time, or any benefit of employment during or because of the absence. The employee, as soon as practicable after release from duty, must give written or actual notice of intent to return to employment. *Gov't Code 437.202(d), 204(a)*

Reemployment

A public employee, other than a temporary employee, who leaves a state position or a position with a local governmental entity, including a college district, to enter active military service is entitled

to be reemployed by the state or the local governmental entity; in the same department, office, commission, or board of this state, a state institution, or local governmental entity in which the employee was employed at the time of the employee's induction or enlistment in, or order to, active military service; and in the same position held at the time of the induction, enlistment, or order or to a position of similar seniority, status, and pay. To be entitled to reemployment, the employee must be discharged, separated, or released from active military service under honorable conditions not later than the fifth anniversary after the date of induction, enlistment, or call to active military service and must be physically and mentally qualified to perform the duties of the position.

"Military service" means service as a member of the Armed Forces of the United States, a reserve component of the Armed Forces of the United States, the Texas National Guard, or the Texas State Guard.

Gov't Code 613.001(2)-(3), .002

Exception

A public employee who cannot perform the duties of the position because of a disability sustained during military service is entitled to reemployment in the department, office, commission, or board of the state, a state institution, or a local governmental entity in a position that the employee can perform and that has like seniority, status, and pay as the former position or the nearest possible seniority, status, and pay. *Gov't Code 613.003*

Application

To be reemployed, a veteran must apply for reemployment not later than the 90th day after the date the veteran is discharged or released from active military service. The application must be made in writing to the head of the department, office, commission, or board of this state, the state institution, or the local governmental entity and have attached to it evidence of the veteran's discharge, separation, or release from military service under honorable conditions. *Gov't Code 613.004*

Discharge

A person reemployed under Government Code Chapter 613 shall not be discharged without cause before the first anniversary of the date of the reemployment. *Gov't Code 613.005*

Application of
Federal Laws to
Texas Military
Members Called to
Duty

A service member of the Texas military forces who is ordered to state active duty or to state training or other duty by the governor, the adjutant general, or another proper authority under the law of this state is entitled to the same benefits and protections provided to persons:

1. Performing service in the uniformed services as provided by 38 U.S.C. 4301-4313 and 4316-4319 (USERRA); and

2. In the military service of the United States as provided by 50 U.S.C. 3901-3959, 3991, and 4011-4026 (Servicemembers Civil Relief Act).

Gov't Code 437.213

An institution of higher education, including a college district, may offer off-campus courses for credit within the state or distance learning courses only with specific prior approval of the Coordinating Board. An institution must certify to the Coordinating Board that a course offered for credit outside the state meets the Coordinating Board's academic criteria. An institution shall include the certification in submitting any other reports required by the Coordinating Board. *Education Code 61.0512(g)*

Definitions

Credit Course

A "credit course" is a college-level course that, if successfully completed, can be applied toward the number of courses required for achieving an academic or workforce degree, diploma, certificate, or other formal award. *19 TAC 2.202(1)*

Distance Education

"Distance education" is the formal education process that occurs when students and instructors are in separate physical locations for the majority (more than 50 percent) of instruction. *19 TAC 2.202(2)*

Distance Education Course

A "distance education course" is a course in which a majority (more than 50 percent) of the instruction occurs when the student(s) and instructor(s) are in separate physical locations. The definition of distance education course does not include courses with 50 percent or less instruction when the student(s) and instructor(s) are in separate physical locations. Two categories of distance education courses are defined:

1. 100 Percent Online Course: A distance education course in which 100 percent of instructional activity takes place when the student(s) and instructor(s) are in separate physical locations. Requirements for on-campus or in-person orientation, testing, academic support services, internships/fieldwork, or other non-instructional activities do not exclude a course from this category.
2. Hybrid Course: A distance education course in which more than 50 percent but less than 100 percent of the instructional activity takes place when the students and instructor(s) are in separate physical locations.

19 TAC 2.202(3)

Distance Education Degree or Certificate Program

A "distance education degree or certificate program" is a program in which a student may complete a majority (more than 50 percent) of the credit hours required for the program through distance education courses. The definition of a Distance Education Degree or Certificate Program does not include programs in which 50 percent

or less of the required credit hours are offered through distance education. Two categories of distance education programs are defined:

1. 100 Percent Online Program: A degree program in which students complete 100 percent of the credit hours required for the program through 100 Percent Online Courses. Requirements for on-campus or in-person orientation, testing, academic support services, internships/fieldwork, or other non-instructional activities do not exclude a program from this category.
2. Hybrid Program: A degree program in which students complete more than 50 percent but less than 100 percent of the credit hours required for the program through Distance Education Courses.

19 TAC 2.202(4)

Institutional
Accreditor

An "institutional accreditor" is a federally recognized institutional accreditor approved by the U.S. Department of Education under 20 U.S.C. 1099b. *19 TAC 2.202(5)*

Institutional Plan for
Distance Education

An "institutional plan for distance education" (Plan or IPDE) is a plan that an institution must submit for Coordinating Board approval prior to offering a distance education program for the first time. Each institution shall periodically update its plan on a schedule as specified in 19 Administrative Code 2.205. *19 TAC 2.202(6)*

Principles of Good
Practice for
Distance Education

The "Principles of Good Practice for Distance Education" are standards and criteria for distance education delivered by Texas public institutions. This document is reviewed and adopted by the Coordinating Board every three years in accordance with 19 Administrative Code 2.204. This document is also known as "Principles of Good Practice for Academic Degree and Certificate Programs and Credit Courses Offered at a Distance." *19 TAC 2.202(7)*

**Applicability of
Subchapter J**

The provisions of 19 Administrative Code Chapter 2, Subchapter J, applies to an institution that seeks to offer one or more credit courses via distance education.

Subchapter J does not apply to an institution that seeks to offer non-credit courses, including non-credit continuing education, via distance education. An institution offering only non-credit course(s) via distance education is not required to obtain approval under Subchapter J regardless whether the course is otherwise eligible for funding.

Subchapter J applies only to determination of whether an institution is authorized to offer course(s) via distance education and does not

govern the course eligibility for funding. The Coordinating Board shall determine whether a course is eligible for funding based on the applicable statutes and rules in the Administrative Code.

The effective date of Subchapter J is December 1, 2023. Each institution must submit an Institutional Plan for Distance Education (IPDE) in accordance with Subchapter J on or after that date by the due dates set out in 19 Administrative Code 2.205(d)(1). IPDEs currently on file as of December 1, 2023, will remain filed in good standing until the first due date under 19 Administrative Code 2.205(d)(1).

19 TAC 2.203, .207

**Standards and
Criteria**

Generally

The following provisions apply to all institutions covered by 19 Administrative Code Chapter 2, Subchapter J, unless otherwise specified:

1. The Coordinating Board will adopt standards and criteria for Distance Education in the Principles of Good Practice for Distance Education. An institution's Institutional Plan for Distance Education (Plan or IPDE) shall conform to the Principles of Good Practice for Distance Education in effect at the time the institution submits the institutional plan, as described in 19 Administrative Code 2.205.
 - a. The Principles of Good Practice for Education will contain a list of criteria necessary for the institution to demonstrate provision of high-quality distance education. These criteria may include provisions relating to:
 - (1) Institutional Context and Commitment;
 - (2) Curriculum and Instruction;
 - (3) Faculty;
 - (4) Evaluation and Assessment;
 - (5) Facilities and Finances; and
 - (6) Adherence to Federal Requirements.
 - b. Coordinating Board staff will present the Principles of Good Practice for Distance Education to the Coordinating Board for adoption no less than every three years. In revising the Principles of Good Practice, Coordinating Board staff may consider input from the Learning Technology Advisory Committee and best practice standards developed by external bodies, including institutional accreditors.

2. Institutions offering or seeking to offer distance education programs shall comply with:
 - a. Principles and policies of their institutional accreditor.
 - b. Procedures governing the approval of distance education programs.
 - c. Standards outlined in Principles of Good Practice for Distance Education.

Data reporting associated with distance education offerings as required by the commissioner.

19 TAC 4.204

Out-of-State

If an institution offers postsecondary education through distance education or correspondence courses to students located in a state in which the institution is not physically located or in which the institution is otherwise subject to that state's jurisdiction as determined by that state, the institution must meet any of that state's requirements for it to be legally offering postsecondary distance education or correspondence courses in that state. The institution must, upon request, document the state's approval to the U.S. Secretary of Education. *34 C.F.R. 600.9(c)(1)(i)*

Exception

If an institution offers postsecondary education through distance education or correspondence courses in a state that participates in a state authorization reciprocity agreement, and the institution is covered by such agreement, the institution is considered to meet state requirements for it to be legally offering postsecondary distance education or correspondence courses in that state, subject to any limitations in that agreement and to any additional requirements of that state not relating to state authorization of distance education. The institution must, upon request, document its coverage under such an agreement to the U.S. Secretary of Education. *34 C.F.R. 600.9(c)(1)(i)(ii)*

Location

For purposes of this 34 C.F.R. 600.9, an institution must make a determination, in accordance with the institution's policies or procedures, regarding the state in which a student is located, which must be applied consistently to all students. The institution must, upon request, provide the U.S. Secretary of Education with written documentation of its determination of a student's location, including the basis for such determination. An institution must make a determination regarding the state in which a student is located at the time of the student's initial enrollment in an educational program and, if applicable, upon formal receipt of information from the student, in accordance with the institution's procedures, that the student's location has changed to another state. *34 C.F.R. 600.9(c)(2)*

Definitions

*Distance
Education*

For purposes of the federal distance education provisions, “distance education” is education that uses one or more of the technologies listed below at items 1 through 4 to deliver instruction to students who are separated from the instructor and to support regular and substantive interaction between the students and the instructor, either synchronously or asynchronously. The technologies that may be used to offer distance education include:

1. The internet;
2. One-way and two-way transmissions through open broadcast, closed circuit, cable, microwave, broadband lines, fiber optics, satellite, or wireless communications devices;
3. Audio conferencing; or
4. Other media used in a course in conjunction with any of the technologies listed at 1 through 3, above.

An instructor is an individual responsible for delivering course content and who meets the qualifications for instruction established by an institution's accrediting agency.

An institution ensures regular interaction between a student and an instructor or instructors by, prior to the student's completion of a course or competency:

1. Providing the opportunity for substantive interactions with the student on a predictable and scheduled basis commensurate with the length of time and the amount of content in the course or competency; and
2. Monitoring the student's academic engagement, as defined by 34 C.F.R. 600.2, and success and ensuring that an instructor is responsible for promptly and proactively engaging in substantive interaction with the student when needed on the basis of such monitoring, or upon request by the student.

Substantive interaction is engaging students in teaching, learning, and assessment, consistent with the content under discussion, and also includes at least two of the following:

1. Providing direct instruction;
2. Assessing or providing feedback on a student's coursework;
3. Providing information or responding to questions about the content of a course or competency;
4. Facilitating a group discussion regarding the content of a course or competency; or

5. Other instructional activities approved by the institution's or program's accrediting agency.

34 C.F.R. 600.2

*Correspondence
Course*

A "correspondence course" is a course provided by an institution under which the institution provides instructional materials, by mail or electronic transmission, including examinations on the materials, to students who are separated from the instructors. Interaction between instructors and students is limited, is not regular and substantive, and is primarily initiated by the students. A correspondence course is not distance education.

If a course is part correspondence and part residential training, the U.S. Secretary of Education considers the course to be a correspondence course.

34 C.F.R. 600.2

*State
Authorization
Reciprocity
Agreement*

State Authorization Reciprocity Agreement (SARA) is an agreement among its member states, districts, and U.S. territories that establishes comparable national standards for interstate offering of postsecondary distance education courses and programs. *19 TAC 4.312(11)*

*Eligible
Institutions*

Any public degree granting institution of higher education, including a college district, may apply to participate in SARA if its principle campus is located in Texas. All distance education content provided by SARA participants must originate in the United States or a U.S. territory. The institution must be accredited by an accrediting body recognized by the U.S. Department of Education. *19 TAC 4.313*

Application

All eligible institutions may apply to the Coordinating Board for admission to SARA under the signature of the institution's chief academic officer. Within the application, an institution shall make assurances that it:

1. Agrees to abide by the Council of Regional Accrediting Commissions (C-RAC) Guidelines for the Evaluation of Distance Education.
2. Agrees to be responsible for the actions of any third-party providers used by the institution to engage in operations under SARA.
3. Agrees to notify the Coordinating Board of any negative changes to its accreditation status.
4. Agrees to provide data requested by the Coordinating Board.

5. Agrees to cooperate with the Coordinating Board in the investigation of any complaints arising from the students it serves in other states through SARA and to abide by investigating authority's resolution of any such complaint.
6. All complaints must follow the institution's customary resolution procedure prior to being referred to the Coordinating Board. Grade appeals and student conduct appeals will be resolved at the institutional level without further appeal through SARA.
7. Agrees to notify all students in a course or program that customarily leads to professional licensure, or which a student could reasonably believe leads to such licensure, whether or not the course or program meets requirements for licensure in the state where the student resides. If an institution does not know whether the course or program meets licensure requirements in the student's state of residence, the institution may meet this SARA requirement by informing the student in writing and providing the student the contact information for the appropriate state licensing board(s). An email dedicated solely to this purpose and sent to the student's best known email address meets this requirement.
8. Agrees, in cases where the institution cannot fully deliver the instruction for which a student has contracted, to provide a reasonable alternative for delivering the instruction or reasonable financial compensation for the education the student did not receive.
9. Agrees to pay an annual fee to the National Council for State Authorization Reciprocity Agreements (NC-SARA). This fee replaces any state fees that the institution would normally pay to other SARA member states. If an institution offers distance education to students in non-SARA participating states, it must pay required state fees.

19 TAC 4.312(4), (10), .314

*Maintaining
Eligibility*

To remain eligible for participation in SARA, an institution must renew its participation agreement with the Coordinating Board and pay its required SARA fees annually. At the time of renewal, Coordinating Board staff will determine whether the institution still meets SARA requirements. An institution may be removed at any time by the Coordinating Board for violation of SARA standards. 19 TAC 4.315

<i>Complaints</i>	<p>Institutions operating under SARA shall make their resolution policies and procedures readily available to students taking courses under SARA provisions.</p>
	<p>Complaints against an institution operating under SARA must first go through the institution's own procedures for resolution grievances. If a person bringing a complaint is not satisfied with the outcome of the institutional process for handling complaints, the complainant may appeal, within two years of the incident, to the Coordinating Board.</p>
	<p><i>19 TAC 4.316</i></p>
Institutional Plan	<p>Each institution, including each college district, shall submit an Institutional Plan for Distance Education (IPDE) containing evidence of the institution's compliance with the mandatory Principles of Good Practice for Distance Education to the Coordinating Board prior to delivering any distance education programs for the first time. Coordinating Board staff will develop the IPDE form based on the standards and criteria contained in the Principles of Good Practice.</p>
	<p>The Coordinating Board authorizes an institution to offer distance education courses under Education Code 61.0512(g) upon approving an institution's IPDE in good standing or if the institution is on provisional status pending final approval of the IPDE.</p>
	<p>Institutional academic and administrative policies shall reflect a commitment to maintain the quality of distance education courses and programs in accordance with the provisions of this subchapter. An IPDE shall conform to the Principles of Good Practice for Distance Education in effect at the time the institution submits the plan.</p>
	<p><i>19 TAC 2.205(a)-(c)</i></p>
Coordinating Board Review and Approval	<p>Each institution of higher education shall assess its distance education in accordance with the Principles of Good Practice for Distance Education. Institutions must report results of that assessment in an IPDE to Coordinating Board staff prior to seeking approval to offer distance education programs or certificates. <i>19 TAC 2.205(d)(1)(A)</i></p>
<i>IPDE Due Dates</i>	
Initial Approval	
Renewal	<p>Each public institution of higher education shall assess its distance education on an ongoing basis in accordance with the Principles of Good Practice for Distance Education. Institutions must report results of that assessment in an updated IPDE to Coordinating Board staff by the earlier of the following deadlines:</p>

1. No later than one year after receiving final disposition of the institution's comprehensive renewal of accreditation report from their institutional accreditor as required by 34 C.F.R. 602.19; or
2. No later than 10 years after the approval of their last IPDE to the Coordinating Board.

19 TAC 2.205(d)(1)(B)

Request for
Extension

An institution may submit a request to the commissioner for an extension of this due date of no more than two years. The commissioner may approve this request only if the institution demonstrates good cause, e.g., the institutional accreditor has postponed the institution's renewal of accreditation cycle beyond the 10-year period.

19 TAC 2.205(d)(1)(C)

*Initial Board Staff
Review*

Coordinating Board staff must review IPDEs for completeness and may request additional information from the institution upon determining the submitted IPDE is incomplete. Upon receipt of a completed IPDE, Coordinating Board staff must review the submission and make the following determination:

1. Institutions Accredited by the Southern Association of Colleges and Schools Commission on Colleges (SACSCOC): Coordinating Board staff must determine whether the institution's IPDE has met SACSCOC policy and procedure standards related to the delivery of distance education during the prior renewal of accreditation cycle. Coordinating Board staff must forward the IPDE for Learning Technology Advisory Committee (LTAC) review of the IPDE's adherence to the Principles of Good Practice for Distance Education under 19 Administrative Code 2.205(d)(3).
2. Institutions Accredited by an Institutional Accreditor Other Than SACSCOC: Coordinating Board staff must forward the IPDE for LTAC review of the IPDE's adherence to the Principles of Good Standards for Distance Education under 19 Administrative Code 2.205(d)(3).
3. Resubmitted IPDEs: If the IPDE is a resubmission that was previously denied by the commissioner under 19 Administrative Code 2.205(d)(4)(B) or by the Coordinating Board under 19 Administrative Code 2.205(d)(4)(B)(ii)(II), Coordinating Board staff must forward the resubmitted IPDE to LTAC review of the IPDE's adherence to the Principles of Good Standards for Distance Education under 19 Administrative Code 2.205(d)(3).

19 TAC 2.205(d)(2)

LTAC Review

LTAC must review and issue a recommendation as to the adherence of an IPDE to the Principles of Good Practice for Distance Education for the Board. LTAC may conduct this review using the following process:

1. LTAC may assign each IPDE to a subcommittee chaired by LTAC members and comprised of other LTAC members and/or distance education experts who volunteer to serve in this capacity.
2. The LTAC subcommittee assigned to review updated Institutional plans shall review those plans for alignment with the Principles of Good Practice (PGP). The LTAC subcommittee may ask questions and consult with the submitting institution to make this determination.
 - a. If the LTAC subcommittee reviews and finds an IPDE in alignment with the PGP, the subcommittee shall issue a recommendation to LTAC that the institution be approved to offer distance education.
 - b. If the LTAC subcommittee finds an institutional plan is not aligned with the PGP, the subcommittee will identify areas of misalignment, provide feedback for improvement, make suggestions for the content of a remediation letter, and submit these recommendations to LTAC.
3. LTAC may review and approve the recommendations of the LTAC subcommittee and submit these recommendations to Coordinating Board staff. Coordinating Board staff will submit these recommendations to the commissioner for commissioner review under 19 Administrative Code 2.205(d)(4).

19 TAC 2.205(d)(3)

*Commissioner
Review and
Approval*

The commissioner has discretion to approve or deny an IPDE. *19 TAC 2.205(d)(4)*

Approval

If the commissioner approves the IPDE, the institution's IPDE will be filed in good standing with the Coordinating Board. The commissioner will send a notification to the institution of this decision. *19 TAC 2.205(d)(4)(A)*

Denial

If the commissioner denies the IPDE, the commissioner will send an institution a remediation letter containing a notification of this decision. The remediation letter may contain the recommendations for improvement compiled by the LTAC subcommittee under item 2b, above. The institution may then take one of two actions:

1. Resubmission: The institution must resubmit the revised IPDE to Coordinating Board staff under 19 Administrative Code 2.205(d)(2) no earlier than one year after the date of the letter containing the commissioner's notification of denial. The institution will remain on provisional status until final approval of the IPDE.
2. Appeal: The institution may appeal the commissioner's decision to the Coordinating Board. The commissioner may issue a recommendation for approval or denial to the Coordinating Board. The Coordinating Board has final authority to appeal or deny the institution's IPDE.

If the Coordinating Board approves the IPDE, the institution's IPDE will be filed in good standing with the Coordinating Board.

If the Coordinating Board denies the institution's IPDE, the institution must resubmit the revised IPDE to Coordinating Board staff under 19 Administrative Code 2.205(d)(2) no earlier than one year after the Coordinating Board's decision. The institution will remain on provisional status until final approval of the IPDE.

19 TAC 2.205(d)(4)(B)

Notification

The following provisions apply to all institutions covered by 19 Administrative Code Chapter 2, Subchapter J, unless otherwise specified:

1. Coordinating Board staff must maintain an accurate inventory of distance education degree or certificate programs in the distance education program inventory.
2. To offer an existing certificate or degree through the distance education modality, an institution must notify Coordinating Board staff of intent to offer an approved degree or certificate program through the distance education modality. To submit this notification, the institution must certify that it has an institutional plan for distance education in good standing and compliance with 19 Administrative Code 2.204(b). Coordinating Board staff will update the institution's distance education program inventory.
3. To offer a new certificate or degree, an institution shall follow the program approval request rules laid out in the appropriate subchapter of 19 Administrative Code Chapter 2 and indicate its intent to deliver the new program through distance education on the program request form. To offer a new certificate or degree through distance education, the institution must certify that it has an institutional plan for distance education in good standing and compliance with 19 Administrative Code

2.204(b). Coordinating Board staff will update the institution's distance education program inventory upon the program's final approval.

4. If an institution intends to cease offering an approved program via distance education modality, the institution must notify Coordinating Board staff. If an institution intends to phase out an approved degree or certificate program completely, the institution must follow the process in 19 Administrative Code Chapter 2, Subchapter H. Coordinating Board staff will update the institution's distance education program inventory.

All institutions ~~must~~shall notify the Coordinating Board of the intent to offer an approved program through distance education following the procedures in this section. Program revisions or modifications require notification only under 19 Administrative Code 2.4(1).

19 TAC 2.9(e), .205(b), .206

Funding

Formula Funding

The following provisions apply to distance education courses and programs offered with authorization under 19 Administrative Code Chapter 2, Subchapter J.

Institutions, including college districts, shall report distance education courses submitted for formula funding in accordance with the Coordinating Board's uniform reporting system and the provisions of 19 Administrative Code Chapter 13, Subchapter O.

Institutions may submit for formula funding academic credit courses delivered by distance education to any student located in Texas or to Texas residents located out-of-state or out-of-country.

Institutions shall not submit for formula funding 100 percent online courses taken by non-resident students who are located out-of-state or out-of-country, courses in out-of-state or out-of-country programs taken by any student, or self-supporting courses.

If a non-Texas resident student enrolls in regular, on-campus courses for at least one-half of the normal full-time course load as determined by the institution, the institution may report that student's fully distance education or hybrid/blended courses for formula funding enrollments.

19 TAC 2.205(b), 13.453

Fees

For courses not submitted for formula funding, institutions shall charge fees that are equal or greater than Texas resident tuition and applicable fees and that are sufficient to cover the total cost of instruction and overhead, including administrative costs, benefits, computers and equipment, and other related costs.

Institutions shall report fees received for self-supporting and out-of-state/country courses in accordance with general institutional accounting practices.

19 TAC 13.453(4)

Note: For more information regarding distance education, including related approval processes, reporting deadlines, and forms, visit the Coordinating Board's [Distance Education Resources](https://www.highered.texas.gov/new-program-development/distance-education-resources/)¹ website.

¹ [Coordinating Board](https://www.highered.texas.gov/new-program-development/distance-education-resources/), Distance Education ~~Modifications and Requests~~ Resources:
<https://www.highered.texas.gov/new-program-development/distance-education-resources/>

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Lower-Division Courses

Each institution of higher education that offers lower-division courses must offer at least 45 semester credit hours of academic courses that are substantially equivalent to courses listed in the Lower Division Academic Course Guide Manual (ACGM) including those that fulfill the lower-division portion of the institution's core curriculum. *19 TAC 4.25(b)*

Core Curriculum

Definition

“Core curriculum” means the curriculum in liberal arts, humanities, and sciences and political, social, and cultural history that all undergraduate students of an institution of higher education, including a college district, are required to complete before receiving an academic undergraduate degree. *Education Code 61.821(1); 19 TAC 4.23(5)*

Recommendation

The Coordinating Board, with the assistance of advisory committees composed of representatives of institutions of higher education, shall develop a recommended core curriculum of at least 42 semester credit hours (SCH), including a statement of the content, component areas, and objectives of the core curriculum. At least a majority of the members of any advisory committee shall be faculty members of an institution of higher education. An institution shall consult with the faculty of the institution before nominating or recommending a person to the Coordinating Board as the institution's representative on an advisory committee. *Education Code 61.822(a-1); 19 TAC 4.28*

Adoption

Each institution of higher education shall adopt a core curriculum of no less than 42 SCH, including specific courses comprising the curriculum. The core curriculum shall be consistent with the common course numbering system approved by the Coordinating Board and with the statements, recommendations, and rules issued by the Coordinating Board. ~~The Coordinating Board by rule may approve a core curriculum of fewer than 42 semester credit hours for an associate degree program if the Coordinating Board determines that the approval would facilitate the award of a degree or transfer of credit consistent with 19 Administrative Code Chapter 4, Subchapter B.~~

An institution may, with Coordinating Board approval, have a core curriculum of fewer than 42 semester credit hours for an associate degree program if it would facilitate the award of a degree or transfer of credit. No institution may adopt a core curriculum of more than 42 SCH.

No upper-division course shall be approved to fulfill a foundational component area requirement in the core curriculum if it is substantially comparable in content or depth of study to a lower-division course listed in the ACGM.

In offering its Coordinating Board-approved core curriculum, an institution of higher education must list only those courses that have been approved by the Coordinating Board as compliant with the Texas Core Curriculum.

Education Code 61.822(b); 19 TAC 4.28(a), .29, .31

Revisions

An institution of higher education may request changes to its core curriculum annually. One comprehensive request may be submitted each academic year, on a schedule that suits the institution's needs. An institution should follow the procedures posted on the Coordinating Board's website to modify its core curriculum by adding or deleting courses and must provide information to justify the requested changes.

The institution will receive a letter from Coordinating Board staff giving notice of approval of the proposed changes and/or indicating any changes that do not meet provisions of the current core curriculum, and identifying an effective date for any approved change(s). Upon receiving an approval letter from Coordinating Board staff, the institution shall make any required changes to its core curriculum and will document those changes in institutional publications.

19 TAC 4.31

Component Areas

Each institution of higher education that offers an undergraduate academic degree program shall develop its core curriculum by using the Coordinating Board-approved purpose, core objectives, and foundational component areas of the Texas Core Curriculum. *19 TAC 4.28(b)*

Purpose

Through the Texas Core Curriculum, students will gain a foundation of knowledge of human cultures and the physical and natural world, develop principles of personal and social responsibility for living in a diverse world, and advance intellectual and practical skills that are essential for all learning. *19 TAC 4.28(b)(1)*

Core Objectives

Through the Texas Core Curriculum, students will prepare for contemporary challenges by developing and demonstrating the following core objectives:

1. Critical Thinking Skills: to include creative thinking, innovation, inquiry, and analysis, evaluation, and synthesis of information;
2. Communication Skills: to include effective development, interpretation, and expression of ideas through written, oral, and visual communication;
3. Empirical and Quantitative Skills: to include the manipulation and analysis of numerical data or observable facts resulting in informed conclusions;

4. Teamwork: to include the ability to consider different points of view and to work effectively with others to support a shared purpose or goal;
5. Personal Responsibility: to include the ability to connect choices, actions, and consequences to ethical decision-making; and
6. Social Responsibility: to include intercultural competence, knowledge of civic responsibility, and the ability to engage effectively in regional, national, and global communities.

19 TAC 4.28(b)(2)

*Foundational
Component
Areas (36 SCH)*

Each institution's core curriculum will be composed of courses that adhere to the content description, core objectives, and SCH requirements for a specific component area. The foundational component areas are:

1. Communication (6 SCH):
 - a. Courses in this category focus on developing ideas and expressing them clearly, considering the effect of the message, fostering understanding, and building the skills needed to communicate persuasively.
 - b. Courses involve the command of oral, aural, written, and visual literacy skills that enable people to exchange messages appropriate to the subject, occasion, and audience.
 - c. The following four Core Objectives must be addressed in each course approved to fulfill this category requirement: Critical Thinking Skills, Communication Skills, Teamwork, and Personal Responsibility.
2. Mathematics (3 SCH):
 - a. Courses in this category focus on quantitative literacy in logic, patterns, and relationships.
 - b. Courses involve the understanding of key mathematical concepts and the application of appropriate quantitative tools to everyday experience.
 - c. The following three Core Objectives must be addressed in each course approved to fulfill this category requirement: Critical Thinking Skills, Communication Skills, and Empirical and Quantitative Skills.
3. Life and Physical Sciences (6 SCH):

- a. Courses in this category focus on describing, explaining, and predicting natural phenomena using the scientific method.
 - b. Courses involve the understanding of interactions among natural phenomena and the implications of scientific principles on the physical world and on human experiences.
 - c. The following four Core Objectives must be addressed in each course approved to fulfill this category requirement: Critical Thinking Skills, Communication Skills, Empirical and Quantitative Skills, and Teamwork.
4. Language, Philosophy, and Culture (3 SCH):
- a. Courses in this category focus on how ideas, values, beliefs, and other aspects of culture express and affect human experience.
 - b. Courses involve the exploration of ideas that foster aesthetic and intellectual creation in order to understand the human condition across cultures.
 - c. The following four Core Objectives must be addressed in each course approved to fulfill this category requirement: Critical Thinking Skills, Communication Skills, Personal Responsibility, and Social Responsibility.
5. Creative Arts (3 SCH):
- a. Courses in this category focus on the appreciation and analysis of creative artifacts and works of the human imagination.
 - b. Courses involve the synthesis and interpretation of artistic expression and enable critical, creative, and innovative communication about works of art.
 - c. The following four Core Objectives must be addressed in each course approved to fulfill this category requirement: Critical Thinking Skills, Communication Skills, Teamwork, and Social Responsibility.
6. American History (6 SCH):
- a. Courses in this category focus on the consideration of past events and ideas relative to the United States, with the option of including Texas History for a portion of this component area.

- b. Courses involve the interaction among individuals, communities, states, the nation, and the world, considering how these interactions have contributed to the development of the United States and its global role.
 - c. The following four Core Objectives must be addressed in each course approved to fulfill this category requirement: Critical Thinking Skills, Communication Skills, Personal Responsibility, and Social Responsibility.
7. Government/Political Science (6 SCH):
- a. Courses in this category focus on consideration of the Constitution of the United States and the constitutions of the states, with special emphasis on that of Texas.
 - b. Courses involve the analysis of governmental institutions, political behavior, civic engagement, and their political and philosophical foundations.
 - c. The following four Core Objectives must be addressed in each course approved to fulfill this category requirement: Critical Thinking Skills, Communication Skills, Personal Responsibility, and Social Responsibility.
8. Social and Behavioral Sciences (3 SCH):
- a. Courses in this category focus on the application of empirical and scientific methods that contribute to the understanding of what makes us human.
 - b. Courses involve the exploration of behavior and interactions among individuals, groups, institutions, and events, examining their impact on the individual, society, and culture.
 - c. The following four Core Objectives must be addressed in each course approved to fulfill this category requirement: Critical Thinking Skills, Communication Skills, Empirical and Quantitative Skills, and Social Responsibility.

Each student must meet the number of SCH in each foundational component area; however, an institution receiving a student in transfer is not required to apply to the fulfillment of a foundational component area requirement SCH beyond the number of SCH specified in a foundational component area.

A course may only apply to a single foundational component area. If the SCH for a course in a foundational component exceed the number of SCH allotted in that foundational component area, the excess SCH must either be applied to the Component Area Option

or as part of the specific degree requirements, such that the additional SCH will not increase the number of required SCH to complete the degree.

No upper-division course shall be approved to fulfill a foundational component area requirement in the core curriculum if it is substantially comparable in content or depth of study to a lower-division course listed in the ACGM.

19 TAC 4.28(a)(2), (b)(3), (f)-(g)

*Component Area
Option (6 SCH)*

Except as provided below, each course designated to complete the Component Area Option must meet the definition and Core Objectives specified in one of the foundational component areas outlined above.

As an option for up to three semester credit hours of the Component Area Option, an institution may certify that the course(s) meet(s) the definition specified for one or more of the foundational component areas and include(s) a minimum of three Core Objectives, including Critical Thinking Skills, Communication Skills, and one of the remaining Core Objectives of the institution's choice. For the purposes of gaining approval for or reporting a Component Area Option course, an institution is not required to notify the Coordinating Board of the specific foundational component area(s) and Core Objectives associated with the course(s).

19 TAC 4.28(b)(4)

Applicability

Any student who first enrolls in an institution of higher education following high school graduation in fall 2014 or later shall be subject to the current Texas Core Curriculum requirements.

Any student who is admitted under the terms of the Academic Fresh Start program and who first enrolls under that admission in fall 2014 or later shall be subject to the current Texas Core Curriculum requirements.

Any student who first enrolled in an institution of higher education prior to fall 2014 shall, after consultation with an academic advisor, have the choice to:

1. Complete the core curriculum requirements in effect in summer 2014; or
2. Transition to the current core curriculum requirements, in which case, previously completed core curriculum courses shall be applied to the current core curriculum requirements under the same terms as those that apply to a student who transfers from one institution to another. The student shall

then complete the remaining requirements under the current core curriculum.

19 TAC 4.28(b)(5)

Concurrent Enrollment

A student concurrently enrolled at more than one institution of higher education shall follow the core curriculum requirements in effect for the institution at which the student is classified as a degree-seeking student. A student who is concurrently enrolled at more than one institution of higher education may be classified as a degree-seeking student at only one institution. If a student maintains continuous enrollment from a spring semester to the subsequent fall semester at an institution at which the student has declared to be seeking a degree, the student remains a degree-seeking student at that institution regardless of the student's enrollment during the intervening summer session(s) at another institution. [See EFB(LEGAL)] *19 TAC 4.28(d)*

Substitutions and Waivers

No institution or institutional representative may approve course substitutions or waivers of the institution's core curriculum requirements for any currently enrolled student, except that the institution may, on a case-by-case basis, approve an accommodation of a specific core curriculum foundational component area requirement for a student with a medically documented learning disability. *19 TAC 4.28(j)-(k)*

[For transfer students, see EGA(LEGAL). For students with learning disabilities, see EFCA(LEGAL).]

Notice

Each institution must publish and make readily available to students its core curriculum requirements stated in terms consistent with the Texas Common Course Numbering System. *19 TAC 4.28(i)*

Transcripts

All undergraduate student transcripts should indicate whether a student has completed the core curriculum satisfactorily and which courses satisfied a requirement of the institution's core curriculum. Identifying numbers recommended by the Texas Association of Collegiate Registrars and Admissions Officers (TACRAO) must identify each completed core curriculum course on students' transcripts, in order to indicate courses utilized to satisfy core curriculum foundational component area requirements, as follows:

1. Communication = 010;
2. Mathematics = 020;
3. Life and Physical Sciences = 030;
4. Language, Philosophy and Culture = 040;

5. Creative Arts = 050;
6. American History = 060;
7. Government/Political Science = 070;
8. Social and Behavioral Sciences = 080; and
9. Component Area Option = 090.

19 TAC 4.28(h)

**Evaluation of Core
Curricula**

Each public institution of higher education, including a college district, shall evaluate its core curriculum through the assessment of the core objectives on an ongoing basis, reporting the results of the assessment to the Coordinating Board every ten years on the schedule that accords with the institution's accreditation reaffirmation self-study report to the Southern Association of Colleges and Schools Commission on Colleges (SACSCOC) or its successor. The evaluation and report must include:

1. A description of the assessment process for each of the six core objectives;
2. An explanation of measures, methodology, frequency, and the timeline of assessment activities;
3. The criteria and/or targets used to benchmark the attainment of the six core objectives;
4. The results of the assessment, including evidence of the level of attainment targeted and achieved for each of the six core objectives;
5. An analysis of the results, including an interpretation of assessment information; and
6. Any actions planned, including how the results and analysis of the assessment process will be used to improve student learning and achievement.

Education Code 61.824; 19 TAC 4.30

**Field of Study
Curriculum**

The Coordinating Board, with the assistance of advisory committees composed of representatives of institutions of higher education, shall develop field of study curricula. Each advisory committee shall be equitably composed of representatives of institutions of higher education. Each university system or institution of higher education, including each college district, which offers a degree program for which a field of study curriculum is proposed shall be offered participation on the advisory committee for that particular field of study. At least a majority of the members of any advisory committee named under this section shall be

faculty members of an institution of higher education. An institution shall consult with the faculty of the institution before nominating or recommending a person to the Coordinating Board as the institution's representative on an advisory committee.

"Field of study curriculum" means a set of courses that will satisfy the lower division requirements for a bachelor's degree in a specific academic area at a general academic teaching institution.

Education Code 61.821(2), .823; 19 TAC 4.21(7)

Evaluation of Field of Study Curricula

Every five years, following the same timetable as the regular accreditation reports sent to the SACSCOC or its successor, each public institution of higher education, including each college district, shall review and evaluate its policies and practices regarding the acceptance and application of credit earned as part of a Coordinating Board-approved field of study curriculum, and report the results of that evaluation to the Coordinating Board. The evaluation should include:

1. The extent to which the institution's compliance with the acceptance of transfer credit through field of study curricula is being achieved;
2. The extent to which the institution's application to the appropriate degree program of credit earned as part of a Coordinating Board-approved field of study curriculum facilitates academic success; and
3. The effectiveness of field of study curricula in the retention and graduation of transfer students in those degree programs that have Coordinating Board-approved field of study curricula.

Each institution's evaluation report must contain at least the following:

1. A listing of the institution's degree programs or tracks that have Coordinating Board-approved field of study curricula;
2. A description of the institution's policies and practices regarding applicable Coordinating Board-approved field of study curricula, including admission-point evaluation of transfer credit, advising practices (including catalogue and website information on existing field of study curricula and advising/counseling practices for enrolled students), and transcribing practices to field of study curriculum participation and completion; and

3. A chart or table showing the number of total transfer students for each degree program that has a Coordinating Board-approved field of study curriculum, for each of the last five years; the chart should indicate year-by-year the percentage of students who transferred having completed the applicable field of study curriculum, the percentage of students who transferred without having completed the applicable field of study curriculum, and any information about progress toward graduation or graduation rates that can compare transfer student performance with non-transfer student performance during the evaluation period.

19 TAC 4.36(a)

**Government or
Political Science**

Every college and university receiving state support or state aid from public funds, including a college district, shall provide a course of instruction in government or political science that includes consideration of the Constitution of the United States and the constitutions of the states, with special emphasis on that of Texas. This course shall have a credit value of not less than six semester hours or its equivalent. A college and university receiving state support or state aid from public funds shall not grant a degree or an academic certificate to any person unless the person has credit for such a course. The college or university may determine that a student has satisfied this requirement in whole or in part on the basis of credit granted to the student by the college or university for a substantially equivalent course completed at another accredited college or university or on the basis of the student's successful completion of an advanced standing examination administered on the conditions and under the circumstances common for the college or university's advanced standing examinations. The college or university may grant as much as three semester hours of credit or its equivalent toward satisfaction of this requirement for substantially equivalent work completed by the student in the program of an approved senior Reserve Officers' Training Corps (ROTC) unit. *Education Code 51.301*

**American or Texas
History**

A college or university receiving state support or state aid from public funds, including a college district, may not grant a baccalaureate degree or a lesser degree or academic certificate to any person unless the person has credit for six semester hours or its equivalent in American History. A student is entitled to submit as much as three semester hours of credit or its equivalent in Texas History in partial satisfaction of this requirement. The college or university may determine that a student has satisfied this requirement in whole or part on the basis of credit granted to the student by the college or university for a substantially equivalent course

completed at another accredited college or university, or on the basis of the student's successful completion of an advanced standing examination administered on the conditions and under the circumstances common for the college or university's advanced standing examinations. The college or university may grant as much as three semester hours of credit or its equivalent toward satisfaction of this requirement for substantially equivalent work completed by a student in the program of an approved senior ROTC unit.

A college or university receiving state support or state aid from public funds that does not offer at least three semester credit hours or the equivalent in Texas History to undergraduate students shall enter into an agreement with another postsecondary educational institution to offer to the college or university's undergraduate students at least three semester credit hours or the equivalent in Texas History.

Education Code 51.302(b), (d)

**Counseling and
Social Work**

The curricula of medical, dental, nursing, allied health, counseling, and social work degree programs of institutions of higher education, including college districts, shall:

1. Include information about methods of transmission and methods of prevention of HIV infection and information about federal and state laws, rules, and regulations concerning HIV infection and AIDS.
2. Give special attention to the physical, emotional, and psychological stress associated with the care of patients with terminal illnesses.

Education Code 51.919(e)

**Mexican-American
Studies**

The governing board of a public junior college district located in one or more counties with a substantial and growing Mexican-American population shall evaluate the demand for and feasibility of establishing a Mexican-American studies program or other coursework in Mexican-American studies at one or more junior colleges in the district. With approval of the Coordinating Board, the governing board may establish a Mexican-American studies program or other coursework in Mexican-American studies at any of those colleges if the governing board determines that such a program or coursework is desirable and feasible. *Education Code 130.0102*

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Definitions

Career Technical /
Workforce Program

“Career technical/workforce program” is an applied associate degree program or a certificate program for which semester credit hours (SCH), quarter credit hours, or continuing education units (CEUs) are awarded and which is intended to prepare students for immediate employment or a job upgrade in a specific occupation. *19 TAC 9.1(5)*

Continuing
Education Unit or
CEU

“Continuing education unit or CEU” is defined as ~~ten~~¹⁰ contact hours of participation in an organized continuing education experience under responsible sponsorship, capable direction, and qualified instruction, as outlined in the Guidelines for Instructional Programs in Workforce Education. *19 TAC 9.1(11)*

Local Need Course

A “local need course” is a course that is not contained in the Workforce Education Course Manual database and for which approval is requested by a specific institution. A local need course, upon approval, is added to the institution's course inventory in the Workforce Education Course Manual (WECM) database for use in a career and technical education program. A special topics course is excluded from this definition. *19 TAC 2.293(4)*

Special Topics
Course

A “special topics course” is a course that is for temporary use or transitional content. A special topics course should be used only when course content and end-of-course outcomes do not exist in a career and technical education course contained in the Workforce Education Course Manual database. A special topics course may address recently identified current events, knowledge, and skills pertinent to the technical area and relevant to the occupational development of the student. *19 TAC 2.293(5)*

Workforce
Continuing
Education Course

“Workforce continuing education course” means a course offered for CEUs with an occupationally specific objective and supported by state funding. A career technical/workforce continuing education course differs from a community service course offered for recreational or vocational purposes and is not supported by state funding. *19 TAC 9.1(31)*

Workforce
Education

“Workforce education” means career technical/workforce courses and programs for which semester/quarter credit and/or CEUs are awarded. Career technical/workforce education courses and programs prepare students for immediate employment or a job upgrade within specific occupational categories. *19 TAC 9.1(32)*

Generally

Each public two-year college may classify career technical/workforce continuing education and other courses as earning SCH or CEUs. A course or program that meets or exceeds 360 hours in length must be approved as a career technical/workforce certificate program except by special justification and approval by Coordinating Board staff. A course or program that meets or exceeds 780

hours in length must result in the award of appropriate semester credit hours and be applicable to a certificate and an applied associate degree program. *19 TAC 9.93(l)*

Local Need Courses

The Coordinating Board requires an institution to obtain approval of a proposed local need course for inclusion in the Workforce Education Course Manual (WECM) database and the institution's course inventory. An institution shall designate a proposed local need course as offering semester credit hours or continuing education units. *19 TAC 2.294(a)*

Course Approval Process

A proposed local need course may be approved by the assistant commissioner if the course is administratively complete and meets all the requirements established by 19 Administrative Code 2.296.

If the assistant commissioner recommends denial of a proposed local need course or does not take action to approve the proposed course within 60 days of Coordinating Board staff's determination that the course proposal is administratively complete, then the proposed local need course approval will be subject to the process for commissioner approval. The commissioner's decision is final and may not be appealed.

Upon approval, a local need course will be listed in the local need course section of the WECM database and available to the institution for use in a career and technical education certificate or applied associate degree.

19 TAC 2.294(b)

Administrative Completeness

An institution must submit a fully completed application for each proposed course for which approval is required that includes each required element in 19 Administrative Code 2.296 and the required Coordinating Board form for the proposed course approval.

If Coordinating Board staff determines that the application is incomplete or additional information or documentation is needed, the institution must respond with all the requested information or documentation within 30 business days, or the request will be deemed incomplete and returned to the institution.

An institution may resubmit an application that was returned as incomplete as soon as it has obtained the requested information or documentation. This submission will be considered a new application.

19 TAC 2.295(a), (c)-(d)

Criteria

In addition to any administrative completeness criteria specified in statute or 19 Administrative Code Chapter 2 for approval of a proposed course, the assistant commissioner shall ensure the application satisfies the following factors:

1. There is no career and technical education course in the WECM database that has equivalent end of course outcomes to the proposed course.
2. The proposed course is designated as either semester credit hours or CEUs and assigned actual contact hours.
3. The submission for consideration of the proposed course is complete and includes:
 - a. The course title that is related to the course content;
 - b. A six-digit Classification of Instructional Programs (CIP) code;
 - c. A course description;
 - d. The type of instruction;
 - e. Suggested prerequisite, if applicable;
 - f. A justification of the need for the course;
 - g. End-of-course outcomes;
 - h. Contact information for the individual authorized to request approval of the proposed course; and
 - i. Contact information for the individual who is authorized to respond to questions regarding the submission.

19 TAC 2.296

**Workforce
Continuing
Education Courses**

Any workforce continuing education course listed in the Workforce Education Course Manual (WECM) may be offered by any public two-year college without prior approval of the Coordinating Board. Courses in the current WECM are valid until revised or deleted by subsequent updates of the WECM.

All workforce continuing education courses shall be in compliance with the guidelines outlined in the Guidelines for Instructional Programs in Workforce Education as approved by the Coordinating Board, the WECM, and state law.

Any workforce continuing education program meeting or exceeding 360 contact hours shall be subject to all of the requirements for workforce education programs for state appropriations as outlined in 19 Administrative Code Chapter 9, Subchapter E.

Any workforce continuing education program meeting or exceeding 780 contact hours in length must result in the award of semester or quarter credit hours and be applicable to a certificate and an applied associate degree program. An exception shall be made for Emergency Medical/Paramedic continuing education programs, which may reach 800 contact hours.

Contact hours for career technical/workforce continuing education courses from public two-year colleges must be determined and reported in compliance with Coordinating Board policy as outlined in the Guidelines for Instructional Programs in Workforce Education as approved by the Coordinating Board, the WECM, and state law.

No funds appropriated to any public two-year college may be expended for any workforce continuing education course that has not been approved by the Coordinating Board staff.

19 TAC 9.95(a), .114(a)-(b), .115-116, .117(c), .118

State Funding

Contact hours attributable to the enrollment of a student in a workforce continuing education course offered by a public junior college shall be included in the contact hours used to determine the college's proportionate share of state money appropriated and distributed to public junior colleges under Education Code 130.003 and 130.0031, regardless of whether the college waives all or part of the tuition or fees for the course under Education Code 130.354 [see GH]. *Education Code 130.052352; 19 TAC 9.93(l), .117(a)*

Exceptions

Workforce continuing education courses with fewer than seven contact hours of instruction will not receive state funding unless the specific type and length of instruction are required by local, state, or national licensing, certifying, regulatory, or accrediting agencies. WECM continuing education special topics courses that are not designed to prepare adult students for employment shall not be eligible for state appropriations. This includes basic employability courses, basic learning skills courses, and learning framework courses.

Avocational courses shall not be eligible for state appropriations. This includes community interest courses. A community college can offer community interest courses using local funds.

19 TAC 9.117(b), (d)-(e)

Definitions

Avocational Course

"Avocational course" means a course of study in a subject or activity that is usually engaged in by a person in addition to the person's regular work or profession for recreation or in relation to a hobby. The term includes a community interest course. *19 TAC 9.113(2)*

*Basic
Employability
Course*

"Basic employability course" means a course that covers topics such as conducting a job search, developing a resume, completing an application for employment, and interviewing skills. *19 TAC 9.113(3)*

*Basic Learning
Skills Course*

"Basic learning skills course" means a non-college-level course that covers learning strategies such as note-taking, and test preparation. *19 TAC 9.113(4)*

*Learning
Framework
Course*

"Learning framework course" means a college-level course that is solely or primarily focused on skill acquisition related to the learning process and is not a workforce education course. *19 TAC 9.113(7)*

*Workforce
Continuing
Education*

"Workforce continuing education" means non-credit instruction that is designed primarily for adults and is intended, on completion by a participant, to prepare the participant to qualify to apply for and accept an employment offer or a job upgrade within a specific occupational category or to bring the participant's knowledge or skills up to date on new developments in a particular occupation or profession. *19 TAC 9.113(8)*

*Workforce
Continuing
Education Course*

"Workforce continuing education course" means a course of non-credit instruction in workforce continuing education that is approved by the Coordinating Board. The term does not include an avocational course. *19 TAC 9.113(9)*

Note: For contractual agreements for the provision of instruction executed with outside entities, including workforce education, see GL.

**Medically Related
Courses**

The curricula of medical, dental, nursing, allied health, counseling, and social work degree or certificate programs shall:

1. Include information about methods of transmission and methods of prevention of HIV infection and information about federal and state laws, rules, and regulations concerning HIV infection and AIDS.
2. Give special attention to the physical, emotional, and psychological stress associated with the care of patients with terminal illnesses.

Education Code 51.919(e)

**Career and Technical
Education Program
of Study Curricula**

The Coordinating Board, with the assistance of institutions of higher education, career and technical education experts, and college and career readiness experts, shall establish alignment between the college and career readiness standards and the

knowledge, skills, and abilities students are expected to demonstrate in career and technical education by establishing programs of study that:

1. Incorporate rigorous college and career readiness standards, including career and technical education standards that address both academic and technical content;
2. Support attainment of employability and career readiness skills;
3. Progress in content specificity by beginning with all aspects of an industry or career cluster and leading to more occupationally specific instruction or by preparing students for ongoing postsecondary career preparation;
4. Incorporate multiple entry and exit points with portable demonstrations of technical or career competency, which may include credit transfer agreements or industry-recognized certifications; and
5. Culminate in the attainment of:
 - a. An industry-recognized certification, credential, or license;
 - b. A registered apprenticeship or credit-bearing postsecondary certificate; or
 - c. An associate or baccalaureate degree.

A student enrolled in a board-established program of study who transfers from a public junior college, public state college, or public technical institute to another public junior college, public state college, or public technical institute that offers a similar program, regardless of whether the institution has adopted the board-established program of study, shall receive academic credit from the institution to which the student transferred for each of the courses that the student has successfully completed in the program of study curriculum. Unless otherwise required by the Southern Association of Colleges and Schools and Commission on Colleges (SACSCOC), the student may complete the program of study at the institution to which the student transferred by completing only the remaining number of semester credit hours the student would need to complete the program of study at the institution from which the student transferred.

Education Code 61.8235(a), (f)

“Developmental education” includes ~~pre-college, non-degree~~ credit [developmental education](#) courses, ~~or non-course-based developmental education~~ interventions, [such as co-requisites](#), tutorials, laboratories, [interactive modules](#), and other means of assistance that ~~are~~[may be](#) included in a [student's academic](#) plan to ~~ensure~~[help](#) the ~~success of a student~~ [succeed](#) in ~~performing~~ entry-level academic coursework.

An institution of higher education, including a college district, may refer a student to developmental coursework, including basic academic skills education, as considered necessary by the institution to address a student's deficiencies in the student's readiness to perform freshman-level academic coursework, except that the institution may not require enrollment in developmental coursework with respect to a student previously determined under Education Code 51.338(d) or by any institution of higher education to have met college-readiness standards. An institution of higher education that requires a student to enroll in developmental coursework must offer a range of developmental coursework, including online coursework, or instructional support that includes the integration of technology to efficiently address the particular developmental needs of the student.

Education Code 51.336(a)-(b), 19 TAC 4.53(10) [See EI for information on the Texas Success Initiative]

Corequisite Model

Each institution of higher education, including each college district, shall develop and implement for developmental coursework, other than adult basic education or basic academic skills education, developmental education using a corequisite model under which a student concurrently enrolls in a developmental education course and a freshman-level course in the same subject area for each subject area for which the student is referred to developmental coursework. Each institution shall ensure that at least 75 percent of the institution's students enrolled in developmental coursework other than adult basic education or basic academic skills education are enrolled in developmental coursework [described by this policy](#).

If a student fails to satisfactorily complete a freshman-level course described above, the institution of higher education shall:

1. Review the plan developed for the student under Education Code 51.335(a) and, if necessary, work with the student to revise the plan; and
2. Offer to the student a range of competency-based education programs to assist the student in becoming ready to perform freshman-level academic coursework in the applicable subject area.

Each institution of higher education shall develop and implement corequisite model(s) of developmental education for developmental mathematics and integrated reading/writing (IRW) courses and interventions, ~~and each institution must ensure that a minimum percentage of its undergraduate~~ for all the institution's non-exempt students other than those exempt as outlined below must be enrolled in such corequisite model(s).

~~Each public~~ An institution of higher education must ensure that the institution's ~~may enroll the following students in a~~ developmental courses and interventions comply with the requirements of this section ~~according to the following schedule~~ address deficiencies in the students' readiness to perform freshman-level academic coursework:

- ~~1. For the 2018–19 academic year, at least 25 percent of the institution's non-exempt students enrolled by subject area in developmental education must be enrolled in corequisite model(s);~~
- ~~2. For the 2019–20 academic year, at least 50 percent of the institution's non-exempt students enrolled by subject area in developmental education must be enrolled in corequisite model(s);~~
- ~~3. For the 2020–21 academic year, at least 75 percent of the institution's non-exempt students enrolled by subject area in developmental education must be enrolled in corequisite model(s); and~~
- ~~4. For the 2021–22 academic year and thereafter, 100 percent of the institution's non-exempt students enrolled by subject area in developmental education must be enrolled in corequisite model(s).~~

~~The following students are exempt by subject area(s) from this requirement:~~

- ~~1. Students~~ A student assessed at ~~ABE~~ Diagnostic levels 1–4 on the Coordinating Board-approved TSI Assessment;
- ~~2. Students who are college-ready;~~
- ~~3.2.~~ Students A student enrolled in adult education; or
- ~~4.3.~~ Students A student enrolled in a degree ~~plans~~ plan not requiring ~~a freshman~~ an entry-level academic mathematics course; and
- ~~5. Students who meet one or more of the exemptions as outlined in 19 Administrative Code 4.54.~~

**Research-Based
Best Practices**

Education Code 51.336(c)-(d); 19 TAC 4.62(a)(8)61(b)-(c)

An~~Each~~ institution of higher education ~~must base~~shall develop and administer a developmental ~~coursework on~~education program using research-based ~~best~~ practices that include all of the following components:

1. Assessment;
2. Differentiated placement and instruction based on an individual student's skills, strengths, and needs;
3. Faculty development;
4. Student support services;
5. Program evaluation;
6. Integration of technology ~~with an emphasis on instructional support programs;~~ and
7. Non-course-based ~~developmental education interventions; and~~options.
8. ~~Subject to the requirements of Education Code 51.336(c), course pairing of developmental education courses/interventions with entry-level freshman courses, also known as mainstreaming or co-enrollment of developmental education and entry-level freshman courses as defined in 19 Administrative Code 4.53(12).~~

As part of item 2, above, an institution shall offer an Integrated Reading and Writing (IRW) course/intervention at the highest level (just below college-readiness as determined by the institution) by spring 2015.

As part of item 7, above, ~~an~~each institution shall offer at least one section of ~~non-~~each entry-level academic course ~~competency-based intervention (NCBO)~~ per developmental education subject area ~~by spring 2015.~~that incorporates non-course-based interventions (NCBO).

Education Code 51.336(e); 19 TAC 4.6261(a), (e)

Funding

Public community colleges shall not submit for formula funding any hours for remedial and developmental courses and/or interventions for which a student has exceeded 18 semester credit hours, or 27 semester credit hours if the developmental coursework is English for speakers of other languages. *Education Code 51.340(a); 19 TAC 4.62(a)(8), 13.107(b)*

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Definitions

Academic Associate Degree

An “academic associate degree” is a type of degree program generally intended to transfer to an upper-level baccalaureate program that will satisfy the lower-division requirements for a baccalaureate degree in a specific discipline. The academic associate degree includes, but is not limited to, the Associate of Arts (A.A.), Associate of Science (A.S.), or Associate of Arts in Teaching (A.A.T.) degrees. *19 TAC 2.3(1)*

Applied Associate Degree

An “applied associate degree” is a type of degree program designed to lead the individual directly to employment in a specific career. The applied associate degree program includes, but is not limited to, the Associate of Applied Arts (A.A.A.) or Associate of Applied Science (A.A.S.). *19 TAC 2.3(5)*

Certificate Program

~~Unless otherwise specified in Coordinating Board rules for the purpose of 19 Administrative Code Chapter 2, “certificate program”~~ **Certificate** means a grouping of subject-matter courses, which when satisfactorily completed by a student, will entitle the student to a certificate or documentary evidence, other than a degree, of completion of a course of study at the postsecondary level. Under [19 Administrative Code](#) Chapter 2, certificate includes a post-baccalaureate certificate and excludes an associate’s degree unless otherwise provided. *19 TAC 2.3(4012)*

Degree Program

A “degree program” is any grouping of subject matter courses, which when satisfactorily completed by a student, will entitle that student to an associate’s or bachelor’s degree. *19 TAC 2.3(4618)*

Texas Classification of Instructional Programs ~~(CIP)~~ Coding System

The “Texas Classification of Instructional Programs (CIP) Coding System” is the Texas adaptation of the federal Classification of Instructional Programs taxonomy developed by the National Center for Education Statistics and used nationally to classify instructional programs and report educational data. The eight-digit CIP codes define the authorized teaching field of the specified program, based upon the occupation(s) for which the program is designed to prepare its graduates. *19 TAC 2.3(3235)*

Degree-Seeking Students

A student who is concurrently enrolled at more than one institution of higher education may be classified as a degree-seeking student at only one institution.

If a student maintains continuous enrollment from a spring semester to the subsequent fall semester at an institution at which the student has declared to be seeking a degree, the student remains a degree-seeking student at that institution regardless of the student’s enrollment during the intervening summer session(s) at another institution.

19 TAC 4.28(d)(2)-(3)

Program Planning

Prior to an institution, including a college district, seeking approval for a new degree program from its governing board, each institution's chief academic officer, or delegate, shall provide notification to board staff of the institution's intent to engage in planning for a new degree program. The planning notification shall contain the following information:

1. The [proposed](#) title of the degree;
2. The [proposed](#) degree designation;
3. [The proposed](#) CIP code; and
4. Anticipated date of submission.

Not later than 60 days after Coordinating Board staff receives the planning notification, Coordinating Board staff shall provide ~~to that~~ [the](#) institution a report including available labor market information and other relevant data to inform the institution's planning for the proposed program, ~~including data about the number of similar programs approved in an area likely to be served by the applicant institution.~~

19 TAC 2.41

Program Approval
Types

The Coordinating Board requires each institution, including each college district, to obtain one of the types of approval for a certificate or degree program described below. No approval is required for new tracks of study in an existing degree program, and tracks of study are not listed as separate degree programs in the program inventory. 19 TAC 2.4

Notification Only

Notification Only approval is obtained when the institution of higher education successfully submits and receives confirmation of its submission to Coordinating Board staff. 19 TAC 2.4(1)

*Assistant
Commissioner
Approval*

A proposed program subject to assistant commissioner approval may be approved by the assistant commissioner if the program is administratively complete as described in 19 Administrative Code 2.6 and meets all the requirements established by rule as determined by the assistant commissioner.

There are two types of assistant commissioner approval depending on the type of action the institution requests:

1. A proposed program subject to assistant commissioner approval shall receive regular review unless the institution's request is eligible for expedited review.
2. An institution submits for review and approval the information required by rule and obtains approval from Coordinating

Board staff once staff confirms that the institution's request is administratively complete, and the assistant commissioner confirms that the institution's request qualifies for expedited review. This type of review is authorized only where expressly indicated in rules under 19 Administrative Code Chapter 2.

If the assistant commissioner recommends denial of a program or does not take action to approve the program within six months of Coordinating Board staff's determination that the program proposal is administratively complete, then the program approval will be subject to the process for commissioner approval.

19 TAC 2.4(2)

*Commissioner
Approval*

The assistant commissioner designated to approve academic programs under 19 Administrative Code Chapter 2 will forward a program subject to commissioner approval to the commissioner for review and approval. A proposed program subject to commissioner approval may be approved by the commissioner if the program is administratively complete as described in 19 Administrative Code 2.6 and meets all the requirements established by rule as determined by the commissioner. This type of approval will include a Coordinating Board staff recommendation about whether the program meets all the requirements established by rule.

If the commissioner does not approve or deny the proposal within nine months of Coordinating Board staff's determination that the proposal is administratively complete, the proposal will move to Coordinating Board approval.

At the commissioner's sole discretion, the commissioner may elect to require board approval of the proposed program. Board approval must occur not later than one year after the institution's application was administratively complete.

19 TAC 2.4(3)

Board Approval

A program that is subject to board approval as indicated in rules under 19 Administrative Code Chapter 2 will be considered at a Coordinating Board meeting not later than the first anniversary of Coordinating Board staff's determination that the application for the proposed program is administratively complete. This type of approval will include a recommendation from the commissioner about whether the program satisfies the requirements of statute and rule for approval.

Coordinating Board staff shall review the required criteria for each proposed program and provide a recommendation to the commissioner. Coordinating Board staff's recommendation shall include a

summary and analysis of whether the proposed program meets each of the required criteria for approval.

The commissioner shall review Coordinating Board staff's recommendation and make a determination about whether to recommend approval of the proposed program to the Coordinating Board. Coordinating Board staff shall notify the institution of the commissioner's decision about whether to recommend the program.

If the commissioner recommends denial of the program, Coordinating Board staff shall notify the institution and provide ~~ten~~10 business days in which the institution may request in writing final consideration from the Coordinating Board. If the institution requests final consideration from the Coordinating Board, Coordinating Board staff shall place the proposed program on the Coordinating Board agenda for consideration at the next Coordinating Board meeting not later than one year later than the program is determined administratively complete.

If Coordinating Board staff does not receive a request for Coordinating Board consideration within ~~ten~~10 business days from the date the institution was notified of the commissioner's recommendation for denial of the program, the application shall be considered withdrawn.

The Coordinating Board shall consider the proposal at a Coordinating Board meeting not later than the first anniversary of Coordinating Board staff's determination that the application for the proposed program is administratively complete. The Coordinating Board's decision to approve or deny the proposed program is final and may not be appealed. If the Coordinating Board denies approval, an institution may resubmit a request for approval of the proposed program not sooner than one year from the date of the Coordinating Board's decision. If the Coordinating Board fails to approve or deny the program by the first anniversary after Coordinating Board staff deems the proposal administratively complete, the program is considered approved by operation of law.

19 TAC 2.4(4)

Completed
Application

An institution must submit a fully completed application for each proposed program for which approval is required that includes:

1. Each element or item of information required by 19 Administrative Code Chapter 2, Subchapter A;
2. Each element or item of information required by the provisions in 19 Administrative Code Chapter 2 governing the type of program approval required;

3. The required Coordinating Board form for the type of program approval required; and
4. Fully executed certifications.

Coordinating Board staff shall determine whether an application is administratively complete and notify the institution not later than the fifth business day after receipt.

If Coordinating Board staff determines that the application is incomplete or additional information or documentation is needed, the institution must respond with all of the requested information or documentation within ~~ten~~¹⁰ business days or the request will be deemed incomplete and returned to the institution.

An institution may resubmit an application that was returned as incomplete as soon as it has obtained the requested information or documentation. This submission will be considered a new application.

19 TAC 2.6

Opportunity to
Comment

As soon as practicable, but not later than the 60th day after an institution submits an administratively complete application for approval, the Coordinating Board shall provide informal notice and opportunity for comment to ~~other~~ institutions of higher education ~~in the local community~~ that offer substantially similar programs in the region, as defined by the Coordinating Board, where the program will be delivered. When considering whether to approve a program requiring approval, the assistant commissioner, commissioner, or Coordinating Board shall consider the comments that the noticed institutions provide to the Coordinating Board. ~~19 TAC 2.7(a), (e)~~

An institution may submit a Public Information Request to receive a copy of all institutional comments received during the 30-day comment period.

19 TAC 2.7(a), (c)-(d)

Criteria for Approval

In addition to any criteria specified in statute or 19 Administrative Code Chapter 2 for a specific program approval, the assistant commissioner, commissioner, or Coordinating Board, as applicable, shall consider the following factors:

1. Evidence that the program is needed by the state and the local community, as demonstrated by student demand for similar programs, labor market information, and value of the credential;

2. Whether the program unnecessarily duplicates programs offered by other institutions of higher education or private or independent institutions of higher education, as demonstrated by capacity of existing programs and need for additional graduates in the field;
3. Comments provided to the Coordinating Board from institutions noticed under 19 Administrative Code 2.7;
4. Whether the program has adequate financing from legislative appropriation, funds allocated by the Coordinating Board, or funds from other sources;
5. Whether the program's cost is reasonable and provides a value to students and the state when considering the cost of tuition, source(s) of funding, availability of other similar programs, and the earnings of students or graduates of similar credential programs in the state to ensure the efficient and effective use of higher education resources;
6. Whether the program provides a credential of value as defined in 19 Administrative Code Chapter 13, Subchapter S;
- ~~6.1. Whether the program has necessary faculty and other resources including support staff to ensure student success;~~
7. Whether and how the program aligns with the metrics and objectives of the Coordinating Board's Long-Range Master Plan for Higher Education;
8. Whether the program has necessary faculty and other resources including support staff to ensure student success;
- ~~8.9.~~ Whether the program meets academic standards specified by law or prescribed by Coordinating Board rule, including rules adopted by the Coordinating Board for purposes of this section, or workforce skill standards established recognized by the Texas Workforce Investment Council, if they exist for the discipline; and
- ~~9.10.~~ Past compliance history and program quality of the same or similar programs, where applicable.

In the event of conflict between these provisions and a more specific provision regarding program approval, the more specific provision shall control.

A request for approval of a joint degree program that does not have one or more existing degree programs that previously has been approved is considered a new degree program and is subject to new degree program approval requirements.

19 TAC 2.5

Revisions and
Modifications

Substantive

Substantive revisions and modifications that materially alter the nature of the program, physical location, or modality of delivery, as determined by the ~~assistant~~ commissioner, include, but are not limited to, ~~closing the program in one location and moving it to a second location and changing the funding from self-supported to formula-funded or vice versa;~~

1. ~~For Closing the program in one location and moving it to a second location;~~
2. ~~Changing the funding from self-supported, as defined in 19 Administrative Code Chapter 2, Subchapter O, relating to self-supporting programs, to formula-funded or vice versa;~~
3. ~~Adding a new formula-funded or self-supported track to an existing program; and~~
4. ~~Creating a joint program that initially required~~ includes one or more existing approved degree programs.

Substantive revisions to bachelor's programs approved by the Coordinating Board ~~approval beginning as of on or after~~ September 1, 2023, ~~any substantive revision or modification to that program will~~ require Coordinating Board approval under 19 Administrative Code 2.4. ~~For all other~~ Substantive revisions to bachelor's programs, including programs that initially required approved by the Coordinating Board ~~approval prior to September 1, 2023, any substantive revision or modification will require, commissioner, or~~ assistant commissioner ~~approval under 19 Administrative Code 2.4(a)(2) before September 1, 2023, may be approved by the assistant commissioner.~~

19 TAC 2.9(a)-(b)

Nonsubstantive

Nonsubstantive revisions and modifications that do not materially alter the nature of the program, location, or modality of delivery, as determined by the assistant commissioner, include, but are not limited to:

1. Increasing the number of semester credit hours of a program for reasons other than a change in programmatic accreditation requirements;
2. Consolidating a program with one or more existing programs;
3. Offering a program in an off-campus face-to-face format;
4. Altering any condition listed in the program approval notification;

5. Changing the CIP code of the program;
6. Increasing the number of semester credit hours if the increase is due to a change in programmatic accreditation requirements;
7. Reducing the number of semester credit hours, so long as the reduction does not reduce the number of required hours below the minimum requirements of the institutional accreditor, program accreditors, and licensing bodies, if applicable;
8. Changing the degree title or designation; and
9. Other nonsubstantive revisions that do not materially alter the nature of the program, location, or modality of delivery, as determined by the assistant commissioner.

The nonsubstantive revisions and modifications in items 1 to 5 are subject to assistant commissioner approval regular review under 19 Administrative Code 2.4. All other nonsubstantive revisions and modifications are subject to assistant commissioner approval expedited review under 19 Administrative Code 2.4(a)(2)(B).

19 TAC 2.9(c)-(d)

Implementation
Deadline

Unless otherwise stipulated at the time of approval, if an approved new degree program ~~is~~does not ~~established~~enroll students within two years of approval, that approval is no longer valid. An institution may submit a request to the assistant commissioner for approval to lengthen that time limit by ~~one additional year for up to five years from the approval date. The request must include a description of the good cause or~~ compelling academic reason. The assistant for extending the program implementation timeline. The commissioner has discretion to approve or deny the request if the commissioner determines there is good cause for the extension, and it is in the best interest of the students to be served by the program.

Unless otherwise stipulated at the time of approval, if the institution does not implement the approved ~~administrative changes are not implemented~~program revision or modification within two years of approval, that approval is no longer valid.

19 TAC 2.8(a)-(b)

Program Audit and
Noncompliance

Coordinating Board staff reserves the right to audit an institution's program at any time to ensure compliance with the provisions of 19 Administrative Code Chapter 2.

If Coordinating Board staff determines that any institution is in non-compliance with the terms of its approval; has otherwise failed to

seek required approval for a revision or modification; or is in violation of statute or Coordinating Board rule governing program operation or approval, Coordinating Board staff shall:

1. Provide notice to the institution of alleged non-compliance related to the program at issue;
2. Provide the institution not more than one year to remedy the violation by achieving compliance with the approval, statute, or rule, by means acceptable to the commissioner; and
3. At the end of one year, if the institution has not achieved compliance acceptable to the commissioner, Coordinating Board staff shall request that the Coordinating Board authorize issuance of a show cause letter to the institution requiring the institution to show cause why the Coordinating Board shall not recommend closure of the program and teach out.

If Coordinating Board staff determines that a program is in non-compliance or fails to satisfy all contingencies and conditions of its approval after responding to the show cause notice, Coordinating Board staff may notify the institution of the actions necessary for the institution to receive the required approvals or meet the conditions or that Coordinating Board staff recommends closure of the program.

If the institution where the program is located wishes to close the program, the institution shall follow the procedures in 19 Administrative Code Chapter 2, Subchapter H, below.

If the institution chooses not to follow the recommendation, the Coordinating Board may request that Coordinating Board staff send the recommendation for closure to the governing board of the institution.

19 TAC 2.10

Recommended Course Sequence

Each institution of higher education, including each college district, must develop at least one recommended course sequence for each undergraduate certificate or degree program offered by the institution. Each course sequence developed by the institution of higher education must:

1. Identify all required lower-division courses for each certificate or degree program, if applicable;
2. Include for each course, if applicable:
 - a. The Texas Common Course Numbering System (TCCNS) course number; and

- b. The course equivalent in the Lower-Division Academic Course Guide Manual (ACGM);
3. Be designed to enable a full-time student to obtain a certificate or degree, as applicable, within two years for a 60-hour degree or certificate program, four years for a 120-hour degree program, or a comparable time frame, for an approved certificate or degree program that requires credit hours other than those specified in this item; and
4. Include at least one specific sequence in which courses should be taken to ensure completion of the applicable program within the time frame described by item 3.

Education Code 51.96852(b); 19 TAC 4.362(7)-(8), .363(a)-(b)

Submission to
Coordinating Board

Each institution of higher education shall provide to the Coordinating Board a recommended course sequence for each undergraduate certificate and degree program offered by the institution.

The Coordinating Board will provide institutions of higher education a [template and instructions](#)¹ for submitting the recommended course sequences of undergraduate certificate and degree programs. Institutions must submit the recommended course sequences of undergraduate certificate and degree programs annually in accordance with the instructions and template and must include the following information, if applicable:

1. Recommended course sequences must identify all courses required for completion by a student to attain each undergraduate certificate or degree; and
2. For all courses that an institution includes in a recommended course sequence, the institution must identify the ACGM courses, as appropriate, using the TCCNS course numbers and rubrics.

On an annual basis, institutions shall review course sequences for accuracy and submit any revisions or changes to the Coordinating Board during the designated time period.

Education Code 51.96852; 19 TAC 4.364

Publication

Each institution shall publish the recommended course sequences in the institution's course catalog. Each institution shall publish recommended course sequences on the institution's website not later than August 1 of each year. *Education Code 51.96852(c); 19 TAC 4.363(c)*

Compensatory Courses

Courses designated as compensatory in the Lower-Division Academic Course Guide Manual may not be used to satisfy degree requirements. Such courses may be used as co-requisites or prerequisites for degree courses as determined by local institutions. 19 TAC 9.76

Alternative Methods of Program Mastery for Military Members

The Coordinating Board may approve an institution of higher education recognized by the Coordinating Board to offer a degree in coordination with the Texas Military Department that uses alternative methods of determining mastery of program content, including competency-based education.

To be eligible for a degree approved under this section, a person must:

1. Have graduated from high school or received the equivalent of a high school diploma;
2. Satisfy the minimum active military service obligation to the Texas military forces for a degree plan as follows:
 - a. For an associate degree, two years of service;
 - b. For a baccalaureate degree, four years of service; and
 - c. For a graduate degree, six years of service; and
3. Complete and meet the standards of the degree plan.

Education Code 61.0521(b)-(c)

Program Phase-Out

If an institution, including a college district, where a program is located wishes to close the program, the institution shall:

1. Develop and execute a teach-out plan;
2. Give appropriate notification to the federally recognized institutional accreditor and the program's accreditor, as applicable;
3. Cease to admit new students to the program;
4. Ensure that all courses necessary to complete the program are offered on a timely basis; and
5. Close the program when the last student enrolled in the program has graduated or the teach-out period has lapsed.

Public institutions of higher education must notify Coordinating Board staff of intent to phase out a degree or certificate program prior to closure of the program. The institution shall provide the information required in this section by submitting the Phase-Out Notification Form on the Coordinating Board's website. The notification form will require the institution to submit the following information:

1. The name, designation, and CIP code of the degree or program, as listed in the institution's program inventory; and
2. The anticipated closure date of the program.

Upon receiving the Phase-Out Notification Form, Coordinating Board staff will update the institution's program inventory to reflect the phase-out date of the program. Coordinating Board staff will remove the program from the program inventory at the time of the date of closure, as reported by the institution. If the institution chooses not to phase a program out after providing prior notification to the Coordinating Board of intent to phase out the program, the institution must submit an update that the program will continue to Coordinating Board staff.

19 TAC 2.171

Low-Producing Degree Programs

The Coordinating Board may review the number of degrees or certificates awarded through a degree or certificate program every four years or more frequently, at the Coordinating Board's discretion. The Coordinating Board shall review each degree or certificate program offered by an institution of higher education at least every ~~ten~~10 years after a new program is established using the criteria prescribed by Education Code 61.0512(c). *Education Code 61.0512(d)-(e); 19 TAC Ch. 4, Subch. R*

Definition

A "low-producing degree program" is a degree program that does not meet the minimum standard for degrees awarded in the program. For career technical certificates, associate, and bachelor's programs, the minimum standard is an average of five degrees awarded per academic year, to total not fewer than 25 degrees awarded for any five-year period.

Completers of career technical certificate programs that are reported under the same CIP code as an existing applied associate's degree program will be counted as completers of the corresponding applied associate's degree program for purposes of determining low-producing status. Academic associate degree programs are not considered to be low producing if they lead to transfer into four-year programs.

19 TAC 4.287(4), 288(c)-(d)

Consequences

The Coordinating Board may not order the consolidation or elimination of any degree or certificate program offered by an institution of higher education. Coordinating Board staff may recommend to the institution's governing board the closure of any non-exempt degree program which has been on the annual list of low-producing programs for three or more consecutive years. If the governing board does not accept the recommendation to close the program,

then the university system or, where a system does not exist, the institution, must identify the program recommended for closure on the next legislative appropriations request submitted by the system or institution. If a system or institution is required to identify a degree program on its legislative appropriations request, the system or institution should also develop a plan to allow the degree program to achieve the minimum standard for the degree awarded, or if the standard is not attainable, provide a rationale describing the merits of continuing the degree program. *Education Code 61.0512(f); 19 TAC 4.290*

¹ Coordinating Board, Recommended Course Sequence:
<https://www.highered.texas.gov/data-submission-reporting/recommended-course-sequence/>

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Definitions

Academic Associate Degree

An “academic associate degree” is a type of degree program generally intended to transfer to an upper-level baccalaureate program that will satisfy the lower-division requirements for a baccalaureate degree in a specific discipline. The academic associate degree includes, but is not limited to, the Associate of Arts (AA), Associate of Science (AS), or Associate of Arts in Teaching (AAT) degrees. *19 TAC 2.3(1), 9.1(1)*

Academic Courses

“Academic courses” are semester credit courses included or allowed under the provisions of the Lower-Division Academic Course Guide Manual designed for college transfer to institutions of higher education in completion of associate and baccalaureate degree programs. *19 TAC 9.1(2)*

Applied Associate Degree

An “applied associate degree” is a type of degree program designed to lead directly to employment in a specific career. The Applied Associate Degree Program includes, but is not limited to, the Associate of Applied Arts (AAA) or Associate of Applied Science (AAS). *19 TAC 2.3(5), 9.1(3)*

Associate Degree Program

An “associate degree program” is a grouping of courses designed to lead the individual directly to employment in a specific career or to transfer to an upper-level baccalaureate program. This specifically refers to the AA, AS, AAA, AAS, and Associate of Occupational Studies (AOS) degrees. The term “applied” in an associate degree name indicates a program designed to qualify students for immediate employment. *19 TAC 9.1(4)*

Career Technical / Workforce Program

“Career technical/workforce program” is an applied associate degree program or a certificate program for which semester credit hours, quarter credit hours, or continuing education units are awarded and which is intended to prepare students for immediate employment or a job upgrade in a specific occupation. *19 TAC ~~2.3(9)~~, 9.1(5)*

Career and Technical Education Certificate

A “career and technical education certificate” is a postsecondary credential, other than a degree, which a student earns upon successful completion of a workforce or continuing education program offered by an institution of higher education. Courses that comprise career and technical education certificates are listed in the Workforce Education Course Manual (WECM) and the Academic Course Guide Manual (ACGM) and are subject to Coordinating Board approval. For purposes of 19 Administrative Code Chapter 2, “career and technical education certificate” means a certificate program as defined in Education Code 61.003(12)(C). 19 TAC 2.3(10)

<u>Career and Technical Education Course</u>	<u>A “career and technical education course” is a college-level workforce or continuing education course offered by an institution of higher education which earns either semester credit hours or continuing education units toward satisfaction of a requirement necessary to obtain an industry-recognized credential, certificate, or applied associate degree. Career and technical education courses are listed in the WECM. 19 TAC 2.3(11)</u>
Certificate Program	“Certificate program ” means a grouping of subject-matter courses, which, when satisfactorily completed by a student, will entitle the student to a certificate or documentary evidence, other than a degree, of completion of a course of study at the postsecondary level. Certificate includes a post-baccalaureate certificate and excludes an associate degree unless otherwise provided. 19 TAC 2.3(10 <u>12</u>), 9.1(7)
Continuing Education Unit or CEU	A “continuing education unit or CEU” is 10 contact hours of participation in an organized continuing education experience under responsible sponsorship, capable direction, and qualified instruction. 19 TAC 2.3(14 <u>16</u>), 9.1(11)
New Content	“New content,” as determined by the institution, is content that the institution does not currently offer at the same instructional level as the proposed program. A program with sufficient new content to constitute a 'significant departure' from existing offerings under 34 C.F.R. 602.22(a)(1)(ii)(C) meets the 50 percent new content threshold. 19 TAC 2.3(22 <u>24</u>)
Technical Courses or Programs	“Technical courses or programs” mean workforce education courses or programs for which semester/quarter credit hours are awarded. 19 TAC 9.1(28)
Texas Classification of Instructional Programs (CIP) Coding System	The “Texas Classification of Instructional Programs (CIP) Coding System” is the Texas adaptation of the federal Classification of Instructional Programs taxonomy developed by the National Center for Education Statistics and used nationally to classify instructional programs and report educational data. The eight-digit CIP codes define the authorized teaching field of the specified program, based upon the occupation(s) for which the program is designed to prepare its graduates. 19 TAC 2.3(32 <u>35</u>)
Workforce Continuing Education Course	“Workforce continuing education course” means a course offered for CEUs with an occupationally specific objective and supported by state funding. A career technical/workforce continuing education course differs from a community service course offered for recreational or vocational purposes and is not supported by state funding. 19 TAC 9.1(31)

Workforce Education	<p>“Workforce education” means career technical/workforce courses and programs for which semester/quarter credit hours and/or CEUs are awarded and vocational courses and programs for which CEUs are awarded. Workforce career technical/workforce education courses and programs prepare students for immediate employment or a job upgrade within specific occupational categories. <i>19 TAC 9.1(32)</i></p>
Academic Associate Degree Programs	<p>An academic associate degree may be called an AA, an AS, or an AAT degree. <i>19 TAC 2.53(a)</i></p>
AA Only	<p>The AA is the default title for an academic associate degree program if the college offers only one type of academic degree program. <i>19 TAC 2.53(a)(1)</i></p>
AA and AS	<p>If a college offers both AA and AS degrees, the degree programs may be differentiated in one of two ways, including:</p> <ol style="list-style-type: none">1. The AA program may have additional requirements in the liberal arts and/or the AS may have additional requirements in disciplines such as science, mathematics, or computer science; or2. The AA program may serve as a foundation for the bachelor of arts (BA) degree and the AS program for the bachelor of science (BS) degree. <p>Each academic associate degree must provide a clearly articulated curriculum that can be associated with a discipline or field of study leading to a baccalaureate degree, and must be identified as such in the institution's program inventory.</p> <p><i>19 TAC 2.53(a)(2)-(3)</i></p>
AAT	<p>The AAT is a specialized academic associate degree program designed to transfer in its entirety to a baccalaureate program that leads to initial Texas teacher certification. This title should only be used for an associate degree program that consists of a Coordinating Board-approved AAT curriculum or an education field of study curriculum. <i>19 TAC 2.53(a)(4)</i></p>
Semester Credit Hours	<p>An associate degree is limited to 60 semester credit hours (SCH) unless the institution determines that there is a compelling academic reason for requiring completion of additional SCH for the degree under Education Code 61.05151. If the minimum number of SCH required to complete a proposed associate program exceeds 60, the institution must provide detailed documentation describing the compelling academic reason for the number of required hours, such as programmatic accreditation requirements, statutory requirements, or licensure/certification requirements that cannot be</p>

met without exceeding the 60-SCH limit. Coordinating Board staff will review the documentation provided and make a determination to approve or deny a request to exceed the 60-SCH limit. *19 TAC 2.70*

Curriculum

Except as provided below, academic associate degree programs must incorporate the institution's approved core curriculum as prescribed by 19 Administrative Code 4.28 and 19 Administrative Code 4.29:

1. An institution may offer a specialized academic associate degree that incorporates a Coordinating Board-approved field of study curriculum as prescribed by 19 Administrative Code 4.32 and a portion of the college's approved core curriculum if the coursework for both would total more than 60 SCH.
2. An institution may offer a specialized academic associate degree that incorporates a voluntary statewide transfer compact and a portion of the college's approved core curriculum if the coursework for both would total more than 60 SCH.
3. An institution that has a signed articulation agreement with a public university to transfer a specified curriculum may offer a specialized AA or AS, but not AAT, degree program that incorporates that curriculum.
4. An institution may offer an embedded associate degree as outlined in 19 Administrative Code 2.58 that does not include the full 42 SCH required core curriculum except for a multidisciplinary studies degree as required by 19 Administrative Code 2.57(b).

19 TAC 2.53(b)

New Academic
Associate Degree
Programs

Approval Process

Planning
Notification

An institution of higher education seeking approval to offer a degree program under 19 Administrative Code Chapter 2, Subchapter D, must submit a planning notification to Coordinating Board staff in accordance with 19 Administrative Code Chapter 2, Subchapter C, [see EFB] prior to submitting an administratively complete request for a new associate degree proposal. This requirement does not apply to a proposed associate degree submitted pursuant to 19 Administrative Code 2.57 and 2.58.

Except as provided by 19 Administrative Code 2.54(b), a requesting institution must submit a planning notification in accordance with 19 Administrative Code Chapter 2, Subchapter C.

19 TAC 2.52, .55(a)

Approval Levels	<p>This provision outlines how public junior colleges may request approval for a new academic associate degree. Proposed programs are subject to assistant commissioner approval under 19 Administrative Code 2.4(2), and in accordance with the applicable provisions under 19 Administrative Code Chapter 2, Subchapter A, and 19 Administrative Code Chapter 2, Subchapter D, except as specifically provided by this provision.</p> <p>An institution of higher education may offer an associate degree as an embedded credential to a student enrolled in an approved baccalaureate degree program. Approval of a proposed embedded associate degree program is subject to the assistant commissioner expedited review approval process under 19 Administrative Code 2.4(2)(B)(ii). The institution may request approval for the academic associate degree as part of the application for the baccalaureate program or under the provisions of 19 Administrative Code 2.54 [see EFB].</p> <p><i>19 TAC 2.54, .58</i></p>
Request	<p>A requesting institution must submit an application to offer a new academic associate degree using the forms available on the Coordinating Board's website.</p> <p>The institution must demonstrate that the proposed program obtained institution and governing board approval prior to submission.</p> <p>The assistant commissioner, commissioner, or Coordinating Board, as applicable, shall approve or deny the proposed program within the timelines specified in 19 Administrative Code 2.4 after receipt of the complete program proposal. If the assistant commissioner, commissioner, or Coordinating Board does not act to approve or deny the proposal within one year of administrative completeness, the program is considered approved.</p> <p>Upon approval, Coordinating Board staff will add the new degree program to the institution's official program inventory. The program inventory contains the list of degrees and certificates with official Coordinating Board approval.</p> <p><i>19 TAC 2.55(b), (d), (f)-(g)</i></p>
Revisions	<p>An institution may request a revision or modification to an approved associate degree under 19 Administrative Code 2.7 [see EFB]. <i>19 TAC 2.72</i></p>
Criteria	<p>All proposed associate degree programs must meet the criteria set out in 19 Administrative Code Chapter 2, Subchapter D, in addition to the general criteria in 19 Administrative Code 2.5 [see EFB].</p>

Coordinating Board staff shall ensure that each institution certifies and provides required evidence that a proposed academic associate degree meets the criteria in Section 2.5 and the following criteria in its proposal request.

If the program does not follow a Coordinating Board-approved field of study curriculum or a Coordinating Board-approved statewide articulation transfer curriculum, the institution has or will initiate a process to establish transfer of credit articulation agreements for the program with senior-level institutions.

The institution shall certify that the proposed program complies with all applicable provisions contained in divisions of 19 Administrative Code Chapter 2, Subchapter A and Subchapter D.

19 TAC 2.56

Program Review

Board staff shall conduct post-approval reviews in accordance with 19 Administrative Code Chapter 2, Subchapter I. *19 TAC 2.71*

Program Phase-Out

An institution may request to phase out an associate degree program under 19 Administrative Code Chapter 2, Subchapter H [see EFB]. *19 TAC 2.73*

**Multidisciplinary
Studies Associate
Degree Program**

Education Code 130.0104 requires the governing boards of each public junior college district to establish a multidisciplinary studies associate degree. A multidisciplinary studies associate degree program is a Coordinating Board-approved associate of arts or associate of science degree composed of the college's core curriculum and enough additional courses to equal 60 SCH. The SCH beyond the core curriculum must be selected by the student, in consultation with an academic adviser, and transfer to a specific field of study or major at a university of the student's choice.

A multidisciplinary studies associate degree program established at a public junior college under this section must require a student to successfully complete:

1. The public junior college's core curriculum adopted under Education Code 61.822, as defined by 19 Administrative Code 4.28; and
2. The completion of courses selected by the student in the student's completed degree plan, accounting for all remaining credit hours required for the completion of the degree program.

The multidisciplinary studies associate degree program must emphasize the student's transition to a particular four-year college or university that the student chooses and prepare the student for the

intended field of study or major at the four-year college or university.

A student enrolled in a multidisciplinary studies associate degree program shall file a degree plan. The student must meet with an academic advisor to complete a required degree plan in accordance with Education Code 130.0104(c) and 19 Administrative Code 2.57(e) [see EFBD].

Education Code 130.0104(a)-(c); 19 TAC 2.57

Applied Associate Degree

An applied associate degree may be called an associate of applied arts (AAA) or associate of applied science (AAS).

The AAS program may serve as a foundation for the Bachelor of Applied Science (BAS), Bachelor of Applied Arts and Sciences (BAAS), and Bachelor of Applied Technology (BAT) degree.

19 TAC 2.233(a)-(b)

Semester Credit Hours

An applied associate degree is limited to 60 SCH unless the institution determines that there is a compelling academic reason for requiring completion of additional semester credit hours for the degree under Education Code 61.05151. If the minimum number of semester credit hours required to complete a proposed applied associate program exceeds 60, the institution shall provide detailed documentation describing the compelling academic reason for the number of required hours, such as programmatic accreditation requirements, statutory requirements, or licensure/certification requirements that cannot be met without exceeding the 60-semester credit hour limit. Coordinating Board staff will review the documentation provided and make a determination to approve or deny a request to exceed the 60-semester credit hour limit. 19 TAC 2.238

Curriculum

Each applied associate degree program shall provide the necessary workforce skills, knowledge, and abilities necessary to attain entry-level employment in an occupation.

The curriculum shall include a minimum of 15 semester credit hours of general education courses. The remaining curriculum may include both WECM and lower-division ACGM courses directly related to the discipline.

The institution shall ensure basic and career technical/workforce skills are integrated into the curriculum. The institution shall review and consider for inclusion in the program skill standards recognized by the Texas Skill Standards Board, if they exist for the discipline. Business and industry experts shall provide substantial input into curriculum design through participation in an advisory committee.

	<p><u>The institution has an enrollment management plan for the program.</u></p> <p><u>19 TAC 2.233(c)</u></p>
<p><u>New Applied Associate Degree Programs</u></p> <p><u>Approval Process</u></p> <p><u>Planning Notification</u></p>	<p><u>An institution of higher education seeking approval to offer a new degree program under 19 Administrative Code Chapter 2, Subchapter K, must submit a planning notification to Coordinating Board staff in accordance with 19 Administrative Code Chapter 2, Subchapter C, prior to submitting an administratively complete request for a new applied associate degree proposal.</u></p> <p><u>A requesting institution may only submit a planning notification using the forms available on the Coordinating Board's website.</u></p> <p><u>19 TAC 2.232, .235(a)</u></p>
<p><u>Approval Level</u></p>	<p><u>A public junior college authorized by statute to offer the program may request approval for a new applied associate degree.</u></p> <p><u>A proposed applied associate degree is subject to assistant commissioner approval under 19 Administrative Code 2.4(2), and in accordance with applicable provisions under 19 Administrative Code Chapter 2, Subchapter A, except as specifically provided by this rule. 19 TAC 2.234</u></p>
<p><u>Request</u></p>	<p><u>A requesting institution may only submit an application to offer a new applied associate degree using the forms available on the Coordinating Board's website.</u></p> <p><u>The institution shall demonstrate that the proposed program obtained institution and governing board approval prior to submission.</u></p> <p><u>The assistant commissioner, commissioner, or Coordinating Board, as applicable, shall approve or deny the proposed program within the timelines specified in 19 Administrative Code 2.4 after receipt of the complete program proposal. If the assistant commissioner, commissioner, or Coordinating Board does not act to approve or deny the proposal within one year of administrative completeness, the program is considered approved.</u></p> <p><u>Upon approval, Coordinating Board staff will add the new degree program to the institution's official program inventory. The program inventory contains the list of degrees and certificates with Coordinating Board approval.</u></p> <p><u>19 TAC 2.235(b)-(c), (f)-(g)</u></p>
<p><u>Revisions</u></p>	<p><u>An institution may request a revision or modification to an approved applied associate degree program.</u></p>

If the proposed applied associate degree program revision is a change to the CIP code that will result in the funding reclassification of the program to a high-demand field, the proposal will be subject to assistant, associate, or deputy commissioner, as applicable for review and approval.

If the proposed applied associate degree program revision contains not greater than 50 percent new content, the proposal will be subject to approval by notification in accordance with 19 Administrative Code 2.4(1).

If the proposed applied associate degree program revision includes any of the following, the proposal is subject to approval by notification in accordance with Section 2.4(1):

1. A change to the name of an applied associate degree.
2. A change to the CIP code of an applied associate degree program that will not result in the funding reclassification of the degree.
3. The addition of a new Level 1 or Level 2 Certificate to an approved applied associate degree program. If a new Level 1 or Level 2 Certificate is added to an approved applied associate degree program, the new certificate content shall consist of courses included in the approved applied associate program.
4. The phase-out and closure of a credential and the suspension of new student enrollment under 19 Administrative Code 2.171.
5. The discontinuation of a credential to close the program and remove it from the institution's program inventory.
6. Special topics or local need courses are added to or removed from the curriculum.
7. The number of SCH in the credential is changed or, for a CE program, the length is changed by 100 or more contact hours.
8. The length of the credential is changed by one semester or more.

19 TAC 2.236

Criteria

A proposed applied associate degree program shall meet the criteria set out in 19 Administrative Code Chapter 2, Subchapter K, in addition to the general criteria in 19 Administrative Code 2.5.

The institution shall certify that the proposed program complies with all applicable provisions contained in Subchapter K and 19 Administrative Code Chapter 2, Subchapter A.

19 TAC 2.237(a), (c)

Program Review	Coordinating Board staff conduct post-approval reviews in accordance with 19 Administrative Code Chapter 2, Subchapter I. 19 TAC 2.239
Program Phase-Out	An institution may request to phase out an applied associate degree program under 19 Administrative Code Chapter 2, Subchapter H. 19 TAC 2.240
Texas Direct Associate Degree	<p>A public junior college shall award a student a "Texas Direct" associate degree and include an appropriate notation on the student's transcript if the of a student who completes any Coordinating Board-approved field of study curriculum developed by the Coordinating Board under Education Code 61.823 and:</p> <ol style="list-style-type: none">1. The college's core curriculum; or2. An abbreviated core curriculum related to a specific approved field of study curriculum transferable to one or more general academic teaching institutions. <p>Education Code 61.834; 19 TAC 4.39</p>
Academic Certificate	<p>Institutions of higher education, including college districts, are encouraged to develop undergraduate academic certificate programs of less than degree length. Undergraduate academic certificates may be awarded upon the completion of:</p> <ol style="list-style-type: none">1. The Coordinating Board-approved core curriculum of the institution;2. A Coordinating Board-approved field of study curriculum; or3. Fifty percent of the courses specified in a voluntary statewide transfer compact. <p>Undergraduate academic certificates which meet one of the criteria above require Coordinating Board notification and are automatically approved.</p> <p>19 TAC 4.38</p>
Approval Process	<p>A public institution of higher education must provide notification to the Coordinating Board to offer a new certificate program. "Certificate" is defined in 19 Administrative Code Chapter 2, Subchapter A, except as follows:</p> <ol style="list-style-type: none">1. The term "certificate" does not include a transcriptable minor.2. Certificate excludes an associate's degree.

3. Certificate excludes career technical/workforce programs intended to prepare students for immediate employment or a job upgrade in a specific occupation.
4. Certificate excludes non-credit certificates.

A certificate is deemed approved when the institution successfully files the notification containing all information required below, in accordance with the notification only process in 19 Administrative Code 2.4(a)(1) [see EFB]. If Coordinating Board staff determines that an institution fails to provide the information required by this section, Coordinating Board staff may reject the submission and pend approval until the information is complete.

Coordinating Board staff will add the new certificate program to the institution's official program inventory. The program inventory contains the list of degrees and certificates approved by the Coordinating Board.

19 TAC 2.31, .33

Content of Notification

Not later than the 90th day after an institution initially offers a certificate program, each institution shall provide, in a manner prescribed by Coordinating Board staff, the following information:

1. The number of semester credit hours for the certificate;
2. The CIP code for the certificate, ~~if applicable~~;
- ~~3. The CIP codes for all courses that comprise the certificate;~~
- ~~4.3.~~ The name or designation of the certificate;
- ~~5.4.~~ The type of certificate, if applicable;
- ~~6.5.~~ Whether the certificate when earned in combination with any other certificate, defined set of courses, or other requirements leads to the award of another credential, including an associate's degree or bachelor's degree; and
- ~~7.6.~~ Other information required to facilitate inclusion of the certificate program in a state credential repository or student advising resources.

19 TAC 2.32

Career and Technical Education Certificate

A career and technical education certificate is a postsecondary credential, other than a degree, which a student earns upon successful completion of a career and technical education workforce or continuing education program offered by an institution of higher education. Courses that comprise career and technical education certificates are listed in the Workforce Education Course Manual

(WECM) and the Academic Course Guide Manual (ACGM) and are subject to Coordinating Board approval.

Certificates subject to this section are defined below.

19 TAC 2.262

ATC

An Advanced Technical Certificate (ATC) has a specific associate or baccalaureate degree or junior level standing in an approved baccalaureate degree program as a prerequisite for admission. It consists of at least 16 semester credit hours and no more than 45 semester credit hours and must be focused, clearly related to the prerequisite degree, and justifiable to meet industry or external agency requirements. 19 TAC 2.262(b)(1)

Continuing
Education
Certificate

A Continuing Education Certificate is awarded for completion of a program of instruction that meets or exceeds 360 contact hours and earns CEUs. The certificate program is intended to prepare the student to qualify for employment; to qualify for employment advancement; or to bring the student's knowledge or skills up to date in a particular field or profession. 19 TAC 2.262(b)(2)

ESC

An Enhanced Skills Certificate (ESC) is a certificate associated with an applied associate degree program intended to provide advanced skills identified by business and industry that are not part of the applied associate degree. The certificate must be clearly defined in course content and outcomes. It must consist of at least 6 semester credit hours and no more than 12 semester credit hours. An ESC may extend an applied associate degree to an overall total that must not exceed 72 semester credit hours. An ESC is awarded concurrently with a degree but may not be considered to be an intrinsic part of the degree or be used to circumvent the 60-semester credit hour associate degree limitation. 19 TAC 2.262(b)(3)

ICLC

An Institutional Credential Leading to Licensure or Certification (ICLC) is awarded by an institution upon a student's completion of a course or series of courses that represent the achievement of identifiable skill proficiency leading to licensure or certification. This definition includes a credential that meets the definition of an Occupational Skills Award in all respects except that the program may provide training for an occupation that is not included in the Local Workforce Development Board's Target Occupations list. 19 TAC 2.262(b)(4)

Level 1 Certificate

A Level 1 Certificate is designed to provide the necessary academic skills and the workforce skills, knowledge, and abilities necessary to attain entry-level employment or progression toward a Level 2 Certificate or an applied associate degree, with at least 50 percent of course credits drawn from a single technical specialty. A

	<u>Level 1 Certificate must be designed for a student to complete in one calendar year or less time and consists of at least 15 semester credit hours and no more than 42 semester credit hours. 19 TAC 2.262(b)(5)</u>
<u>Level 2 Certificate</u>	<u>A Level 2 Certificate consists of at least 30 semester credit hours and no more than 51 semester credit hours. 19 TAC 2.262(b)(6)</u>
<u>OSA</u>	<p><u>An Occupational Skills Award (OSA) is a sequence of courses that meets the minimum standard for program length specified by the Texas Workforce Commission for the federal Workforce Innovation and Opportunity Act program, 9-14 semester credit hours for credit courses or 144-359 contact hours for continuing education courses. An OSA must possess the following characteristics:</u></p> <ol style="list-style-type: none"><u>1. The content of the credential must be recommended by an external workforce advisory committee, or the program must provide training for an occupation that is included on the Local Workforce Development Board's Target Occupations list;</u><u>2. In most cases, the credential should be composed of WECM courses only. However, lower-division courses from the ACGM may be used if recommended by the external committee and if appropriate for the content of the credential;</u><u>3. The credential complies with the Single Course Delivery guidelines for WECM courses; and</u><u>4. The credential prepares students for employment in accordance with guidelines established for the Workforce Innovation and Opportunity Act.</u> <p><u>19 TAC 2.262(b)(7)</u></p>
<u>Third-Party Credential</u>	<p><u>A Third-Party Credential is a certificate as defined in Texas Education Code 61.003(12)(C). A Third-Party Credential meets the following requirements:</u></p> <ol style="list-style-type: none"><u>1. The Third-Party Credential is listed in the American Council on Education's ACE National Guide with recommended semester credit hours;</u><u>2. The Third-Party Credential program content is either embedded in a course, embedded in a program, or is a stand-alone program;</u><u>3. The Third-Party Credential is conferred for successful completion of the third-party instructional program in which a student is enrolled;</u>

4. The Third-Party Credential is included on the workforce education, continuing education, or academic transcript from the college;
5. The third-party provider of the certificate develops the instructional program content, develops assessments to evaluate student mastery of the instructional content, and confers the Third-Party Credential; and
6. The Third-Party Credential meets the requirements in 19 Administrative Code 13.556.

19 TAC 2.262(b)(8)

Curriculum

Each certificate program must provide the necessary technical and workforce skills necessary to attain entry-level or advanced employment in a related occupation and shall meet the following requirements:

1. The certificate program may include both WECM and lower-division ACGM courses that are directly related to the discipline.
2. Business and industry experts shall provide substantial input into curriculum design through participation in an advisory committee.
3. The institution shall integrate basic and career technical/workforce skills into the curriculum.
4. The institution has reviewed and considered for inclusion in the curriculum of the program applicable skill standards recognized by the Texas Workforce Investment Council, if they exist for the discipline.

19 TAC 2.263(b)

New Career and
Technical Education
Certificate

An application for approval of a new certificate program under 19 Administrative Code Chapter 2, Subchapter L, is subject to the following levels of approval:

Approval Process
Approval Levels

1. If the proposed certificate program, other than a third-party credential, contains 50 percent or more new content, the proposal will be subject to assistant commissioner expedited review and approval under 19 Administrative Code 2.4(2)(B)(ii). In Chapter 2, Subchapter L, "assistant commissioner" means the assistant, associate, or deputy commissioner designated by the commissioner.
2. If the proposed certificate program is included in the inventory of certificates that the Coordinating Board previously identified

as Credentials of Value, the proposal will be subject to approval by notification under 19 Administrative Code 2.4(1).

3. A Third-Party Credential, Occupational Skills Award, Advanced Technical Certificate, and Enhanced Skills Certificate will be subject to approval by notification under Section 2.4(1).

19 TAC 2.264

Request

An institution shall submit an application prior to offering a new Continuing Education Certificate, Level 1 Certificate, Level 2 Certificate, Advanced Technical Certificate, Enhanced Skills Certificate, Occupational Skills Award, Institutional Credential for Licensure or Certification, or Third-Party Credential using the forms available on the Coordinating Board's website.

The institution's application shall demonstrate that the governing board approved the proposed certificate program prior to submission.

The assistant commissioner shall approve or deny the proposed certificate program within 60 days, after receipt of the complete certificate program proposal. If the assistant commissioner does not act to approve or deny the proposal within one year of administrative completeness, the certificate program is considered approved.

Upon approval, Coordinating Board staff will add the new career and technical education certificate program to the institution's Program Inventory. The Program Inventory contains the institution's list of degrees and certificates approved by the Coordinating Board.

If the assistant commissioner denies the proposed certificate program, the institution may appeal the decision to the commissioner. The commissioner may, within 60 days after appeal, at his or her sole discretion:

1. Deny the proposed certificate program;
2. Approve the proposed certificate program; or
3. Allow the institution the opportunity to cure deficiencies in the proposed program.

A new certificate program must be implemented within 24 months of the approved implementation date stated in the Coordinating Board approval letter. After 24 months, the institution must submit an application for approval of a new certificate program.

19 TAC 2.265

Revisions

An institution may request a revision or modification to an approved certificate program under 19 Administrative Code 2.9(c).

If the proposed certificate program revision is a change to the CIP code that will result in the funding reclassification of the certificate program to a high-demand field, the proposal will be subject to assistant commissioner review and approval.

If the proposed certificate program revision contains not greater than 49 percent new content, the proposal will be subject to approval by notification.

If the proposed certificate program revision includes any of the following, the proposal will be subject to approval by notification:

1. A change to the name of a certificate.
2. A change to the CIP code of the certificate program that will not result in the funding reclassification of the certificate.
3. The revised certificate program is included in the inventory of certificates that the Coordinating Board previously identified as credentials of value.
4. The addition of a new credential to an approved program, including a Level 1 Certificate or Level 2 Certificate to an Applied Associate Degree or an Occupational Skills Award to a Level 1 Certificate or Level 2 Certificate. If a new credential is added to an approved program, the new credential content shall consist of courses included in the approved program.
5. The phase-out and closure of a credential, including the suspension of new student enrollment, under 19 Administrative Code 2.171.
6. The certificate revision includes any of the following:
 - a. Special topics or local need courses are added to or removed from the curriculum;
 - b. The number of semester credit hours in the credential is changed or, for a Continuing Education Certificate, the length is changed by 100 or more contact hours;
 - c. The length of the credential is changed by one semester or more;
 - d. The certificate level is changed from Level 1 to Level 2; or
 - e. The certificate is changed from a Level 2 to a Level 1.

19 TAC 2.266

Criteria

Each certificate program shall meet the requirements of 19 Administrative Code 2.5, except Section 2.5(a)(3).

A Level 1 Certificate, composed of either workforce or continuing education courses, may only be approved if the program meets or exceeds 360 contact hours.

A course or program that meets or exceeds 780 contact hours in length shall result in the award of appropriate semester credit hours and be applicable to a career and technical education certificate or an applied associate degree program.

The institution shall certify that the proposed certificate program complies with all applicable provisions contained in divisions of 19 Administrative Code Chapter 2, Subchapter L, and Subchapter A.

A proposed new certificate for which there is no graduate and wage data shall be determined to be a Credential of Value, as defined in 19 Administrative Code 13.556(b), based on one or more of the following documentation criteria:

1. An attestation from one or more regional employers that the employer will hire graduates of the program and the starting wage at which the employer would pay the graduate;
2. Graduate employment and wage data for an essentially similar program from a different institution of higher education in Texas; or
3. Graduate employment and wage data for an essentially similar program from an institution of higher education in a state other than Texas.

19 TAC 2.263(a), (c)-(e), (g)

Program Phase-Out

An institution may request to phase-out and close a certificate program under 19 Administrative Code 2.171. 19 TAC 2.267

**Career Technical /
Workforce Degree
and Certificate
Programs Under 19
Administrative Code
Chapter 9**

Requests for new associate degree and certificate programs shall be made in accordance with the procedures stipulated in 19 Administrative Code 9.93(b), below.

Public two-year colleges shall request new associate degree and certificate programs using the appropriate degree program request form. Public two-year colleges must submit documentation sufficient to establish that the new program meets all of the criteria listed below. Coordinating Board staff will review all requests for new programs within five business days of receipt. If Coordinating

Board staff determines that the request is incomplete and additional information or documentation is needed, the institution must respond with all of the requested information or documentation within 10 working days or the request will be returned to the institution. An institution may resubmit a request that was incomplete as soon as it has obtained the requested information or documentation.

New associate degree and certificate programs shall be approved if all of the following conditions are met, provided that the number of SCH required to complete a proposed associate degree program does not exceed 60 SCH.

1. The institution shall certify that:
 - a. The program has institutional and governing board approval.
 - b. The institution has researched and documented current job market need for the program and/or that the program would lead to opportunities for further education.
 - c. There is recent evidence of both short-term and long-term student demand for the program.
 - d. Enrollment projections reflect student demand estimates to ensure the financial self-sufficiency of the program.
 - e. Basic and career technical/workforce skills have been integrated into the curriculum.
 - f. The institution has an enrollment management plan for the program.
 - g. The institution has or will initiate a process to establish articulation agreements for the program with secondary and/or senior-level institutions.
 - h. The program is designed to be consistent with the standards of the SACSCOC, and with the standards of other applicable accrediting agencies, and is in compliance with appropriate licensing authority requirements.
 - i. The program would not unnecessarily duplicate existing programs at other institutions.
 - j. Representatives from private sector business and industry have been involved in the creation of the program through participation in an advisory committee.

- k. Adequate funding is available to cover all new costs to the institution over the first five years after the implementation of the program.
 - l. New costs during the first five years of the program would not exceed \$2 million.
 - m. The institution has an improvement plan in place for all career technical/workforce programs that do not currently meet Coordinating Board standards for both graduation and placement.
 - n. The appropriate Higher Education Regional Council has been notified in writing of the proposal for a new program, and no unresolved objections to the program have been reported.
 - o. Skill standards recognized by the Texas Skill Standards Board, if they exist for the discipline, have been reviewed and considered for inclusion in the curriculum for the program.
- 2. If a proposed two-year career technical/workforce education program or certificate program meets the stipulated conditions, the institution shall submit a request to the assistant commissioner for workforce, academic affairs and research to add the program. If a proposed program does not meet the stipulated conditions, the institution must submit a proposal using the standard electronic new program application process.
 - 3. If the number of SCH required to complete a proposed associate's program exceeds 60, the institution must provide detailed written documentation describing the compelling academic reason for the number of required hours, such as programmatic accreditation requirements, statutory requirements, or licensure/certification requirements that cannot be met without exceeding the 60-hour limit. The Coordinating Board will review the documentation provided and make a determination to approve or deny a request to exceed the 60-hour limit. Institutions of higher education must be in compliance with this ~~paragraph~~[item](#) on or before the 2015 fall semester.
 - 4. The institution proposing the program shall notify all public institutions within 50 miles of the teaching site of their intention to offer the program at least 30 days prior to submitting their request to the Coordinating Board. If no objections are re-

ceived, the Coordinating Board staff shall update the institution's program inventory accordingly. If objections occur, the proposed program shall not be implemented until all objections are resolved. If the proposing institution cannot resolve the objection(s), the proposing institution may request the assistance of the assistant commissioner of workforce, academic affairs and research to mediate the objections and determine whether the proposing institution may implement the proposed program.

5. If objections to the proposed program are received by the Coordinating Board staff, the proposed program shall not be implemented until all objections are resolved.

The commissioner shall forward a program to the Coordinating Board for consideration at an appropriate quarterly meeting if either of the following conditions is met: the proposed program is the subject of an unresolved grievance or dispute between institutions; or the commissioner has disapproved the proposed program and the institution has requested a Coordinating Board review.

19 TAC 9.93(a)-(b), (e)

Revisions

Revision of an existing associate degree or certificate program shall be approved if all of the requirements above at item 1 at Career Technical / Workforce Degree and Certificate Programs are met. To request a change of CIP code for an existing degree or certificate program, the institution shall notify the Coordinating Board staff and certify that the revised program meets the requirements listed above at item 1. If the revision of an existing degree or certificate program meets the conditions stipulated at item 1, the institution shall submit a request to the assistant commissioner for academic affairs and research to revise the program. The Coordinating Board staff shall update the institution's program inventory accordingly. If a program revision does not meet the conditions stipulated, the institution shall submit a revision request using the standard electronic program revision request process. *19 TAC 9.93(f)-(i)*

Audits

The Coordinating Board reserves the right to audit a certificate or degree program at any time to ensure compliance with any of the requirements in 19 Administrative Code Chapter 9, Subchapter E. *19 TAC 9.93(m)*

Administrative
Officials

All programs must be under the direction of an administrator having appropriate authority to ensure that quality is maintained and that programs are conducted in compliance with all applicable laws and rules. Administrative officers must possess credentials, work experience, and/or demonstrated competence appropriate to their

	areas of responsibility as specified by the SACSCOC. 19 TAC 9.93(j)
Faculty and Staff	Faculty and staff must be approved by the postsecondary institution. 19 TAC 9.93(k)
State Information Technology Credential	<p>The Department of Information Resources (DIR) may enter into an agreement with a public junior college district under Education Code 130.0081 or other applicable law to offer a program leading to a state information technology credential to address shortages in the state information resources workforce. A program offered under this section must:</p> <ol style="list-style-type: none">1. Be approved by the Coordinating Board in accordance with Education Code 61.0512;2. Develop the knowledge and skills necessary for an entry-level information technology position in a state agency; and3. Include a one-year apprenticeship with DIR, another relevant state agency, an organization working on a major information resources project, or a regional network security center established under Government Code 2059.202. <p>The DIR executive director shall update the department's intra-agency career ladder program to ensure that an associate degree together with a credential awarded under this section may be substituted for a four-year baccalaureate degree.</p> <p>The classification officer in the office of the state auditor shall review the state's position classification plan to determine whether an associate degree together with a credential awarded under this section may be substituted for a four-year baccalaureate degree and revise relevant job descriptions accordingly.</p> <p>If a program offered under this section is not fully funded through tuition and other money of the public junior college district available for the purpose, DIR may use any money available to DIR for the purpose to offer a program under this section and solicit and accept gifts, grants, and donations from any public or private source for purposes of offering a program under this section.</p> <p><i>Gov't Code 2054.0701(b)-(f)</i></p>
Limitation on SCH Requirements	To earn an associate degree, a student may not be required by an institution of higher education, including a college district, to complete more than the minimum number of SCH required for the degree by the SACSCOC or its successor unless the institution determines that there is a compelling academic reason for requiring completion of additional SCH for the degree. The Coordinating

Board may review one or more of an institution's associate degree programs to ensure compliance with this section.

This section does not apply to an associate degree awarded by an institution to a student enrolled in the institution before the 2015 fall semester. This provision does not prohibit the institution from reducing the number of SCH the student must complete to receive the degree.

Education Code 61.05151

State Funding

No funds appropriated to any public two-year college or other institution providing certificate or associate degree programs shall be expended for any program that has not been approved by the commissioner or the assistant commissioner for workforce, academic affairs and research or, when applicable, by the Coordinating Board. *19 TAC 9.96*

The Coordinating Board may authorize public junior colleges to offer baccalaureate degree programs as provided by Education Chapter 130, Subchapter L. Offering a baccalaureate degree program under [Chapter 130, Subchapter L](#), does not otherwise alter the role and mission of a public junior college.

Each public junior college seeking to offer a baccalaureate degree program must comply with the requirements and limitations specified in ~~Subchapter L~~, [Chapter 130, Subchapter L, except for Education Code 130.307\(4\). A public junior college is not required to establish articulation agreements for the supporting Associate of Applied Science degree program\(s\) but must secure a teach-out agreement with a Texas public institution of higher education that offers a similar baccalaureate program.](#)

A public junior college offering a baccalaureate degree program must meet all applicable accreditation requirements of the Southern Association of Colleges and Schools Commission on Colleges (SACSCOC). A public junior college that has attained accreditation by SACSCOC is authorized to change accreditors to any accrediting agency approved by the Coordinating Board under 19 Administrative Code Chapter 4, Subchapter J. [See GK]

Degree programs offered under Education Code Chapter 130, Subchapter L, are subject to the continuing approval of the Coordinating Board.

Education Code 130.302, .306(c); 19 TAC 2.87(c)-(d)

Definitions

Applied
Baccalaureate
Degree Program

An “applied baccalaureate degree program” builds on an Associate of Applied Science (AAS) degree [see EFBA], combined with enough additional core curriculum courses and upper-level college courses to meet the minimum semester credit hour requirements for a bachelor’s degree. The degree program is designed to grow professional management skills of the learner and meet the demand for leadership of highly technical professionals in the workplace. May be called a Bachelor of Applied Arts and Science (BAAS), bachelor of applied technology (BAT), or bachelor of applied science (BAS). *19 TAC 2.3(6)*

Pilot Institution

“Pilot institution” refers to public junior colleges initially authorized to offer baccalaureate degrees through the pilot initiative established by SB 286 (78R - 2003). Specifically, the four pilot institutions are Midland College, South Texas College, Brazosport College, and Tyler Junior College. *19 TAC 2.3(23)*

**Former Pilot
Program Participants**

The Coordinating Board shall authorize baccalaureate degree programs in the fields of applied science, applied technology, and nursing at each public junior college that previously participated in

a pilot project to offer baccalaureate degree programs. *Education Code 130.303(a)*

Applied Science

The Coordinating Board may authorize baccalaureate degree programs at a public junior college in the fields of applied science, including a degree program in applied science with an emphasis in early childhood education, applied technology, or nursing, that have a demonstrated workforce need. *Education Code 130.303(b), 19 TAC 2.87(a)*

Dental Hygiene

The Coordinating Board shall authorize baccalaureate degree programs in the field of dental hygiene at a public junior college that offers a degree program in that field, has a main campus located in the county seat of a county with a population greater than 200,000, and includes territory in at least six public school districts located in two counties. *Education Code 130.304*

**Financial
Requirements**

A public junior college may offer a baccalaureate degree program only if its junior college district:

1. Had a taxable property valuation amount of not less than \$6 billion in the preceding year; and
2. Received a positive assessment of the overall financial health of the district as reported by the Coordinating Board.

Education Code 130.307(b)

Navarro College

The requirement of item 1, above, does not apply to a public junior college for the purpose of offering a baccalaureate degree program in nursing if its junior college district:

1. Has a taxable property valuation amount of not less than \$4 billion in the preceding year; and
2. Does not have a four-year institution of higher education located in a county in which the district is located.

Education Code 130.307(b-1)

Criteria

All Programs

In determining whether a public junior college may offer baccalaureate degree programs and what degree programs may be offered, the Coordinating Board shall:

1. Apply the same criteria and standards the Coordinating Board uses to approve baccalaureate degree programs at general academic teaching institutions and medical and dental units; and
2. Consider the following factors:

- a. The workforce need for the degree programs in the region served by the junior college;
- b. How those degree programs would complement the other programs and course offerings of the junior college and whether the associate degree program offered by the junior college in the same field has been successful;
- c. Whether those degree programs would unnecessarily duplicate the degree programs offered by other institutions of higher education; and
- d. The ability of the junior college to support the degree programs with student enrollment and the adequacy of the junior college's facilities, faculty, administration, libraries, and other resources.

The Coordinating Board may not authorize a public junior college to offer a baccalaureate degree in a field if articulation agreements with general academic teaching institutions or medical and dental units are sufficient to meet the needs of that field.

Education Code 130.307(a), (d)

Nursing Programs

In determining whether a public junior college may offer a baccalaureate degree program in nursing, the Coordinating Board shall:

1. Require a public junior college to provide evidence to the Coordinating Board and the Texas Board of Nursing that the public junior college has secured adequate long-term clinical space;
2. Obtain a letter from each clinical site provider indicating that the clinical site has not refused a similar request from a general academic teaching institution or medical and dental unit; and
3. Establish that the corresponding associate degree program offered by the public junior college has been successful as indicated by job placement rates and licensing exam scores.

A baccalaureate degree program offered by a public junior college in the field of nursing must:

1. Be a bachelor of science degree program;
2. Meet the standards and criteria the Texas Board of Nursing uses to approve pre-licensure degree programs at general academic teaching institutions and medical and dental units regardless of whether the program is a pre-licensure or post-licensure program; and

- 3. Be accredited by a national nursing accrediting body recognized by the U.S. Department of Education.

Education Code 130.308

Application

Before a public junior college may be authorized to offer a baccalaureate degree program, the public junior college must submit a report to the Coordinating Board that includes:

- 1. A long-term financial plan for receiving accreditation from the SACSCOC;
- 2. A long-term plan for faculty recruitment that:
 - a. Indicates the ability to pay the increased salaries of doctoral faculty;
 - b. Identifies recruitment strategies for new faculty; and
 - c. Ensures the program would not draw faculty employed by a neighboring institution offering a similar program;
- 3. Detailed information on the manner of program and course delivery; and
- 4. Detailed information regarding existing articulation agreements and dual enrollment agreements indicating:
 - a. That at least three articulation agreements have been established with general academic teaching institutions or medical and dental units, or the reasons why no articulation agreements have been established; and
 - b. That, with the agreement of the applicable general academic teaching institution or medical and dental unit, established articulation agreements are at capacity.

Education Code 130.307(c)

Limitations

A public junior college ~~offering a baccalaureate degree program~~dis-trict may not offer more than five baccalaureate degree programs at any time- notwithstanding if accredited as a single institution.
Education Code 130.306(a); 19 TAC 2.87(e)

Approval Process

Planning
Notification

A public junior college, other than a pilot institution, must submit a planning notification to Coordinating Board staff in accordance with 19 Administrative Code 2.41 [see EFB]. 19 TAC 2.84, .86(a)

Approval Levels

A public junior college proposal for a new baccalaureate degree is subject to the following levels of approval:

1. If the baccalaureate degree will be the institution's first degree at that level, the new degree proposal will be subject to Coordinating Board approval under ~~19 Administrative Code~~ [Section 2.4](#) [see EFB].
2. If the baccalaureate degree is not the institution's first degree at that level, the new degree proposal will be subject to the following levels of approval:
 - a. If the proposed degree contains not greater than 50 percent new content, then the proposal will be subject to assistant commissioner approval under ~~19 Administrative Code~~ [Section 2.4](#).
 - b. If the proposed degree contains greater than 50 percent new content, then the proposal will be subject to commissioner approval under ~~19 Administrative Code~~ [Section 2.4](#).

Notwithstanding the provisions above, a pilot institution submitting a proposal for a new baccalaureate degree is subject to assistant commissioner approval under ~~19 Administrative Code~~ [Section 2.4](#).

19 TAC 2.85

Request

A public junior college must request a new baccalaureate degree program using the form prescribed for public junior colleges available on the Coordinating Board's website.

The rules for administrative completeness set out in 19 Administrative Code Chapter 2, Subchapter A, [see EFB] apply to baccalaureate programs at public junior colleges. Each institution must submit all information and forms required by this section and applicable provisions of [Chapter 2](#), Subchapter A, to be deemed administratively complete, including a nursing program meeting the requirements set out in Education Code 130.308 approval from the Board of Nursing.

Upon receiving a form requesting a new baccalaureate degree program from the institution, or a pilot institution applying to offer an engineering program, the assistant commissioner, commissioner, or Coordinating Board, depending on the required level of approval, shall act on the approval or denial according to the timelines specified in 19 Administrative Code Chapter 2, Subchapter A. If the Coordinating Board does not act to approve or deny the proposal within the specified time frames, the program is considered approved.

For a pilot institution, the assistant commissioner has sixty days from submission of the proposal request materials to complete the

review and act to approve or disapprove the proposed program. The assistant commissioner shall approve the program if the baccalaureate degree program is administratively complete, approved by the governing board of the junior college district, and is not an engineering program.

A public junior college applying to offer a Bachelor of Science in nursing must provide a letter from the Board of Nursing demonstrating that the program meets the standards and criteria of the Board of Nursing with its application in order to be deemed administratively complete.

An institution must obtain the type of approval specified in 19 Administrative Code 2.85.

Upon approval, Coordinating Board staff will add the new degree program to the institution's official program inventory. The program inventory contains the list of degrees and certificates with official Coordinating Board approval.

19 TAC 2.86(b)-(e)

Revisions	Institutions may request non-substantive revisions to approved baccalaureate degree programs under 19 Administrative Code 2.9 [see EFB]. <i>19 TAC 2.90</i>
Criteria	All proposed baccalaureate degree programs must meet the criteria set out in this provision, in addition to the general criteria in 19 Administrative Code 2.5 and 2.118 [see EFB]. <i>19 TAC 2.87(b)</i>
Semester Credit Hours	If the minimum number of semester credit hours required to complete a proposed baccalaureate program exceeds 120, the institution must provide detailed documentation describing the compelling academic reason for the number of required hours, such as programmatic accreditation requirements, statutory requirements, or licensure/certification requirements that cannot be met without exceeding the 120-semester credit hour limit. Coordinating Board staff will review the documentation provided and decide to approve or deny a request to exceed the 120-semester credit hour limit. <i>19 TAC 2.88</i>
Articulation Agreement	Each public junior college that offers a baccalaureate degree program must enter into an articulation agreement for the first five years of the program with one or more general academic teaching institutions or medical and dental units to ensure that students enrolled in the degree program have an opportunity to complete the degree if the public junior college ceases to offer the degree program.

The Coordinating Board may require a general academic teaching institution or medical and dental unit that offers a comparable baccalaureate degree program to enter into an articulation agreement with the public junior college.

The Coordinating Board shall prescribe procedures to ensure that each public junior college that offers a degree program under Education Code Chapter 130, Subchapter L, informs each student who enrolls in the degree program of the articulation agreement entered into under this section for the student's degree program.

Education Code 130.309

Funding

A degree program created under Education Code Chapter 130, Subchapter L, shall be funded solely by a public junior college's allocation of state appropriations under Education Code Chapter 130 and Chapter 130A, local funds, and private sources.

The Coordinating Board shall weigh contact hours attributable to students enrolled in a junior-level or senior-level course offered under Chapter 130, Subchapter L, used to determine a public junior college's allocation of state appropriations under Chapter 130 and Chapter 130A in the same manner as a lower division course in a corresponding field.

In its recommendations to the legislature relating to state funding for public junior colleges, the Coordinating Board shall recommend that a public junior college that participated in a pilot project to offer baccalaureate degree programs receive substantially the same state support for junior-level and senior-level courses in the fields of applied science, applied technology, dental hygiene, and nursing offered under Chapter 130, Subchapter L, as that provided to a general academic teaching institution for substantially similar courses.

Education Code 130.310(a)-(b)

Tuition and Fees

A public junior college may not charge a student enrolled in a baccalaureate degree program tuition and fees in an amount that exceeds the amount of tuition and fees charged by the junior college to a similarly situated student who is enrolled in an associate degree program in a corresponding field. This section does not apply to tuition and fees charged for a baccalaureate degree program in the field of applied science or applied technology previously offered as part of a pilot project to offer baccalaureate degree programs.

Education Code 130.310(c)

Report

Each public junior college offering a baccalaureate degree program shall conduct a review of each baccalaureate degree program offered and prepare a biennial report on the operation, quality, and

effectiveness of the baccalaureate degree programs in a format specified by the Coordinating Board. A copy of the report shall be delivered to the Coordinating Board by January 1 of each odd-numbered year.

The commissioner may require any reporting necessary to determine whether the program remains in compliance with the terms of its program approval, statute, or Coordinating Board rules.

Education Code 130.011; 19 TAC 2.89, .183

Program Phase-Out

An institution may request to phase out a baccalaureate program approved under Approval Process, above, in accordance with 19 Administrative Code, Chapter 2, Subchapter H, [see EFB] using the Program Consolidation or Phase-Out Form on the Coordinating Board's website. *19 TAC 2.91*

**Opportunity High
School Diploma
Program**

~~The purpose of~~ The Opportunity High School Diploma Program is ~~to provide an alternative means by which adult students enrolled in a workforce education program at a public junior college may earn a competency-based~~ high school diploma ~~at the college through a program to be offered for~~ concurrent enrollment ~~in a competency-based education program that enables students to demonstrate knowledge substantially equivalent to the knowledge required to earn an adult student without~~ a high school diploma ~~in this state, who is enrolled in a career and technical education program at a public junior college.~~ The program may include any combination of instruction, curriculum, internships, or other means by which a student may attain the knowledge sufficient to adequately prepare the student for postsecondary education or additional workforce education. Education Code 130.452; 19 TAC 12.5(a)

Application

A public junior college may submit an application to the Coordinating Board ~~an application to participate in the~~ for approval to offer an Opportunity High School Diploma Program. The application must propose an alternative competency-based high school diploma program to be offered for concurrent enrollment to adult students without a high school diploma who are enrolled in a workforce education program at the college. The proposed program may include any combination of instruction, curriculum, achievement, internships, or other means by which a student may attain knowledge sufficient to adequately prepare the student for postsecondary education or additional workforce education.

An eligible public junior college must submit the following elements in a complete application for approval to offer this program: ~~A public junior college may submit an application together~~

1. A description of the program's design demonstrating compliance with program requirements listed under 19 Administrative Code 12.5, including the assessment to be used under Section 12.5(c)(3).
- ~~4.~~ 2. Documentation of consultation with local employers and Workforce Development Boards in development of the program's curriculum. Subject to approval under this section, an eligible public junior college may enter into agreement to offer the program in consortium with one or more public junior colleges, general academic teaching institutions, public school districts, or nonprofit organizations ~~with whom the proposed program will be offered as provided by Education Code 130.454(e).~~ For public junior colleges proposing to offer the program in consortium with one or more partners:
 - a. A memorandum of agreement with each member of the consortium; and

b. A description of the role that each member of the consortium will play in delivery of the program.

Education Code 130.454(a)-(b); 19 TAC 12.4(a), .6(a), .7(a), (b)(1)

Coordinating Board
Approval

~~The Coordinating Board shall review and approve a public junior college's application to participate in the program if the Coordinating Board determines that the college's proposed program will provide instruction and assessments appropriate to ensure that a student who successfully completes the proposed program demonstrates levels of knowledge sufficient to adequately prepare the student for postsecondary education or additional workforce education. The Coordinating Board may coordinate with the Texas Education Agency as necessary to make the determination.~~

The Coordinating Board will review submitted applications for completeness of the elements required under 19 Administrative Code 12.5. The commissioner shall review the staff recommendation and any input by other entities and make the determination whether to approve the program. The Coordinating Board may approve not more than five public junior colleges to participate in the program.

The Coordinating Board shall notify the public junior college of program approval and post a list of approved programs on the Coordinating Board website.

Education Code 130.454(c)-(d); 19 TAC 12.7(b)

Approved Program

Subject to approval under this section, a public junior college ~~approved to participate in the program~~ may :

enter into ~~an~~ agreement with one or more public junior colleges, general academic teaching institutions, public school districts, or nonprofit organizations to offer ~~the program; and~~ this program. The public junior college may offer this program at any campus an entity subject to an agreement to offer this program. Education Code 130.454(e); 19 TAC 12.5(d)

Eligible Students

An institution may admit an adult student without a high school diploma to the Opportunity High School Diploma Program. "Adult student" means a student aged 18 or older on the date of first enrollment in the program. An institution shall concurrently enroll each eligible student in a career and technical education program. 19 TAC 12.6(b)

Core Program
Competencies

~~2.~~ An approved public junior college shall embed the following baseline student learning outcomes in the program. A public junior college may also add curricular elements designed to meet regional employers' needs or specific workforce needs. Core program competencies shall include: ~~Offer the program~~

~~at any campus of the college or an entity with which the college has entered into an agreement under item 1.~~

Education Code 130.454(e)

1. Quantitative Reasoning, including the application of mathematics to the analysis and interpretation of theoretical and real-world problems to draw relevant conclusions or solutions.
2. Communication Skills, including reading, writing, listening, speaking, and non-verbal communication.
3. Civics, including the structure of government, processes to make laws and policies, constitutional principles of checks and balances, separation of powers, federalism, and rights and responsibilities of a citizen.
4. Scientific Reasoning, including problem-solving that involves forming a hypothesis, testing the hypothesis, determining and analyzing evidence, and interpreting results.
5. Workplace Success Skills, including dependability, adaptability, working with others, initiative, resilience, accountability, critical thinking, time management, organizing, planning, problem-solving, conflict resolution, and self-awareness.

19 TAC 12.5(b)

Prior Learning and
Program
Completions

A public junior college approved to offer this program must determine each student's competence in each of the five core program competencies prior to enrolling the student in the program of instruction and upon the student's completion of the program of instruction.

The program of instruction assigned to each student will be based on the student's prior learning and assessments of the student's competencies for each of the five core program competencies. A student may be determined to have satisfied required learning outcomes for one or more core program competencies based on the student's prior learning.

Documentation of a student's prior learning in the five core program competencies may include the following: transcribed high school grades; transcribed college credit; achievement on a national standardized test such as the SAT or ACT; credit earned through military service as recommended by the American Council on Education; or demonstrated success on pre-program assessments.

The commissioner shall identify, consider, and approve assessments, in consultation with the Texas Workforce Commission, to be

used by a public junior college to determine a student's successful achievement of the five core program competencies and completion of the program. The Coordinating Board will publish a list of the approved assessments on the agency's website. A public junior college that is approved to offer the program must use an approved assessment to evaluate each student's competence in the five core program competencies.

19 TAC 12.5(c)

Award of High
School Diploma

A public junior college participating in the program ~~may~~shall award a high school diploma to a student enrolled in ~~the alternative competency-based high school diploma program offered by the college under the~~this program if the student ~~performs~~ satisfactorily ~~on~~completes an approved assessment ~~instruments prescribed by Coordinating Board rule~~that provides evidence of competence in the five core program requirements as required under this section.

A high school diploma awarded under the program is equivalent to a high school diploma awarded under Education Code 28.025.

Education Code 130.455; 19 TAC 12.5(e)

Funding

~~A~~An Opportunity High School Diploma is a fundable outcome as defined in 19 Administrative Code 13.556. The commissioner shall confer with the Texas Workforce Commission to identify additional funding. Education Code 130.456(b); 19 TAC 12.9

Reporting

Each participating public junior college ~~participating in the ap-~~proved to offer this program ~~is entitled to receive funding under Education Code 130.003 for~~ shall report student enrollments and completions to the ~~program in the manner provided by~~ Coordinating Board ~~rule. Education Code 130.456(b)~~through the Education Data System, in compliance with the data reporting standards established for that system. 19 TAC 12.8(a)

Transcripts

Student transcripts shall contain a record of each state-funded course attempted by a student at the transcribing institution, including a college district. This includes all courses for which the student was enrolled as of the official census date each term, including developmental education courses, courses that were not completed, courses that were dropped, and courses that were repeated.

The student transcript or an addendum to the transcript certified by the appropriate institutional official shall contain a record of the student's status in regard to the Texas Success Initiative (TSI). The document should include the status for each section of a test taken for TSI purposes (reading, mathematics, writing) with information as to how the student met the TSI requirement. The information provided should enable receiving institutions to use the transcript or the addendum as a single source of information to determine the student's TSI status.

Student transcripts created after September 1, 2000, should be maintained by the institutions in a format suitable for electronic interchange. The format of transcripts shall be the format that is used to store the most transcripts by Texas institutions of higher education as of September 1, 1998, or another format adopted by a majority of the members of the Texas Association of Collegiate Registrars and Admissions Officers (TACRAO).

Student transcripts or an addendum to the transcript certified by the appropriate institutional official shall identify all courses completed in satisfaction of the core curriculum as specified in 19 Administrative Code 4.28(h) (relating to Transfer of Credit, Core Curriculum and Field of Study Curricula).

19 TAC 4.7(a)-(d) [See also FJ, Transcript Notation of Ineligibility to Reenroll]

Field of Study

Each institution must note the selected Texas core curriculum component and discipline foundation courses components of the field of study curriculum courses on student transcripts as recommended by TACRAO. 19 TAC 4.32(e)

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**Course Credit for
Entering Freshmen
Students**

Each institution of higher education, including each college district, that offers freshmen-level courses shall adopt and implement a policy to grant undergraduate course credit to entering freshmen students who have successfully completed the International Baccalaureate (IB) Diploma Program, who have achieved required scores on one or more examinations in the Advanced Placement (AP) Program or the College-Level Examination Program (CLEP), or who have successfully completed one or more courses offered through concurrent enrollment in high school and at an institution of higher education.

In the policy, the institution shall:

1. Establish the institution's conditions for granting course credit, including the minimum required scores on CLEP examinations, AP examinations, and examinations for courses constituting the IB Diploma Program; and
2. Based on the correlations between subject matter and content of courses offered by each institution of higher education and the subject matter and content of courses and examinations in the IB Diploma Program, the AP Program, and the CLEP as identified by the Coordinating Board, in consultation with the Texas Education Agency, under Education Code 51.968(f), identify the specific course credit or other academic requirements of the institution, including the number of semester credit hours or other course credit, that the institution will grant to a student who successfully completes the diploma program, who successfully completes a course through concurrent enrollment, or who achieves required scores on CLEP examinations or AP examinations.

In establishing the minimum required score on an AP examination for granting course credit for a particular lower-division course, an institution of higher education may not require a score of more than three unless the institution's chief academic officer determines, based on evidence, that a higher score on the examination is necessary to indicate a student is sufficiently prepared to be successful in a related, more advanced course for which the lower-division course is a prerequisite.

In establishing the minimum required score on a CLEP examination for granting course credit for a particular lower-division course, an institution of higher education may not require a score higher than the minimum score recommended by the American Council on Education for granting course credit for that examination unless the institution's chief academic officer determines, based on evidence, that a higher score on the examination is necessary to indi-

cate that a student is sufficiently prepared to be successful in a related, more advanced course for which the lower-division course is a prerequisite.

Education Code 51.968(c)-(c-2), (f)

Each institution of higher education shall report its policy to the Coordinating Board and shall include a copy of the policy with the institution's undergraduate student application materials, including application materials available on the institution's internet website.

On request of an applicant for admission as an entering freshman, the institution of higher education, based on information provided by the applicant, shall determine and notify the applicant regarding:

1. The amount and type of any course credit that would be granted to the applicant under the policy; and
2. Any other academic requirement that the applicant would satisfy under the policy.

Except as otherwise provided above, an institution of higher education shall grant at least 24 semester credit hours (SCH) or equivalent course credit in appropriate subject areas to an entering freshman student for successful completion of the IB Diploma Program. The institution may grant fewer than 24 SCH if the student received a score of less than four on an examination administered as part of the diploma program. The institution may grant fewer credit hours only with respect to courses that are substantially related to the subject of that examination.

Education Code 51.968(b)-(e)

Course Credit for Military Training

An institution of higher education, including a college district, shall consider, in determining whether to award course credit toward a degree or certificate offered by the institution for the student's completion of certain military training:

1. Any official military record presented to the institution by the student that describes the substance of the training completed by the student and verifies the student's successful completion of that training; and
2. Whether the substance of that training satisfies the purpose of the course for which the student seeks credit as described in the institution's course catalog.

This section applies to a student who is admitted to the institution, including a student who has been readmitted to the institution under Education Code 51.9242. [See FBA(LEGAL)]

Education Code 51.3041

**Course Credit for
Military Service**

An institution of higher education, including a college district, shall award to an undergraduate student who is admitted to the institution, including a student who is readmitted under Education Code 51.9242, course credit for all physical education courses required by the institution for an undergraduate degree and for additional semester credit hours, not to exceed 12, that may be applied to satisfy any elective course requirements for the student's degree program for courses outside the student's major or minor if the student graduated from a public or private high school accredited by a generally recognized accrediting organization or from a high school operated by the U.S. Department of Defense and is an honorably discharged former member of the Armed Forces of the United States who completed at least two years of service in the Armed Forces or was discharged because of a disability.

This section does not prohibit an institution of higher education from awarding additional course credit for a student's military service as the institution considers appropriate.

An institution of higher education may adopt rules requiring reasonable proof from a student of the fact and duration of the student's military service and of the student's military discharge status.

Education Code 51.3042

Transfer of Credit

In its course catalogs and on its website, each institution of higher education, including each college district, shall publish guidelines addressing the practices of the institution regarding the transfer of course credit. In the guidelines, the institution must identify a course by using the common course numbering system approved by the Coordinating Board. *Education Code 61.830*

Administrative Code Title 19, Chapter 4, Subchapter B, applies specifically to academic courses and degree programs and does not apply to technical courses or technical degree programs. 19 TAC 4.24(d), .25(c)

**Transfer of Lower-
Division Course
Credit**

All successfully completed lower-division academic courses that are identified by the Texas Common Course Numbering System (TCCNS) and published in the Lower-Division Academic Course Guide Manual (ACGM) shall be fully transferable among public institutions and shall be substituted for the equivalent course at the receiving institution. Except in the case of courses belonging to a Coordinating Board-approved field of study curriculum (FOSC), applicability of transferred courses to requirements for specific degree programs is determined by the receiving institution. All institutions of higher education must accept transfer of credit for successfully completed courses identified in 19 Administrative Code 4.25(a) and

(b) [see EFAA] as applicable to an associate or baccalaureate degree in the same manner as credit awarded to non-transfer students in that degree program. *19 TAC 4.24(a), .25(c)*

Each institution of higher education shall identify in its undergraduate catalog each lower-division course that is substantially equivalent to an academic course listed in the current edition of the ACGM. *19 TAC 4.25(a)*

Each institution must accept the same number of lower-division semester credit hours from transfer students as required for non-transfer students in the same baccalaureate program; however:

1. An institution is not required to accept in transfer more semester credit hours in the major area of a degree program than the number set out in any applicable Coordinating Board-approved field of study curriculum for that program.
2. In any degree program for which there is no Coordinating Board-approved field of study curriculum, an institution is not required to accept in transfer more lower-division course credit in the major applicable to a baccalaureate degree than the institution allows its non-transfer students in that major.
3. An institution of higher education is not required to transfer credit in courses in which the student earned a "D" in the student's field of study curriculum courses, core curriculum courses, or major.

An institution of higher education is not required to accept in transfer, or apply toward a degree program, more than sixty-six (66) semester credit hours of lower-division academic credit. Institutions of higher education, however, may choose to accept additional semester credit hours.

19 TAC 4.25(d)-(f)

Noncompliance

If it is determined by the Coordinating Board that an institution inappropriately or unnecessarily required a student to retake a course that is substantially equivalent to a course already taken at another institution, in violation of the provisions of 19 Administrative Code 4.25, formula funding for credit hours in the repeated course will be deducted from the institution's appropriation. *19 TAC 4.26*

Notice of Limits

Two-year public colleges shall notify students who intend to transfer to baccalaureate degree programs of possible limitations on lower-division coursework that may be applied toward a baccalaureate degree program at a general academic teaching institution. Notification to students must occur no later than the semester or

term during which students are expected to accumulate the 39th semester credit hour of academic coursework.

The notification shall include 19 Administrative Code 4.25(f) and may include additional transfer information that will help students make informed decisions about coursework.

Colleges may notify students either through the mail or through electronic means targeted directly at affected students such as electronic mail, pop-up notices on an electronic registration or advising page, or information included in the students' grade reports. Listing the information on lower-division transfer limits in the institution's catalog, while strongly recommended, is not sufficient to satisfy the requirements of this section.

19 TAC 9.77

Transfer of Core
Curriculum

*Completed Core
Curriculum*

If a student successfully completes the core curriculum at a Texas public institution of higher education, that block of courses must be substituted in transfer to any other Texas public institution of higher education for the receiving institution's core curriculum. A student shall receive academic credit for each of the courses transferred and may not be required to take additional core curriculum courses at the receiving institution. *Education Code 61.822(c); 19 TAC 4.28(c)*

*Core Curriculum
Not Completed*

Except as specified in 19 Administrative Code 4.28(f), a student who transfers from one institution of higher education to another without completing the core curriculum of the sending institution must receive academic credit from the receiving institution for each of the courses that the student has successfully completed in the core curriculum of the sending institution. Following receipt of credit for these courses, the student may be required to satisfy the remaining course requirements in the core curriculum of the receiving institution. *Education Code 61.822(d); 19 TAC 4.28(e)*

*Foundation
Component
Areas*

Each student must meet the number of SCH in each foundational component area; however, an institution receiving a student in transfer is not required to apply to the fulfillment of a foundational component area requirement SCH beyond the number of SCH specified in a foundational component area. *19 TAC 4.28(f)*

*Transfers from
Out-of-State*

For students who transfer to a public institution from a college or university that is not a Texas public institution of higher education, courses the student completed prior to admission should be evaluated to determine whether they apply to one of the institution's core curriculum component areas. Only those courses the institution has accepted for transfer that can demonstrate fulfillment of the foundational component area content descriptions, core objectives,

and SCH required for the appropriate foundational component area or areas should be applied to the institution's core curriculum. 19 TAC 4.28(j)

Transfer of Field of
Study Curriculum

If a student transfers from one institution of higher education to another without completing the field of study curriculum, the receiving institution must grant academic credit in the field of study curriculum for each of the courses that the student has successfully completed in the field of study curriculum of the sending institution. After granting the student credit for these courses, the institution may require the student to complete additional requirements in the receiving institution's program, as long as those requirements do not duplicate course content the student previously completed through the field of study curriculum. *Education Code 61.823(c); 19 TAC 4.32(df)*

Transfer Dispute
Resolution

Each institution of higher education shall apply the procedures below in the resolution of credit transfer disputes involving lower-division courses.

If an institution of higher education ~~proposes to deny the application toward the institution's core curriculum or a~~ does not accept and apply a course included in the field of study curriculum ~~developed by for the Coordinating Board under Education Code Section 61.823 of~~ program in which a student is enrolled or a course ~~credit in the core curriculum~~ earned by a student at another institution of higher education ~~in the other institution's core curriculum or in a field of study curriculum~~, the receiving institution ~~must~~ shall give written notice to the student and to the sending institution ~~of that institution's intent it intends~~ to deny the ~~application~~ transfer of the course credit ~~to the institution's core curriculum or field of study curriculum and~~ and shall include in that notice the reasons for the proposed denial. The receiving institution must attach the procedures for resolution of transfer disputes for lower-division courses as outlined in ~~this section~~ these provisions to the notice. The notice and procedure must include clear instructions for appealing the decision to the commissioner and the name and contact information for the designated official at the receiving institution who is authorized to resolve the credit transfer dispute.

A student who receives notice as specified above may dispute the denial of credit by contacting a designated official at either the sending or the receiving institution.

4. The two institutions and the student shall attempt to resolve the ~~application~~ transfer of the course credit ~~to the institution's core curriculum or field of study curriculum with the other institution and the student~~ in accordance with ~~this section~~.

these provisions. An institution that proposes to deny the credit shall resolve the dispute not later than the 45th day after the date ~~on which that~~ the student enrolls in that institution. If the ~~dispute student or the sending institution~~ is not ~~resolved to~~ satisfied with the ~~satisfaction~~ resolution of the credit transfer dispute, the student or the sending institution ~~may~~ may notify the commissioner in writing of ~~it~~ the denial ~~to apply of~~ the course credit ~~to the institution's core curriculum or field of study curriculum~~ and the reasons for the denial. Not later than the 20th business day after the date the commissioner receives the notice of ~~a~~ dispute concerning the application of ~~course credit to an institution of higher education's for~~ the core curriculum or field of study curriculum ~~under item 4~~, the commissioner or the commissioner's designee shall make the final determination about ~~the~~ a credit transfer dispute and give written notice of the determination to the student and ~~institutions~~ each institution. If the commissioner or the commissioner's designee determines that ~~the~~ an institution may not deny the ~~application~~ transfer of ~~course credit to for~~ the ~~institution's~~ core curriculum or field of study curriculum, the receiving institution shall accept and apply ~~that course~~ the credit toward the ~~institution's~~ core curriculum or field of study ~~curriculum~~, as applicable. ~~A determination determined~~ by the commissioner or the commissioner's designee.

A decision under 19 Administrative Code 4.27 is not a contested case. The commissioner or the commissioner's designee's decision is final and may not be appealed.

The Coordinating Board shall collect data on the types of transfer disputes that are reported and the disposition of each case that is considered by the commissioner or the commissioner's designee ~~and post~~. Each transfer credit dispute resolved by the commissioner shall be posted on the Coordinating Board's website ~~a list of each case that is considered by the commissioner of higher education or the commissioner's designee under this section~~, including the ~~disposition of the case~~ final determination.

~~If a receiving institution has cause to believe that a course being presented by a student for transfer from another institution is not of an acceptable level of quality, it should first contact the sending institution and attempt to resolve the problem. In the event that the two institutions are unable to come to a satisfactory resolution, the receiving institution may notify the commissioner who may investigate the course. If its quality is found to be unacceptable, the Coordinating Board may discontinue funding for the course.~~

Each institution of higher education shall publish in its course catalogs the procedures specified in this section.

Education Code 61.826; 19 TAC 4.27

Transfer
Agreements

The governing board of each general academic teaching institution and each public junior college within a 100-mile radius of that institution shall adopt a policy to enhance the transfer of students based on the recommendations of the permanent advisory committee established under Education Code 51.3521. [See GI] *Education Code 51.352(f)*

Nondiscrimination

Nothing in 19 Administrative Code Chapter 4, Subchapter B, restricts the authority of an institution of higher education to adopt its own grading policies so long as it treats transfer students and native students in the same manner.

Institutional policies regarding acceptance of credit for correspondence courses, credit-by-examination, and other credit-earning instruments must be consistent with the Southern Association of Colleges and Schools Commission on Colleges' (SACSCOC) guidelines and must treat transfer students and native students in the same manner.

19 TAC 4.24(b)-(c)

**Withdrawal for
Military Service**

If a student withdraws from an institution of higher education, including a college district, because the student is called to active military service, the institution, at the student's option, shall:

1. Grant a student, who is eligible under the institution's guidelines, an incomplete grade in all courses by designating "withdrawn-military" on the student's transcript; or
2. As determined by the instructor, assign an appropriate final grade or credit to a student who has satisfactorily completed a substantial amount of coursework and demonstrated sufficient mastery of the course material.

Education Code 54.006(f)

**ROTC Courses
Counted for
Enrollment Status**

To the extent it will not adversely affect the accreditation status of an institution of higher education with the appropriate accrediting agency, the governing board of the institution, including a college district, shall count courses in which a student enrolls for the purposes of a Reserve Officers' Training ~~Corp~~[Corps](#) (ROTC) program, including courses for which the student does not receive course credit toward the student's degree, in determining whether the student is enrolled as a full-time student. *Education Code 51.9112(c)*

Texas Success Initiative (TSI)

An institution ~~of higher education~~, including a college district, shall assess, by an instrument approved in 19 Administrative Code 4.56, the academic skills of each entering, non-exempt undergraduate student ~~as defined in 19 Administrative Code 4.53(24) to determine the student's readiness to enroll in freshman-level academic coursework~~ prior to enrollment of the student. An institution may not use the assessment or the results of the Coordinating Board-approved assessment instrument as a condition of admission to the institution.

An institution offering collegiate-level credit to students via a Multi-Institution Teaching Center (MITC) ~~or a university system center,~~ or to in-state students by distance learning delivery systems shall ensure that students are assessed as required by this policy.

Education Code 51.333; 19 TAC 4.55(a), ~~(d)-(ef)-(g)~~

DefinitionsAdvising

"Advising" means the ongoing and intentional process by which students receive guidance in selecting and navigating their choice of courses or majors, accessing campus and community services, and developing career goals and short/long-term plans. Advising may be provided by faculty, staff members, peer mentors, interactive technology-based resources, or other means. 19 TAC 4.53(2)

Basic Academic Skills Education

"Basic academic skills education" means non-course competency-based developmental education programs and interventions designed for students whose performance falls significantly below college readiness standards. *Education Code 51.331(b)(1)*

Corequisite

"Corequisite," also known as corequisite ~~or~~ mainstreaming, or course pairing, is an instructional strategy whereby an undergraduate ~~students~~student as defined in 19 Administrative Code 4.53(24) ~~are~~is co-enrolled or concurrently enrolled in a developmental education course or NCBO academic support, as defined ~~in 19 Administrative Code 4.53(18),~~ below, and the entry-level ~~freshman-academic~~ academic course of the same subject matter within the same semester. The developmental education component ~~provides~~should provide support aligned directly with the learning outcomes, instruction, and assessment of the entry-level ~~freshman-academic~~ academic course, and ~~makes~~make necessary adjustments as needed ~~in order to~~ advance ~~students'~~the student's success in the entry-level ~~freshman~~ course. Participation in and completion of the entry-level ~~freshman-academic~~ academic course ~~is~~may not ~~be~~ contingent upon a student's performance in the developmental education ~~component of the corequisite course or NCBO~~. 19 TAC 4.53(7)

Developmental Education

Course ~~Pairing~~ or Developmental Course-pairing ~~is an instructional strategy whereby students are co-enrolled in a~~ "Develop-

	<p>mental education course and the entry-level freshman or developmental course of the same subject matter within the same semester. The developmental component provides support aligned directly with the learning outcomes, instruction, and assessment of the entry-level freshman course, and makes necessary adjustments as needed in order to advance students' success in the entry-level freshman course. 19 TAC 4.53(8)</p>
<i>Developmental Coursework and/or Intervention</i>	<p>"Developmental coursework and/or intervention" means <u>a non-degree-credit coursework and/or activity</u> <u>course</u> designed to address a student's <u>skill</u>, strengths, and needs in the areas of reading, writing, integrated reading and writing (IRW), mathematics, and student success, <u>to help that student be ready to succeed in entry-level academic coursework.</u> 19 TAC 4.53(9)</p>
<i>Entry-Level Academic Course</i>	<p>"Entry-level <u>academic</u> course" (, sometimes referred to as an entry-level freshman coursework course or freshman-level academic coursework), means any <u>college-level</u> course for academic credit in which a <u>freshman first-time in college</u> student <u>might</u> typically enrolls and comprises college <u>enroll.</u> An entry-level content. The course shall <u>may</u> not have prerequisites and is open to any student meeting TSI standards as defined in 19 Administrative Code 4.57, below, and/or meeting at least one of the exemptions or waivers as defined in 19 Administrative Code 4.54, below. <u>prerequisite college courses.</u> These courses (, or their local equivalent in <u>equivalents based on</u> the Texas Common Core Numbering System), may include, but are not limited to: ENGL 1301, HIST 1301, PSYC 2301, GOVT 2305/2306, MATH 1314/1414/1324/1332/1342, SOCI 1301, PHIL 1301, SPCH 1311/1315, COSC 1301, HUMA 1301, ARTS 1301, and BIOL 1306/1406. 19 TAC 4.53(13)</p>
<i>Mathematics Pathway Models</i>	<p>"Mathematics pathway models" are developmental and basic academic skills coursework and <u>interventions that</u> <u>designed to</u> prepare students for academic and <u>workforce training programs and careers</u> <u>with mathematics content relevant for their programs.</u> 19 TAC 4.53(15)</p>
<i>Non-Course-Competency-Based Developmental Education Interventions</i>	<p>"Non-course-competency-based developmental education interventions," also known as <u>NCBO</u> or non-semester-length interventions or NCBO, are interventions that <u>use learning approaches</u> <u>are selected or</u> designed to address a student's identified weaknesses <u>academic skills, strengths,</u> and <u>learning needs, to</u> effectively and efficiently prepare the student <u>for to succeed in</u> college-level work. These interventions must be overseen by an instructor of record, must not fit traditional course frameworks, and cannot include <u>are beyond academic</u> advising or learning support activities already connected to <u>provided generally to all students in</u> a traditional <u>course, program, or institution;</u> interventions may include, but are</p>

not limited to, [individual or group](#) tutoring, supplemental instruction, [interactive online resources, emporium models](#), or labs. [19 TAC 4.53\(18\)](#)

[Non-Degree-Seeking Student](#)

[“Non-degree-seeking student” means a student who has not filed a degree plan with an institution of higher education and is not required to do so pursuant to Education Code 51.9685. 19 TAC 4.53\(8\)](#)

[Undergraduate Student](#)

[“Undergraduate student” means student, other than a high school student enrolled in college-level coursework for dual credit, who enrolls at a Texas public institution of higher education in a course or program of study leading to a certificate, degree, or other undergraduate credential. 19 TAC 4.53\(23\)](#)

[Applicability](#)

[The TSI applies to each entering undergraduate student not otherwise exempt under 19 Administrative Code 4.54. 19 TAC 4.52\(a\)](#)

[Exceptions](#)

[The TSI does not apply to the following students, and an institution shall not require these students to demonstrate college readiness pursuant to 19 Administrative Code Chapter 4, Subchapter C. This limitation does not restrict an institution from advising a student to complete additional coursework or interventions to increase the likelihood of the student's success in completing the courses and program in which the student enrolls:](#)

- [1. A student who has earned an associate or baccalaureate degree from an institution of higher education;](#)
- [2. A student who transfers to an institution of higher education from a private or independent institution of higher education or an accredited out-of-state institution of higher education and who has satisfactorily completed college-level coursework in the corresponding subject area, as transcribed or otherwise determined by the receiving institution;](#)
- [3. A student who is enrolled in a certificate program of one year or less at a public junior college, a public technical institute, or a public state college;](#)
- [4. A student enrolled in high school who is a non-degree-seeking student;](#)
- [5. A student who is serving on active duty as a member of the armed forces of the United States or the Texas National Guard;](#)
- [6. A student who is currently serving as and, for at least the three-year period preceding enrollment, has served as a](#)

member of a reserve component of the armed forces of the United States; or

7. A student who on or after August 1, 1990, was honorably discharged, retired, or released from active duty as a member of the armed forces of the United States or the Texas National Guard or service as a member of a reserve component of the armed forces of the United States.

Education Code 51.332; 19 TAC 4.52(b), .54(e)

Exceptional Circumstances

Under exceptional circumstances, an institution may permit a student to enroll in ~~freshman~~entry-level academic coursework without assessment but shall require the student to be assessed not later than the end of the first semester of enrollment in entry-level ~~freshman~~academic coursework. 19 TAC 4.55(~~ac~~)

Pre-Assessment

Prior to the administration of an approved instrument, a test administrator shall provide to the student a pre-assessment activity(~~ies~~) or activities that ~~addresses~~address at a minimum the following components in an effective and efficient manner, such as through workshops, orientations, and/or online modules:

1. Importance of assessment ~~in students'~~for identifying a student's academic ~~career~~skills, strengths, and needs;
2. Assessment process and components, including practice with feedback of sample test questions in all disciplinary areas~~;~~
3. Developmental education options offered by the institution, including ~~corequisite, course-pairing,~~ non-course-based, ~~modular, options;~~ and ~~other non-conventional interventions./or~~
4. Institutional and/or community student resources (e.g., supplemental instruction, tutoring, transportation, childcare, ~~and~~ basic needs support, or emergency financial aid).

19 TAC 4.55(~~bd~~)

Assessment Instruments

Effective fall 2013, the Texas Success Initiative Assessment (TSIA) is the only Coordinating Board-approved assessment instrument used under Administrative Code Title 19. Effective January 11, 2021, the TSIA, Version 2.0 (TSIA2) ~~will replace~~replaced the TSIA ~~on January 11, 2021, at which time the TSIA2 will be~~as the only Coordinating Board-approved TSI assessment instrument offered under ~~Administrative Code~~ Title 19. ~~Test administrators~~A student is entitled to use a TSIA or TSIA2 test result for a period of no more than five years after the date of testing to meet the requirements of the TSI.

Each administrator of the TSI assessment must follow the requirements and processes for test administration as set forth by the Coordinating Board and the test vendor. ~~Education Code 51.334(a); 19 TAC 4.56~~

A student may retake a Coordinating Board-approved assessment instrument at any time, subject to availability, to determine the student's readiness to perform entry-level freshman coursework.

Education Code 51.334(a); 19 TAC 4.56, .59(c)

Minimum Standards
TSIA Standards

Effective the institution's first class day of fall 2017, for a student who is not otherwise exempt, the institution shall use the following minimum college readiness standards ~~(, also known as "cut scores")~~ for reading, mathematics, and writing on the TSIA ~~shall be used by an institution~~ to determine a student's readiness to enroll in entry-level freshman ~~level academic~~ coursework:

1. Reading 351;
2. Mathematics 350; and
3. Writing:
 - a. A placement score of at least 340, and an essay score of at least 4; or
 - b. A placement score of less than 340 and an ABE Diagnostic level of at least 4 and an essay score of at least 5.

Education Code 51.334(b)-(c); 19 TAC 4.57(a,b)

TSIA2 Standards

Effective January 11, 2021, for a student who is not otherwise exempt, the institution shall use the following minimum college readiness standards ~~(, also known as "cut scores")~~ for English Language Arts Reading (ELAR) and mathematics on the TSIA2 ~~shall be used by an institution~~ to determine a student's readiness to enroll in entry-level ~~freshman~~ academic coursework:

1. Mathematics ~~(, for college-level coursework with mathematics-intensive designation by the offering institution)~~:
 - a. A College Readiness Classification (CRC) score of at least 950; or
 - b. A CRC score below 950 and a Diagnostic level of 6.
2. ELAR ~~(, for college-level coursework with reading, writing, or reading and writing-intensive designation by the offering institution)~~:

- a. A CRC score of at least 945 and an essay score of at least 5; or
- b. A CRC score below 945 and a Diagnostic level of 5 or 6 and an essay score of at least 5.

Education Code 51.334(b)-(c); 19 TAC 4.57(b)

Application of Standards

~~Institutions should~~ An institution shall use the TSI Assessment (TSIA or TSIA2) diagnostic results, along with other holistic factors, in their consideration of courses and/or interventions addressing the educational and training needs of undergraduate students not meeting the college readiness standards above.

An institution shall not require higher or lower college readiness standards on any or all portions of the TSI assessment (TSIA or TSIA2) to determine a student's readiness to enroll in any entry-level ~~freshman~~ academic coursework.

For a student with an existing plan for academic success as required in 19 Administrative Code 4.58, the institution ~~must~~ shall revise the plan as needed to align with the applicable college readiness standards as defined above.

~~Both TSI assessment (TSIA or TSIA2) results are valid for the purposes of Administrative Code Title 19 for five years from the date of testing.~~

Education Code 51.334(b)-(c); 19 TAC 4.57(e)-(d)-(f)

~~Advising~~ Program Placement and Support

Each institution of higher education shall establish a program to advise students regarding coursework and other means by which students can develop the academic skills required to successfully complete college-level work. ~~Education Code 51.335(b)~~

For each student, including a student who is exempt as provided by 19 Administrative Code 4.54 or who has been determined by an institution to be ready to enroll in entry-level academic courses as provided by Section 4.54, institutions are strongly encouraged to provide the student with advising, appropriate course and program placement, and support based on the individual student's skills, strengths, and needs, to increase the likelihood of the student's success in completing the courses and program in which the student enrolls.

Education Code 51.335(b); 19 TAC 4.55(b)

Failure to Meet Minimum Standards

For ~~holistic~~ placement of a non-exempt undergraduate ~~students~~ student not meeting standards as defined in 19 Administrative Code 4.57(a) ~~(relating to College Ready Standards), above,~~ institutions

shall use for determination of appropriate courses ~~and/or~~ interventions ~~the~~ and other support, the student's TSI assessment results and accompanying Diagnostic Profile, along with ~~consideration of one or more of the following~~ other relevant information such as:

1. High school grade point average/class ranking;
2. Prior academic coursework ~~and/or workplace experiences-~~ work experience;
3. ~~Non-cognitive factors~~ Demonstrated personal achievement (e.g., leadership, motivation, self-efficacy); and
4. Family-life issues (e.g., job, childcare, transportation, finances).

For each undergraduate student who fails to meet the minimum passing standards described in 19 Administrative Code 4.57, ~~above~~, an institution shall establish a program to advise the student regarding developmental education support necessary to ensure the readiness of that student in performing freshman-level academic coursework and determine a plan, working with the student, for the student's academic success, which shall include developmental education [see EFAC] and may include provisions for enrollment in appropriate non-developmental coursework. Institutions must ensure developmental education courses and interventions meet at minimum the criteria set forth in the Lower Division Academic Course Guide Manual (ACGM).

For undergraduate students enrolled in a corequisite model who fail to satisfactorily complete the freshman-level course, the institution of higher education must:

1. Review the plan for academic success developed for the student ~~under this section~~ and, if necessary, work with the student to revise the plan; and
2. Offer to the student a range of ~~competency~~ resources including non-course-based education programs ~~options~~ to assist the student in becoming ready to perform freshman-level academic coursework in the applicable subject area(s).

~~Students enrolled in a mathematics pathway model (e.g., New Mathways Project, modular/Emporium models, etc.) must be clearly informed of the consequences of successful completion of this model which will result in meeting the mathematics college readiness standard only for specific college credit courses and that changing degree plans may require additional developmental education coursework/interventions.~~

19 TAC 4.55(~~ee~~), .58(a)~~-(b), (d), (f)~~ (e)

**Readiness
Education-Plan
for Academic
Success**

~~If a student fails to meet the assessment standards described above, the institution of higher education shall work with the student to develop a plan to assist the student in becoming ready to perform freshman-level academic coursework. The plan must be designed on an individual basis to provide the best opportunity for each student to attain that readiness.~~

~~The institution of higher education may refer a student to developmental coursework as considered necessary by the institution to address a student's deficiencies in the student's readiness to perform freshman-level academic coursework [see EFAC].~~

~~The commissioner may by rule require a college district to adopt uniform standards for the placement of a student under Education Code 51.336.~~

Each plan for academic success shall:

1. Be designed on an individual basis to provide the best opportunity for each student to succeed in obtaining ~~his or her~~the student's career and/or academic goals. At a minimum, the individual plan shall address:
 - a. Career advising;
 - b. ~~Course-based and/or non-course-based~~Recommended developmental education options;
 - c. Campus and/or community student-support services/resources;
 - d. Degree plan or plan of study;
 - e. Regular interactions between student and designated point of contact (e.g., ~~adviser~~advisor, faculty member, peer ~~and/or~~ community mentor, ~~and the like~~);etc.);
 - f. Registration for next semester/next steps; and
 - g. Differentiated placement.
2. Promote the most efficient and cost-effective developmental education options to increase the likelihood of the student's success in college-level courses and programs; institutions are strongly encouraged to assign students to non-course-based options where feasible.
- ~~2.3.~~ Provide to the student a description of the ~~appropriate~~-developmental education ~~considered necessary~~options and other resources and interventions recommended to ~~ensure~~increase

the ~~readiness of that~~ likelihood the student ~~to perform freshman~~ will succeed in entry-level and subsequent academic coursework and complete their selected program.

- ~~3-4.~~ Provide to the student an appropriate measure for determining readiness to perform freshman-level academic coursework, as described in 19 Administrative Code 4.59, ~~below~~.

Education Code 51.335(a), .336(a); 19 TAC 4.58(b)

Determination of Readiness

An institution shall determine when a student is ready to ~~per-~~ formenroll and succeed in entry-level ~~freshman~~ academic coursework using:

- ~~1. Developmental education coursework and/or intervention learning outcomes developed by the Coordinating Board based on the Texas College and Career Readiness Standards;~~
- ~~2.1.~~ Student performance on one or more ~~appropriate~~ TSI assessments, including scores resulting from a student's retaking of ~~the TSI~~ a Coordinating Board-approved assessment instru- ment; and
- ~~3. Student qualification for one~~ Developmental courses or ~~more~~ TSI exemptions as outlined in 19 Administrative Code 4.54.

~~As indicators of readiness, institutions shall consider, as appropriate:~~

- ~~4. Performance in~~ non-course-based developmental education.
- ~~5.2. Performance in appropriate nondevelopmental coursework, including successfully completed college-level coursework in a related field using AP scores, IB scores, CLEP scores, and/or grades earned through dual credit, as determined by the receiving institution~~ interventions.

An institution may enroll a non-exempt, undergraduate student who has not met the college readiness standard on the TSI assessment ~~and is not otherwise exempt~~ in an entry-level ~~freshman~~ academic course if the student is co-enrolled in developmental education, ~~as defined in 19 Administrative Code 4.53(7).~~ Successful completion of the entry-level ~~freshman~~ academic course ~~is with a grade of 'C' or better shall be~~ demonstration of the student's college readiness, for the corresponding subject area, as provided in 19 Administrative Code 4.54(c)(3), independent of ~~his/her~~ the student's performance in ~~co-enrolled~~ developmental courses or non-course-based developmental education interventions.

~~A student may retake an assessment instrument, subject to availability, at any time to determine readiness to perform entry-level freshman coursework.~~

An institution shall, as soon as practicable and feasible, indicate a student's readiness in reading, mathematics, and writing on the transcript of each student. Student readiness in mathematics is indicated as either:

1. Ready for any entry-level ~~freshman~~ mathematics coursework; or
2. Ready only for non-Algebra intensive courses, including MATH 1332/1342/1442 or their local equivalent.

Education Code 51.337; 19 TAC 4.59(a)-(b), (d)

Reporting

At the end of each semester, ~~the~~each institution shall report to the Coordinating Board the following information for each undergraduate ~~students~~student: social security number, semester credit hours, grade points earned, ethnicity, gender, date of birth, TSI status, initial assessment instrument, score on initial assessment, type of developmental education received for each area (reading, mathematics, writing), and grade in first related nondevelopmental course.

~~Institutions~~Each institution shall analyze and report to the Coordinating Board on the annual Developmental Education Program Survey (DEPS) the fiscal and/or instructional impacts of the following on student outcomes, along with other success-related topics as requested:

1. Technological delivery of developmental education courses that allows students to complete coursework;
2. Diagnostic assessments to determine a student's specific educational needs to allow for appropriate developmental instruction;
3. Modular developmental education course materials;
4. Use of tutors and instructional aides to supplement developmental education course instruction as needed for particular students;
5. Internal monitoring mechanisms used to identify a student's area(s) of academic difficulty; and
6. Periodic updates of developmental education course materials.

An institution of higher education that administers an assessment instrument to students under Education Code Chapter 51, Subchapter F-1, shall report to each school district from which assessed students graduated high school all available information regarding student scores and performance on the assessment instrument and student demographics.

Education Code 51.342; 19 TAC 4.60(a)-(b)

Exemptions for Certain Students

~~Any~~An institution shall not require a student who ~~has been determined to be~~ exempt in mathematics, reading, and/or writing ~~shall not be required~~to be assessed under 19 Administrative Code Chapter 4, Subchapter C, or to enroll in developmental coursework ~~and/or~~ interventions in the corresponding area of exemption. This limitation does not restrict an institution from advising a student to complete additional coursework or interventions to increase the likelihood of the student's success in completing the courses and program in which the student enrolls.

An institution must advise any student who is exempt from the TSI assessment who earns less than a 'C' in the student's first college-level course in the exempted content area of developmental education interventions available to the student to increase the likelihood that the student will succeed in subsequent college courses and complete their selected program, especially through non-course-based options.

19 TAC 4.54(e), .58(d)

Assessments

~~The following students~~For a period of five years from the date of testing, a student who achieves the passing standard on an assessment as set out below shall be deemed exempt from the requirements of ~~Administrative Code Title 19, including the TSI, whereby exempt students~~the Texas Success Initiative. The standards cannot be raised by institutions. An institution shall not ~~be required~~require an exempt student to provide any additional demonstration of college readiness and shall ~~be allowed~~allow an exempt student to enroll in anyan entry-level freshman academic course ~~as defined in 19 Administrative~~.

Education Code 51.338(b), (d), (h); 19 TAC 4.53(12); 54(b)

ACT

A student who has achieved the applicable standard below shall be deemed exempt:

~~SAT or ACT~~ Scores

~~1. For a period of five years from the date of testing, a student who is tested and performs at or above the following standards that cannot be raised by institutions:~~

~~a. ACT~~

1. ACT administered prior to February 15, 2023: composite score of 23 with a minimum of 19 on the English test shall be exempt for both the reading and writing sections of the TSI assessment, and/or 19 on the mathematics test shall be exempt for the mathematics section of the TSI assessment.
2. ACT administered on or after February 15, 2023: a combined score of 40 on the English and Reading (E+R) tests shall be exempt for both reading and writing or ELAR sections of the TSI assessment. A score of 22 on the mathematics test shall be exempt for the mathematics section of the TSI assessment. There is no composite score.
3. The use of scores from both the ACT administered prior to February 15, 2023, and the ACT administered after February 15, 2023, is allowable, as long as the benchmarks set forth in ~~paragraph (2)~~ [item 1b](#) are met.

[Education Code 51.338\(b\); 19 TAC 4.54\(b\)\(1\)\(A\)](#)

SAT

~~(1) SAT administered prior to March 5, 2016: a combined critical reading (formerly "verbal") and mathematics score of 1070 with a minimum of 500 on the critical reading test shall be exempt for both reading and writing sections of the TSI assessment; a combined critical reading (formerly "verbal") and mathematics score of 1070 with a minimum of 500 on the mathematics test shall be exempt for the mathematics section of the TSI assessment.~~

[A student who has achieved the applicable standard below shall be deemed exempt:](#)

1. SAT administered on or after March 5, 2016: a minimum score of 480 on the Evidenced-Based Reading and Writing (EBRW) test shall be exempt for both reading and writing sections of the TSI Assessment; A minimum score of 530 on the mathematics test shall be exempt for the mathematics section of the TSI Assessment. There is no [minimum](#) combined [EBRW and mathematics](#) score.
2. Mixing or combining scores from the SAT administered prior to March 5, 2016, and the SAT administered on or after March 5, 2016, is not allowable.

[Education Code 51.338\(b\); 19 TAC 4.54\(b\)\(1\)\(B\)](#)

High School Equivalency Examination	<u>A student who has achieved a</u> minimum score of 165 on the <u>GED</u> Mathematical Reasoning subject test shall be exempt for the mathematics section of the TSI Assessment. <u>A student who has achieved</u> a minimum score of 165 on the Reasoning Through Language Arts (RLA) subject test shall be exempt for the English Language Arts Reading (ELAR) section of the TSI Assessment. <u>Education Code 51.338(b), (h); 19 TAC 4.54(b)(1)(C)</u>
<u>GED:</u>	
<u>HiSET:</u>	<u>A</u> minimum score of 15 on the <u>HiSET</u> Mathematics subtest shall be exempt for <u>used to determine exemption on</u> the mathematics section of the TSI Assessment. <u>A student who has achieved</u> a minimum score of 15 on the Reading subtest and a minimum score of 15 on the Writing subtest, including a minimum score of 4 on the essay, shall be exempt for the ELAR section of the TSI Assessment. <u>Education Code 51.338(h); 19 TAC 4.54(b)(1)(D)</u> Education Code 51.338(b), (h); 19 TAC 4.54(a), (d)
<u>State STAAR</u> <u>End-of-Course</u> <u>Test</u> Assessments TAKS	1. For a period of five years from the date of testing, A student who is tested and performs at or above the following standards that cannot be raised by institutions: a. On the eleventh grade exit-level Texas Assessment of Knowledge and Skills (TAKS) with <u>achieves</u> a minimum scale score of 2200 on the mathematics section and/or a minimum scale score of 2200 on the English language arts section with a writing subsection score of at least 3, <u>score of 4000 on STAAR English III EOC</u> shall be exempt from the TSI assessment required under Title 19 for those corresponding sections; or b. STAAR end-of-course (EOC) adopted under Education Code 39.0238 for Algebra II and English III, as that section existed before repeal by H.B. 4545, Acts of the 87th Legislature, Regular Session, 2021, with a minimum Level 2 score of 4000 on the English III shall be exempt from the TSI assessment required under this title for both reading and writing, and <u>A student who achieves</u> a minimum Level 2 score of 4000 on the <u>STAAR</u> Algebra II EOC shall be exempt from the TSI assessment required under this title for the mathematics section. Education Code 51.338(e)-(d); 19 TAC 4.54(a)(3b)(1)(E)
<u>End-of-Course</u> <u>Assessments</u>	
<u>College-Level</u> <u>Experience</u>	2. A student who has graduated with an associate or baccalaureate degree <u>met one of the criteria below shall be exempt</u> from an institution of higher education. 3. A student who transfers to an institution from a public, private, or independent institution of higher education or an accredited

~~out-of-state institution of higher education and who has satisfactorily completed~~ the requirements of the TSI for the respective content area in which they have demonstrated college-level coursework as determined by the receiving institution.

4. ~~A student who has previously attended any institution and has been determined to have met readiness standards by that institution. For students meeting non-Algebra intensive readiness standards in mathematics as defined in 19 Administrative Code 4.59 (relating to determination of readiness to perform entry-level freshman coursework), institutions may choose to require additional preparatory coursework/interventions for Algebra intensive courses, including MATH 1314/1324/1414 or their local equivalent. It is the institution's responsibility to ensure that students are clearly informed of the consequences of successful completion of a mathematics pathways model which results in meeting the mathematics college readiness standard only for specific entry-level freshman mathematics courses.~~

5. ~~A student who is enrolled in a certificate program of one year or less (Level One certificates, 42 or fewer semester credit hours or the equivalent) at a public junior college, a public technical institute, or a public state college.~~

~~Education Code 51.332(1)-(3);~~ 19 TAC 4.54(a)

College Prep Courses

A student who successfully completes a college preparatory course under Education Code 28.014 is exempt for a period of 24 months from the date of high school graduation with respect to the content area of the course. ~~The student must enroll in the student's first college-level course in the exempted content area in the student's first year of enrollment in an institution of higher education. This exemption applies only at the institution of higher education that partners with the school district in which the student is enrolled to provide the course. Additionally, an institution of higher education may enter into a Memorandum of Understanding with a partnering institution of higher education to accept the exemption for the college preparatory course.~~ under the following conditions:

1. ~~Students with a TSI exemption for a college preparatory course who earn less than a C~~ The student enrolls in the student's first college-level course in the exempted content area must be advised in the student's first year of enrollment in an institution of higher education; and
2. The student enrolls at the institution of higher education:
 - a. That partnered with the school district in which the student is enrolled to provide the course, or

- b. With an institution that deems the student TSI-met based on the completion of a course that meets the requirements of 19 Administrative Code 4.54(c)(1).

A student receiving an exemption under this provision must enroll in a college-level course in the exempted content area during the student's first year of enrollment at an institution of higher education occurring after the student qualifies for the exemption. If the student earns a grade below a "C" for the course, the institution shall advise the student of non-course-based options for ~~becoming~~attaining college ~~ready~~readiness, such as tutoring or accelerated learning.

Education Code 51.338(e)-(f); 19 TAC 4.54(a), ~~58(ec)~~(1)

Previous
Enrollment

A student shall be exempt if the student has previously attended any public, private, or independent institution of higher education or an accredited out-of-state institution of higher education and:

~~Military
Experience~~

- ~~1. A student who is serving on active duty as a member of the armed forces of the United States, the Texas National Guard, or for at least the three-year period preceding enrollment, as a member of a reserve component of the armed forces of the United States; or~~
- ~~2. A student who on or after August 1, 1990, was honorably discharged, retired, or released from active duty as a member of the armed forces of the United States or the Texas National Guard or service as a member of a reserve component of the armed forces of the United States.~~

~~Education Code 51.332(4)-(5); 19 TAC 4.54(a)~~

1. Has met college readiness standards in mathematics, reading, or writing as determined by the receiving institution; or
2. Has satisfactorily completed college-level coursework in mathematics, reading, or writing with a grade of 'C' or better, including a high school student who has earned college credit for a dual credit course or a college connect course offered under 19 Administrative Code 4.86 with a grade of 'C' or better.

19 TAC 4.54(c)

Texas First

A student shall be exempt if the student has earned the Texas First Diploma under 19 Administrative Code Chapter 21, Subchapter D. 19 TAC 4.54(c)

Not Seeking a
Credential

An institution ~~of higher education~~ may exempt a non-degree-seeking or non-certificate-seeking student; not otherwise exempt. *Education Code 51.338(a); 19 TAC 4.54(bd)*

ESOL Waiver	An institution may grant a temporary waiver from the required assessment for students with demonstrated limited English proficiency in order to provide appropriate English Speakers of Other Languages/English as a Second Language (ESOL/ESL) coursework and interventions. The waiver must be removed after the student attempts 15 credit hours of developmental ESOL coursework at a public junior college or prior to enrolling in entry-level fresh- man <u>academic</u> coursework, whichever comes first, at which time the student would be administered <u>assessed by</u> the <u>institution with a Coordinating Board-approved</u> TSI assessment. Funding limits as defined in Education Code 51.340 for developmental education still apply. Developmental education is not available for high school students. 19 TAC 4.54(c)
<u>Students with Disabilities</u>	<u>Each institution shall apply all state and federal laws pertaining to individuals with disabilities when assessing and advising such students. 19 TAC 4.58(c)</u>
<u>Mathematics Pathway Students</u>	<u>An institution must inform a student enrolled in a mathematics pathway model (e.g., New Mathways Project, modular/Emporium models, etc.) that successful completion of this model will result in meeting the mathematics college readiness standard only for specific college credit courses. The institution must also inform the student that changing degree plans may require the student to complete additional developmental education support or non-course-based developmental education interventions. 19 TAC 4.61(d)</u>
Student Privacy	Institutions of higher education, including college districts, must ensure that the Texas Success Initiative <u>TSI and the collection and release of any related data</u> is administered in a manner that complies with federal law regarding confidentiality of student medical or educational information, including the Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. 1320d et seq., the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g, and any state law relating to the privacy of student information. <u>[See FJ] 19 TAC 4.63</u> 62

Note: For complaints of discrimination, harassment, and retaliation on the basis of sex or gender, see FFDA. For all other discrimination, harassment, and retaliation complaints related to this policy, see FFDB.

Title IX

A recipient which receives federal financial assistance shall not discriminate against any student, or exclude any student from its education program or activity, including any class or extracurricular activity, on the basis of such student's pregnancy, childbirth, false pregnancy, termination of pregnancy or recovery therefrom, unless the student requests voluntarily to participate in a separate portion of the program or activity of the recipient.

A recipient may require such a student to obtain the certification of a physician that the student is physically and emotionally able to continue participation so long as such a certification is required of all students for other physical or emotional conditions requiring the attention of a physician.

A recipient which operates a portion of its education program or activity separately for pregnant students, admittance to which is completely voluntary on the part of the student as provided in this section, shall ensure that the separate portion is comparable to that offered to non-pregnant students.

A recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy, and recovery therefrom in the same manner and under the same policies as any other temporary disability with respect to any medical or hospital benefit, service, plan, or policy which such recipient administers, operates, offers, or participates in with respect to students admitted to the recipient's educational program or activity.

In the case of a recipient which does not maintain a leave policy for its students, or in the case of a student who does not otherwise qualify for leave under such a policy, a recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery therefrom as a justification for a leave of absence for so long a period of time as is deemed medically necessary by the student's physician, at the conclusion of which the student shall be reinstated to the status which she held when the leave began.

34 C.F.R. 106.40(b)

State Law

Protections for
Pregnant and
Parenting Students

In addition to the discrimination protections provided to pregnant or parenting students pursuant to Title IX of the Education Amendments of 1972, 20 U.S.C. Section 1681 et seq., institutions, including college districts, shall provide pregnant or parenting students the additional protections as set forth in this section. To the extent a student is afforded protections by both federal law and these rules, a student shall be entitled to the most liberal benefit available by these rules and federal law.

An institution of higher education, ~~including a college district~~, may not require a pregnant or parenting student, solely because of the student's status as a pregnant or parenting student or due to issues related to the student's pregnancy or parenting, to:

1. Take a leave of absence or withdraw from the student's degree or certificate program;
2. Limit the student's studies;
3. Participate in an alternative program;
4. Change the student's major, degree, or certificate program; or
5. Refrain from joining or cease participating in any course, activity, or program at the institution.

~~An institution of higher education shall allow a pregnant or parenting student to:~~

- ~~1. Take a leave of absence; and~~
- ~~2. If in good academic standing at the time the student takes a leave of absence, return to the student's degree or certificate program in good academic standing without being required to reapply for admission.~~

"Parenting student" means a student who is the parent or legal guardian of a child under 18 years of age.

Education Code 51.982(a)(2), (b), ~~(e)~~; 19 TAC 4.372(2)

*Early Registration
for Parenting
Students*

If an institution ~~of higher education~~ provides early registration or pre-registration for courses or programs ~~at the institution for to~~ any group of students, then the institution shall ~~provide~~:

1. Provide a parenting student who meets said definition at the start of the semester registration period with equal access to early registration for those courses or programs for pre-registration; and

2. Provide a parenting ~~students in the same manner.~~ student information on their eligibility for early registration or pre-registration.

Education Code 51.983(b); 19 TAC 4.373

*Additional
Accommodations
Leave of
Absence for
Pregnant or
Parenting
Students*

~~An institution of higher education shall provide~~An institution shall permit but not require a parenting or pregnant student to take a leave of absence related to a student's pregnancy or parenting status for a minimum of one semester without a showing of medical need.

An institution shall make every reasonable effort to facilitate leave for pregnant and parenting students within their degree program's curriculum and accreditation requirements. A student taking a leave of absence under this section may be taken with the advanced approval of the student's department or the designated office(s) by the institution.

An institution shall implement policies and procedures to ensure that the student is informed of possible impacts to their financial aid or scholarships. These institutional policies and procedures should encourage that students meet with the financial aid office before a student takes a leave of absence, where possible.

An institution shall ensure that a student in good academic standing at the time a leave of absence commences may return to their degree or certificate program in good academic standing not be required to reapply for admission so long as the program still exists at the institution and the program would still meet accreditation standards. The institution may require that the student fulfills revised requirements of the program if the program in effect when the student returns has changed.

Education Code 51.982(e); 19 TAC 4.375(c)

*Additional
Accommodation
Related to a
Student's
Pregnancy,
Childbirth, or
Resulting
Condition*

An institution shall excuse absences related to a student's pregnancy or childbirth without a doctor's certification that such absence is necessary for the greater of three school days in a term or semester or the maximum number of excused absences that the institution would grant to another student enrolled in the same course for any reason. Notwithstanding that provision, an institution may ensure that the total number of excused absences does not result in a fundamental alteration to an essential program requirement or conflict with federal law or accreditation standards.

An institution shall allow a student a reasonable time to make up or complete any assignments or assessments due to such an excused absence consistent with the institution's policy regarding excused absences and make up work.

An institution shall provide a student with access to all course materials that are made available to a student with a temporary medical condition. This may include instructional materials, laboratory access, and recordings of class lectures, depending on the circumstances.

An institution shall provide any other reasonable accommodations to a pregnant student, including accommodations that:

1. Would be provided to a student with a temporary medical condition; or
2. Are related to the health and safety of the student and the student's unborn child, ~~such as allowing the student to maintain a safe distance from substances, areas, and activities known to be hazardous to pregnant women or unborn children.~~

~~An institution of higher education shall, for reasons related to a student's pregnancy, childbirth, or any resulting medical status or condition:~~

- ~~1. Excuse the student's absence;~~
- ~~2. Allow the student to make up missed assignments or assessments;~~
- ~~3. Allow the student additional time to complete assignments in the same manner as the institution allows for a student with a temporary medical condition; and~~
- ~~4. Provide the student with access to instructional materials and video recordings of lectures for classes for which the student has an excused absence under this section to the same extent that instructional materials and video recordings of lectures are made available to any other student with an excused absence.~~

Education Code 51.982(c)-(d); 19 TAC 4.375(b)

*Policy and
Procedures
Required*

Each institution of higher education shall adopt a policy for students on pregnancy and parenting discrimination. The policy must:

1. Include the contact information for the employee or office of the institution that is the designated point of contact for a student requesting each protection or accommodation under this section;
2. Be posted in an easily accessible, straightforward format on the institution's internet website; and
3. Be made available annually to faculty, staff, and employees of the institution.

Education Code 51.982(f)

*Coordinating
Board Rules*

~~The Coordinating Board, in consultation with institutions of higher education, shall adopt rules as necessary to administer this section. The rules must establish minimum periods for which a pregnant or parenting student must be given a leave of absence under Education Code 51.982(e). In establishing these periods, the board shall consider the maximum amount of time a student may be absent without significantly interfering with the student's ability to complete the student's degree or certificate program. Education Code 51.982(g)~~

Parenting Student
Liaison

~~Each~~An institution ~~of higher education, including each college district, shall~~ is required to designate ~~at least~~a minimum of one employee ~~of the institution to~~ actserve as a liaison officer for current or incoming students at the institution who are the parent or guardian of a child younger than 18 years of age. The liaison officer ~~or officers~~ shall provide ~~to the students~~a parenting student information ~~regarding support services on~~ and otheraccess to resources ~~available~~designed ~~to the students at the institution, including~~ assist in their successful and timely degree or certificate completion. Such resources include:

- ~~1. Resources to access~~ Medical and behavioral health coverage and services ~~and public~~;
- ~~1.2. Public health~~ benefit programs, including programs related to food security, affordable housing, and housing subsidies;
- ~~2.3. Parenting and child-care resources;~~
- ~~3.4. Employment assistance;~~
- ~~4.5. Transportation assistance;~~
- ~~5.6. Student~~ Academic success ~~strategies~~services; and
- ~~7. Any~~ Other resources ~~developed~~provided by the institution.

An institution shall not condition student access to assist the liaison officer or officers or any resources on the student being required to consent to the release of their personally identifiable information. Any such consent must be voluntary.

The institution shall post contact information for the liaison officer or officers and maintain that information on the institution's website in a manner that is readily available to current or incoming students at the institution who are the parent or guardian of a child younger than 18 years of age.

Education Code 51.9357(b)); 19 TAC 4.374

Report on Parenting
Students

Not later than May 1 of each academic year, [in the manner required by the Coordinating Board](#), an institution of higher education shall submit to the Coordinating Board a report that contains the following information regarding students enrolled at the institution for the current academic year who are the parent or guardian of a child younger than 18 years of age:

1. The number of those students;
2. Demographic data, including age, race, sex, and ethnicity;
3. Academic data, including full-time or part-time enrollment status and graduation, transfer, and withdrawal rates; and
4. Other data as prescribed by Coordinating Board rule.

Education Code 51.9357(c); [19 TAC 4.376](#)

Common Admission Application Forms

Apply Texas
System

Public community colleges, public state colleges, and public technical institutes shall accept freshman and undergraduate transfer applications submitted using the electronic common admission application forms. When sending a printed common application form to a student with or without other materials, an institution shall not alter the form in any way and shall include instructions for completing the form, general application information, and instructions for accessing a list of deadlines for all institutions.

Each general academic teaching institution, public community college, public state college, and public technical institute shall collect information regarding gender, race/ethnicity, and date of birth as part of the application process and report this information to the Coordinating Board. Common application forms do not have to be the source of those data.

Institutions of higher education may require an applicant to submit additional information within a reasonable time after the institution has received a common application form.

Participating institutions may charge a reasonable fee for the filing of a common application form. Operating costs of the system ~~will~~may be paid for by all institutions required to use the common application plus independent and health-related institutions that contract to use the electronic application, in accordance with 19 Administrative Code 4.10(h). Institutions failing to pay their share of the cost by the due date may be denied access to incoming application data until such time that payments are received.

Education Code 51.762; 19 TAC 4.10(a)-(c), (e)(2)-(3), (h)

Right to an Academic Fresh Start

Unless otherwise prohibited by law, a resident of this state is entitled to apply for admission to and enroll as an undergraduate student in any public institution of higher education, including a college district, under Education Code 51.931.

If an applicant elects to seek admission under this section, a public institution of higher education, in considering the applicant for admission, shall not consider academic course credits or grades earned by the applicant ~~ten~~10 or more years prior to the starting date of the semester in which the applicant seeks to enroll. An applicant who makes the election to apply under this section and is admitted as a student may not receive any course credit for courses undertaken ~~ten~~10 or more years prior to enrollment.

Nothing in this section prohibits a public institution of higher education from applying standard admissions criteria generally applicable to persons seeking admission to the institution.

Education Code 51.931(b)-(c), (e)

**Students with
Nontraditional
Secondary
Education**

“Nontraditional secondary education” means a course of study at the secondary school level in a nonaccredited private school setting, including a home school.

Because the State of Texas considers successful completion of a nontraditional secondary education to be equivalent to graduation from a public high school, an institution of higher education, including a college district, must treat an applicant for admission to the institution as an undergraduate student who presents evidence that the person has successfully completed a nontraditional secondary education according to the same general standards, including specific standardized testing score requirements, as other applicants for undergraduate admission who have graduated from a public high school.

An institution of higher education may not require an applicant for admission to the institution as an undergraduate student who presents evidence that the person has successfully completed a nontraditional secondary education to:

1. Obtain or submit evidence that the person has obtained a general education development certificate, certificate of high school equivalency, or other credentials equivalent to a public high school degree; or
2. Take an examination or comply with any other application or admission requirement not generally applicable to other applicants for undergraduate admission to the institution.

If an institution of higher education in its undergraduate admission review process sorts applicants by high school graduating class rank, the institution shall place any applicant who presents evidence that the applicant has successfully completed a nontraditional secondary education that does not include a high school graduating class ranking at the average high school graduating class rank of undergraduate applicants to the institution who have equivalent standardized testing scores as the applicant.

Education Code 51.9241

**Veterans, Spouses,
and Dependents**

In determining whether to admit a person to any certificate program or professional degree program, an institution of higher education, including a college district, may not consider the fact that the person is eligible for an exemption under Education Code 54.341 (Veterans and Other Military Personnel; Dependents). *Education Code 54.341(j)*

Immunization Notice

An institution of higher education, including a college district, in conjunction with the Texas Department of State Health Services,

should provide individual notice to each student applying for admission regarding:

1. The consequences of not being current on immunization for certain diseases;
2. The age groups most vulnerable to these vaccine-preventable diseases; and
3. Local providers of immunization services.

Education Code 51.933; 25 TAC 97.64(a), (d)

Note: For information regarding immunization requirements that apply to applicants for admission, see FFAA.

Foreign Students
SEVIS System

A school or school system, including a college district, seeking initial or continued authorization for attendance by a nonimmigrant, alien student holding an F visa (academic institutions), J visa (exchange student program), or M visa (vocational and nonacademic institutions), including a “border commuter” student holding an F-3 or M-3 visa (Canadian and Mexican nationals), must apply to the U.S. Attorney General for approval under 8 U.S.C. 1372 and 8 C.F.R. 214.3.

A school must also submit electronic data regarding nonimmigrant students through the Student and Exchange Visitor Information System (SEVIS). A school shall provide the information set forth at 8 U.S.C. 1372(c) and 8 C.F.R. 214.3(g), regarding each student with an F, J, or M visa. Schools must update SEVIS with the current information within 21 days of a change in the information or the occurrence of events described in 8 C.F.R. 214.3(g)(2).

8 U.S.C. 1372; 8 C.F.R. 214.3(a)(1), (g)-(h)

Not later than 30 days after the deadline for registering for classes for an academic term of an approved institution of higher education or other approved educational institution for which documentation is issued for an alien, or the scheduled commencement of participation by an alien in a designated exchange visitor program, as the case may be, the institution or program, respectively, shall report to the Immigration and Naturalization Service any failure of the alien to enroll or to commence participation. *8 U.S.C. 1372(a)(4); 8 C.F.R. 214.3(g)(2)*

An educational agency or institution may not refuse to report information concerning an F or M nonimmigrant student or a J nonimmigrant exchange visitor that the educational agency or institution is required to report under 8 U.S.C. 1372 and 8 C.F.R. 214.3(g) (or

any corresponding U.S. Department of State regulation concerning J nonimmigrants) on the basis of the Family Educational Rights and Privacy Act (FERPA) and any regulation implementing FERPA. The waiver of FERPA under this paragraph authorizes and requires an educational agency or institution to report information concerning an F, J, or M nonimmigrant that would ordinarily be protected by FERPA but only to the extent that 8 U.S.C. 1372 and 8 C.F.R. 214.3(g) (or any corresponding U.S. Department of State regulation concerning J nonimmigrants) requires the educational agency or institution to report information. *8 U.S.C. 1372(c)(2); 8 C.F.R. 214.1(h)*

Readmission After Military Service

This section applies only to a student who withdraws from an institution of higher education, including a college district, to perform active military service as a member of the U.S. Armed Forces or the Texas National Guard, except that this section does not apply to a student who withdraws from an institution solely to perform one or more training exercises as a member of the Texas National Guard.

For any academic term that begins after the date a student described above is released from active military service but not later than the first anniversary of that date, the institution of higher education from which the student withdrew shall readmit the student, without requiring reapplication or charging a fee for readmission, if the student is otherwise eligible to register for classes at the institution. On readmission of the student, the institution shall:

1. Provide to the student any financial assistance previously provided by the institution to the student before the student's withdrawal if the student meets current eligibility requirements for the assistance, other than any requirement directly affected by the student's services, such as continuous enrollment or another similar timing requirement; and
2. Allow the student the same academic status that the student had before the student's withdrawal, including any course credit awarded to the student by the institution.

An institution of higher education may adopt rules requiring reasonable proof from a student of the fact and duration of the student's active military service.

Education Code 51.9242

Persons with Disabilities

Qualified persons may not, on the basis of disability, be denied admission or be subjected to discrimination in admission or recruitment by a postsecondary education program or activity to which 34 C.F.R. Part 104, Subpart E, applies. *34 C.F.R. 104.42(a)*

**Notice of Penalty for
False Alarm or
Report**

Each institution of higher education, including each college district, and private or independent institution of higher education shall notify all incoming students, as soon as practicable, of the penalty for the offense under Penal Code 42.06 of making a false alarm or report involving a public or private institution of higher education. *Education Code 51.219(b)*

**Discrimination on
the Basis of
Disability**

In providing physical education courses and athletics and similar aid, benefits, or services to any of its students, a recipient to which 34 C.F.R. Part 104, Subpart E, applies, including a college district, may not discriminate on the basis of disability. A recipient that offers physical education courses or operates or sponsors intercollegiate, club, or intramural athletics shall provide to qualified students with disabilities an equal opportunity for participation in these activities.

A recipient may offer to students with disabilities physical education and athletic activities that are separate or different only if separation or differentiation is consistent with the requirements of offering the most integrated setting appropriate and only if no qualified student with disabilities is denied the opportunity to compete for teams or to participate in courses that are not separate or different.

34 C.F.R. 104.43(d), .47(a)

**Discrimination on
the Basis of Sex**

No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, be treated differently from another person, or otherwise be discriminated against in any interscholastic, intercollegiate, club or intramural athletics offered by a recipient of federal funding, and no recipient shall provide any such athletics separately on such basis.

Notwithstanding the requirements above, a recipient may operate or sponsor separate teams for members of each sex where selection for such teams is based upon competitive skill or the activity involved is a contact sport. However, where a recipient operates or sponsors a team in a particular sport for members of one sex but operates or sponsors no such team for members of the other sex, and athletic opportunities for members of that sex have previously been limited, members of the excluded sex must be allowed to try-out for the team offered unless the sport involved is a contact sport. For the purposes of this part, contact sports include boxing, wrestling, rugby, ice hockey, football, basketball, and other sports the purpose or major activity of which involves bodily contact.

A recipient that operates or sponsors interscholastic, intercollegiate, club, or intramural athletics shall provide equal athletic opportunity for members of both sexes. In determining whether equal opportunities are available, the U.S. Department of Education Office of Civil Rights (OCR) will consider, among other factors:

1. Whether the selection of sports and levels of competition effectively accommodate the interests and abilities of members of both sexes;
2. The provision of equipment and supplies;

3. Scheduling of games and practice time;
4. Travel and per diem allowance;
5. Opportunity to receive coaching and academic tutoring;
6. Assignment and compensation of coaches and tutors;
7. Provision of locker rooms, practice, and competitive facilities;
8. Provision of medical and training facilities and services;
9. Provision of housing and dining facilities and services; and
10. Publicity.

Unequal aggregate expenditures for members of each sex or unequal expenditures for male and female teams if a recipient operates or sponsors separate teams will not constitute noncompliance with this section, but OCR may consider the failure to provide necessary funds for teams for one sex in assessing equality of opportunity for members of each sex.

34 C.F.R. 106.41

Participation

An intercollegiate athletic team sponsored or authorized by an institution of higher education, including a college district, may not allow:

1. A student to compete on the team in an intercollegiate athletic competition sponsored or authorized by the institution that is designated for the biological sex opposite to the student's biological sex; or
2. A male student to compete on the team in a mixed-sex intercollegiate athletic competition sponsored or authorized by the institution in a position that is designated by rule or procedure for female students.

For purposes of this section:

1. A student's biological sex is the biological sex correctly stated on:
 - a. The student's official birth certificate, as described by item 2; or
 - b. If the student's official birth certificate described by item 1a is unobtainable, another government record that accurately states the student's biological sex; and

2. A statement of a student's biological sex on the student's official birth certificate is considered to have correctly stated the student's biological sex only if the statement was:
 - a. Entered at or near the time of the student's birth; or
 - b. Modified to correct a scrivener or clerical error in the student's biological sex.

"Athletic competition" means any athletic display between teams or individuals, such as a contest, exhibition, performance, or sport.

Education Code 51.980(a)-(b), (d); 19 TAC 4.351(2), .352

Exception

An intercollegiate athletic team described above may allow a female student to compete in an intercollegiate athletic competition that is designated for male students if a corresponding intercollegiate athletic competition designated for female students is not offered or available. *Education Code 51.980(c); 19 TAC 4.352*

Retaliation Prohibited

An institution of higher education or an intercollegiate athletic team described above may not retaliate against a person for reporting a violation of this section. *Education Code 51.980(e); 19 TAC 4.352*

Confidentiality and Privacy

Nothing in 19 Administrative Code Chapter 4, Subchapter V, limits or waives the protection of confidential student information, including but not limited to student educational records or student medical information under state or federal law, including Health and Safety Code Chapter 181, the Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. Section 1320d et seq., Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. Section 1232g, 34 C.F.R. Part 99, or birth certificate records under state law. 19 TAC 4.353

Athlete Agents

"Institution of higher education" means an institution of higher education or a private or independent institution of higher education, as defined by Education Code 61.003, including a community college, that is a member of a national association for the promotion and regulation of intercollegiate athletics. *Occupations Code 2051.001(5)*

Compliance Coordinator

An institution of higher education shall designate an individual to serve as a compliance coordinator for that institution and report the name of the compliance coordinator to the secretary of state in a manner prescribed by the secretary. *Occupations Code 2051.253*

Compliance Standards

An institution of higher education shall adopt standards relating to the implementation of Occupations Code Chapter 2051, including specific guidelines governing the athlete agent interview program sponsored by the institution under Occupations Code 2051.301.

The guidelines relating to the athlete agent interview program must specify:

1. The scheduling of interview periods;
2. The duration of an interview period;
3. The location on the institution's campus for conducting interviews; and
4. Any terms or conditions under which an athlete agent may contact an athlete during an interview period.

After adopting implementation standards under Occupations Code 2051.251, an institution of higher education shall:

1. Submit the standards to the institution's athletic council or other analogous body for approval; and
2. File a copy of the approved standards with the secretary of state not later than the 30th day after the date the standards are approved.

If an institution of higher education amends the implementation standards, the institution shall, not later than the 30th day after the date the amendment is effective, file a copy of the amended standards with the secretary.

On receipt of a written request from a registered athlete agent, the secretary of state or a compliance coordinator designated under Occupations Code 2051.253 shall provide a copy of the implementation standards adopted by an institution of higher education.

Occupations Code 2051.251-.252, .254

Interview Program

Each institution of higher education shall sponsor an athlete agent interview program on the institution's campus. An athlete agent interview program may not continue for more than 30 consecutive business days as determined by the athlete's institution of higher education and must be conducted during the off-season period before the completion of the athlete's final year of eligibility.

Each compliance coordinator shall:

1. Establish the schedule for the athlete agent interview program sponsored under Section 2051.301 by the coordinator's institution of higher education;
2. Not later than the 30th day before the date on which the athlete agent interview program begins, notify each registered athlete agent, in writing, of the interview program, unless the

secretary of state provides notification under Section 2051.301(c); and

3. Ensure that the coordinator's institution of higher education and the athletes attending the institution comply with this chapter and the rules adopted under Occupations Code Chapter 2051.

Occupations Code 2051.301(a), (c), .302-.303

Reporting

Athletic Program Participation Rates and Financial Support Data

A co-educational institution of higher education, including a college district, that participates in any Title IV, Higher Education Act (HEA) program and has an intercollegiate athletic program must annually, for the preceding reporting year, prepare a report that contains the following information:

1. The number of male and the number of female full-time undergraduate students who attended the institution.
2. A listing of the varsity teams that competed in intercollegiate athletic competition and for each team the following data:
 - a. The total number of participants as of the day of its first scheduled contest of the reporting year, the number of participants who also participated on another varsity team, and the number of other varsity teams on which they participated.
 - b. Total operating expenses attributable to the team, except that an institution may report combined operating expenses for closely related teams, such as track and field or swimming and diving. Those combinations must be reported separately for men's and women's teams.
 - c. In addition to the data required by item b, an institution may report operating expenses attributable to the team on a per-participant basis.
 - d. Whether the head coach was male or female, was assigned to the team on a full-time or part-time basis, and, if assigned on a part-time basis, whether the head coach was a full-time or part-time employee of the institution. The institution must consider graduate assistants and volunteers who served as head coaches to be head coaches for the purposes of this report.
 - e. The number of assistant coaches who were male and the number of assistant coaches who were female, and, within each category, the number who were assigned to the team on a full-time or part-time basis, and, of those

assigned on a part-time basis, the number who were full-time and part-time employees of the institution. The institution must consider graduate assistants and volunteers who served as assistant coaches to be assistant coaches for purposes of this report.

3. The unduplicated head count of the individuals who were listed under item 2a as a participant on at least one varsity team, by gender.
4. Revenues derived by the institution, in accordance with 34 C.F.R. 668.47(c)(4).
5. Expenses incurred by the institution, in accordance with 34 C.F.R. 668.47(c)(5).
6. The total amount of money spent on athletically-related student aid, including the value of waivers of educational expenses, aggregately for men's teams, and aggregately for women's teams.
7. The ratio of athletically-related student aid awarded male athletes to athletically-related student aid awarded female athletes.
8. The total amount of recruiting expenses incurred, aggregately for all men's teams, and aggregately for all women's teams.
9. The average annual institutional salary of the non-volunteer head coaches of all men's teams, across all offered sports, and the average annual institutional salary of the non-volunteer head coaches of all women's teams, across all offered sports, on a per person and a per full-time equivalent position basis. These data must include the number of persons and full-time equivalent positions used to calculate each average. If a head coach has responsibilities for more than one team and the institution does not allocate that coach's salary by team, the institution must divide the salary by the number of teams for which the coach has responsibility and allocate the salary among the teams on a basis consistent with the coach's responsibilities for the different teams.
10. The average annual institutional salary of the non-volunteer assistant coaches of men's teams, across all offered sports, and the average annual institutional salary of the non-volunteer assistant coaches of women's teams, across all offered sports, on a per person and a full-time equivalent position basis. These data must include the number of persons and full-time equivalent positions used to calculate each average.

If an assistant coach had responsibilities for more than one team and the institution does not allocate that coach's salary by team, the institution must divide the salary by the number of teams for which the coach has responsibility and allocate the salary among the teams on a basis consistent with the coach's responsibilities for the different teams.

34 C.F.R. 668.47(a), (c)

Availability

An institution of higher education must, not later than October 15 of each year, make available to enrolled students, prospective students, and the public, the report. The institution must make the report easily accessible to students, prospective students, and the public and must provide the report promptly to anyone who requests it.

The institution must provide notice to all enrolled students, pursuant to 34 C.F.R. 668.41(c)(1) [see AFA], and prospective students of their right to request the report. If the institution chooses to make the report available by posting the disclosure on an internet website or an intranet website, it must provide in the notice the exact electronic address at which the report is posted, a brief description of the report, and a statement that the institution will provide a paper copy of the report on request. For prospective students, the institution may not use an intranet website for this purpose.

34 C.F.R. 668.41(g)(1)

Submission

An institution must submit the report to the U.S. Secretary of Education within 15 days of making it available to students, prospective students, and the public. *34 C.F.R. 668.41(g)(2)*

Completion or
Transfer-Out Rates
for Student Athletes

Annually, by July 1, an institution that is attended by students receiving athletically-related student aid must produce a report containing the information described at 34 C.F.R. 668.48. [See EGC] *34 C.F.R. 668.48(a)*

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**Section I: Public
Information
Generally**

It is the policy of this state that each person is entitled, unless otherwise expressly provided by law, at all times to complete information about the affairs of government and the official acts of public officials and employees.

Access to public information is addressed by the Public Information Act (PIA), Government Code Chapter 552. The PIA shall be liberally construed in favor of granting a request for information.

Gov't Code 552.001

Definitions

*Public
Information*

"Public information" means information that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

1. By a governmental body, including a college district board of trustees;
2. For a governmental body and the governmental body:
 - a. Owns the information;
 - b. Has a right of access to the information; or
 - c. Spends or contributes public money for the purpose of writing, producing, collecting, assembling, or maintaining the information; or
3. By an individual officer or employee of a governmental body in the officer's or employee's official capacity and the information pertains to official business of the governmental body.

The definition of "public information" applies to and includes any electronic communication created, transmitted, received, or maintained on any device if the communication is in connection with the transaction of official business.

Information is in connection with the transaction of official business if the information is created by, transmitted to, received by, or maintained by an officer or employee of the governmental body in the officer's or employee's official capacity, or a person or entity performing official business or a governmental function on behalf of a governmental body, and pertains to official business of the governmental body.

Gov't Code 552.002(a)-(a-2)

Official Business

"Official business" means any matter over which a governmental body has any authority, administrative duties, or advisory duties.
Gov't Code 552.003(2-a)

Availability of Public Information	Public information is available to the public at a minimum during the normal business hours of the governmental body. <i>Gov't Code 552.021</i>
Information That Must Be Disclosed Unless Confidential Under Law	<p>Without limiting the amount or kind of information that is public information under the PIA, the following categories of information are public information and not excepted from required disclosure unless made confidential under the PIA or other law:</p> <ol style="list-style-type: none"> 1. A completed report, audit, evaluation, or investigation made of, for, or by the governmental body, except by provided in Government Code 552.108. 2. The name, sex, ethnicity, salary, title, and dates of employment of each employee and officer of a governmental body. 3. Information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by a governmental body. 4. The name of each official and the final record of voting on all proceedings of the board. 5. All working papers, research material, and information used to estimate the need or expenditure of public funds or taxes by a governmental body, on completion of the estimate. 6. The name, place of business, and the name of the municipality to which local sales and use taxes are credited, if any, for the named person, of a person reporting or paying sales and use taxes under Tax Code Chapter 151. 7. A description of an agency's central and field organizations, including the established places at which the public may obtain information, submit information or requests, and obtain decisions; the employees from whom the public may obtain information, submit information or requests, or obtain decisions; and the methods by which the public may obtain information, submit information or requests, or obtain decisions. 8. A statement of the general course and method by which an agency's functions are channeled and determined, including the nature and requirements of all formal and informal policies and procedures. 9. A rule of procedure, description of forms available or the places at which forms may be obtained, and instructions relating to the scope and content of all papers, reports, or examinations.

10. A substantive rule of general applicability adopted or issued by an agency as authorized by law, and a statement of general policy or interpretation of general applicability formulated and adopted by an agency.
11. Each amendment, revision, or repeal of information described in items 7-10.
12. Final opinions, including concurring and dissenting opinions, and orders issued in the adjudication of cases.
13. A policy statement or interpretation that has been adopted or issued by an agency.
14. Administrative staff manuals and instructions to staff that affect a member of the public.
15. Information regarded as open to the public under an agency's policies.
16. Information that is in a bill for attorney's fees and that is not privileged under the attorney-client privilege.
17. Information that is also contained in a public court record.
18. A settlement agreement to which a governmental body is a party.

Gov't Code 552.022

*Contracts for
Lobbying
Services*

Information related to contracts for lobbying services required to be displayed on a political subdivision's internet website under Government Code 2254.030 is public information subject to disclosure under the PIA. *Gov't Code 2254.030(c)*

*Contracting
Information*

Contracting information is public and must be released unless excepted from disclosure under the PIA.

"Contracting information" means the following information maintained by a governmental body or sent between a governmental body and a vendor, contractor, potential vendor, or potential contractor:

1. Information in a voucher or contract relating to the receipt or expenditure of public funds by a governmental body;
2. Solicitation or bid documents relating to a contract with a governmental body;
3. Communications sent between a governmental body and a vendor, contractor, potential vendor, or potential contractor during the solicitation, evaluation, or negotiation of a contract;

4. Documents, including bid tabulations, showing the criteria by which a governmental body evaluates each vendor, contractor, potential vendor, or potential contractor responding to a solicitation and, if applicable an explanation of why the vendor or contractor was selected; and
5. Communications and other information sent between a governmental body and a vendor or contractor related to the performance of a final contract with the governmental body or work performed on behalf of the governmental body.

Gov't Code 552.0222(a), .003(1-a) [See CM for construction contract evaluation document disclosures]

*Investment
Information*

The categories of information held by a governmental body relating to its investments, as specified by Government Code 552.0225(b), are public information and not excepted from disclosure under the PIA. *Gov't Code 552.0225(b)*

*Expenditures for
a Security
System*

Financial information in the possession of a governmental entity that relates to the expenditure of funds by a governmental entity for a security system is public information that is not excepted from required disclosure under the PIA. *Gov't Code 418.182(b)*

*Security
Cameras in
Private Offices*

Information in the possession of a governmental entity that relates to the location of a security camera in a private office at a state agency, including an institution of higher education, is public information and is not excepted from required disclosure under the PIA unless the security camera is located in an individual personal residence for which the state provides security or is in use for surveillance in an active criminal investigation. *Gov't Code 418.182(c)*

*Body-Worn
Cameras*

Information recorded by a body-worn camera that is or could be used as evidence in a criminal prosecution is subject to disclosure under the PIA. Information recorded by a body-worn camera and held by a law enforcement agency under Occupations Code Chapter 1701, Subchapter N, is not subject to disclosure under the PIA. A recording is confidential and excepted from the requirements of Government Code Chapter 552 if the recording:

1. Was not required to be made under Occupations Code Chapter 1701, Subchapter N, or another law or under a policy adopted by the appropriate law enforcement agency; and
2. Does not relate to a law enforcement purpose.

A law enforcement agency may not release any portion of a recording made in a private space, or of a recording involving the investigation of conduct that constitutes a misdemeanor punishable by fine only and does not result in arrest, without written authorization

from the person who is the subject of that portion of the recording or, if the person is deceased, from the person's authorized representative.

Occupations Code 1701.661(c)-(d), (f), (h)

Permitted
Viewing

A permitted viewing of a recording under Occupations Code 1701.660(a-1) is not considered to be a release of public information for purposes of the PIA. *Occupations Code 1701.660(a-1)*

*Communications
with Voting
Systems Vendors*

A written letter, email, or other communication, including a communication made confidential by other law, between a public official and a voting systems vendor is not confidential, is public information for purposes of the PIA, and is not subject to an exception to disclosure provided by the PIA other than Government Code Sections 552.110 and 552.1101. *Election Code 121.004(a)*

Exception

A written letter, email, or other communication between a public official and a voting systems vendor is excepted from disclosure under Government Code Chapter 552 if the communication discloses information, data, or records relating to the security of elections critical infrastructure. *Election Code 121.004(b)*

*Agreements to
Assess Course
Material Fees
and Charges*

Any agreement between an institution of higher education and an entity under which the institution agrees to assess or allows the entity to assess a fee or charge for course materials to students enrolled at the institution is public information under Government Code Chapter 552. *Education Code 51.4521(e)*

Section II: Information that is Confidential

Certified Agenda or
Recording of a
Closed Meeting

The certified agenda or recording of a closed meeting is available for public inspection and copying only under a court order issued under Government Code 551.104(b)(3). *Gov't Code 551.104(c)*

"Recording" means a tangible medium on which audio or a combination of audio and video is recorded, including a disc, tape, wire, film, electronic storage drive, or other medium now existing or later developed. *Gov't Code 551.001(7)*

Personal
Information

*Employees and
Officials*

Each employee, with the exception of a current or honorably retired peace officer, security officer, or elected public officer to whom Government Code 552.1175 applies, or official of a governmental body and each former employee or official of a governmental body shall choose whether to allow public access to information in the custody of the governmental body that relates to the person's home address, home telephone number, emergency contact information, or social security number, or that reveals whether the person has family members.

Each employee and official and each former employee and official shall state that person's choice to the main personnel officer of the

governmental body in a signed writing not later than the 14th day after the date on which the employee begins employment with the governmental body, the official is elected or appointed, or the former employee or official ends service with the governmental body. If the employee or official or former employee or official chooses not to allow public access to the information the information is protected under Government Code Chapter 552, Subchapter C, and the governmental body may redact the information from any information the governmental body discloses under the PIA without the necessity of requesting a decision from the attorney general. If an employee or official or a former employee or official fails to state the person's choice within the 14-day period, the information is subject to public access.

An employee or official or former employee or official of a governmental body who wishes to close or open public access to the information may request in writing that the main personnel officer of the governmental body close or open access.

A governmental body that redacts or withholds information under this section shall provide the following information to the requestor on a form prescribed by the attorney general:

1. A description of the redacted or withheld information;
2. A citation to Government Code 552.024; and
3. Instructions regarding how the requestor may seek a decision from the attorney general regarding whether the redacted or withheld information is excepted from required disclosure.

If a governmental body redacts or withholds information without requesting a decision from the attorney general about whether the information may be redacted or withheld, the requestor is entitled to seek a decision from the attorney general about the matter.

Gov't Code 552.024; Att'y Gen. ORD-530 (1989)

*Elected Public
Officers and
Peace Officers /
Security Officers*

Information that relates to the home address, home telephone number, emergency contact information, date of birth, or social security number of any elected public officer, current or honorably retired peace officer as defined by Code of Criminal Procedure article [2-122A.001](#), commissioned security officer as defined by Occupations Code 1702.002, or other individual to whom Government Code 552.1175 applies, or that reveals whether the individual has family members is confidential and may not be disclosed to the public under Government Code Chapter 552 if the individual to whom the information relates:

1. Chooses to restrict public access to the information; and

2. Notifies the governmental body of the individual's choice on a form provided by the governmental body, accompanied by evidence of the individual's status.

The choice remains valid until rescinded in writing by the individual.

A governmental body that redacts or withholds information under this section shall provide the following information to the requestor on a form prescribed by the attorney general:

1. A description of the redacted or withheld information;
2. A citation to Government Code 552.024; and
3. Instructions regarding how the requestor may seek a decision from the attorney general regarding whether the redacted or withheld information is excepted from required disclosure.

If a governmental body redacts or withholds information without requesting a decision from the attorney general about whether the information may be redacted or withheld, the requestor is entitled to seek a decision from the attorney general about the matter.

Gov't Code 552.1175 [For officer information excepted under Government Code 552.117, see Section III: Information Excepted from Public Disclosure]

*Disaster Fund
Recovery
Recipients*

Information maintained by a governmental body is confidential and may not be disclosed to the public under the PIA if it relates to:

1. The name, social security number, house number, street name, and telephone number of an individual or household that applies for state or federal disaster recovery funds;
2. The name, tax identification number, address, and telephone number of a business entity or an owner of a business entity that applies for state or federal disaster recovery funds; and
3. Any other information the disclosure of which would identify or tend to identify a person or household that applies for state or federal disaster recovery funds.

The street name and census block group of and the amount of disaster recovery funds awarded to a person or household are not confidential after the date on which disaster recovery funds are awarded to the person or household.

Gov't Code 552.160

Student Records

Information is confidential and excepted from the requirements of the PIA if it is a student record at an educational institution funded

wholly or partly by state revenue. The record shall be made available on the request of the educational institution personnel, the student involved, or the student's parent, guardian, or spouse or a person conducting a child abuse investigation required by Family Code Chapter 261, Subchapter D.

The PIA does not require the release of information contained in education records of an educational agency or institution, except in conformity with the Family Educational Rights and Privacy Act of 1974 (FERPA), 20 U.S.C. 1232g. This section does not prohibit the disclosure or provision of information included in an education record if the disclosure or provision is authorized by FERPA or other federal law. [See FL]

Gov't Code 552.114(b)-(c), .026

Redaction

An educational institution may redact information covered under Government Code 552.114(b) from information disclosed under the PIA without requesting a decision from the attorney general. *Gov't Code 552.114(d)*

Exception

If an applicant for admission to an educational institution described by Section 552.114(b), above, or a parent or legal guardian of a minor applicant to an educational institution described by Section 552.114(b), above, requests information in the record of the applicant, the educational institution shall disclose any information that is related to the applicant's application for admission and was provided to the educational institution by the applicant. *Gov't Code 552.114(e)*

Student Record

"Student record" means:

1. Information that constitutes education records as that term is defined by the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g(a)(4)); or
2. Information in a record of an applicant for admission to an educational institution, including a transfer applicant.

Gov't Code 552.114(a)

Protected Health Information

Protected health information as defined by Health and Safety Code 181.006 is not public information and is not subject to disclosure under the PIA. *Gov't Code 552.002*

Out-of-State Health-Care Information

Information obtained by a governmental body that was provided by an out-of-state health-care provider in connection with a quality management, peer review, or best practices program that the out-of-state health-care provider pays for is confidential and excepted from the requirements of the PIA. *Gov't Code 552.162*

Credit Card, Debit
Card, Charge Card,
and Access Device
Numbers

A credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.

“Access device” means a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another device may be used to:

1. Obtain money, goods, services, or another thing of value; or
2. Initiate a transfer of funds other than a transfer originated solely by paper instrument.

A governmental body may redact information that must be withheld as described above from any information the governmental body discloses without the necessity of requesting a decision from the attorney general.

A governmental body that redacts or withholds information under this section shall provide the following information to the requestor on a form prescribed by the attorney general:

1. A description of the redacted or withheld information;
2. A citation to Government Code 552.024; and
3. Instructions regarding how the requestor may seek a decision from the attorney general regarding whether the redacted or withheld information is excepted from required disclosure.

If a governmental body redacts or withholds information without requesting a decision from the attorney general about whether the information may be redacted or withheld, the requestor is entitled to seek a decision from the attorney general about the matter.

Gov’t Code 552.136

Confidential
Investment
Information

All information prepared or provided by a private investment fund and held by a governmental body that is not listed in Government Code 552.0225(b) is confidential and excepted from the requirements of the PIA.

Unless the information has been publicly released, pre-investment and post-investment diligence information, including reviews and analyses, prepared or maintained by a governmental body or a private investment fund is confidential and excepted from the requirements of the PIA, except to the extent it is subject to disclosure under the following provision.

All information regarding a governmental body's direct purchase, holding, or disposal of restricted securities that is not listed in Section 552.0225(b)(2)-(9), (11), or (13)-(16) is confidential and excepted from the requirements of the PIA. This provision does not apply to a governmental body's purchase, holding, or disposal of restricted securities for the purpose of reinvestment nor does it apply to a private investment fund's investment in restricted securities. This provision applies to information regarding a direct purchase, holding, or disposal of restricted securities by the Texas growth fund, created under Texas Constitution Article XVI, Section 70, that is not listed in Government Code 552.0225(b).

Gov't Code 552.143(a)-(c)

Email Addresses

Confidential

An email address of a member of the public that is provided for the purpose of communicating electronically with a governmental body is confidential and not subject to disclosure under the PIA. Confidential information described by this section that relates to a member of the public may be disclosed if the member of the public affirmatively consents to its release. *Gov't Code 552.137(a)-(b)*

Exceptions

This section does not apply to an email address:

1. Provided to a governmental body by a person who has a contractual relationship with the governmental body or by the contractor's agent;
2. Provided to a governmental body by a vendor who seeks to contract with the governmental body or by the vendor's agent;
3. Contained in a response to a request for bids or proposals, contained in a response to similar invitations soliciting offers or information relating to a potential contract, or provided to the governmental body in the course of negotiating the terms of a contract or potential contract;
4. Provided to the governmental body on a letterhead, coversheet, printed document, or other document made available to the public; or
5. Provided to a governmental body for the purpose of providing public comment on or receiving notices related to an application for a license or receiving orders or decisions from a governmental body. "License" includes the whole or part of a state agency permit, certificate, approval, registration, or similar form of permission required by law.

This section does not prohibit a governmental body from disclosing an email address for any reason to another governmental body or to a federal agency.

Gov't Code 552.137(c)-(d), 2001.003(2)

Participant in the Address Confidentiality Program	Information relating to a participant in the Address Confidentiality Program to assist a victim of family violence, sexual assault or abuse, stalking, child abduction, or trafficking of persons under Code of Criminal Procedure Chapter 58, Subchapter B, is confidential, except as provided by Code of Criminal Procedure 58.061, and may not be disclosed under the PIA. [See DBA, FJ, and GL] <i>Code of Criminal Procedure 58.060</i>
Crime Victim Information <i>Pseudonym Form</i>	A completed and returned pseudonym form as provided by Code of Criminal Procedure Chapter 58 is confidential and may not be disclosed to any person except as provided by Chapter 58. <i>Code of Criminal Procedure Ch. 58</i>
<i>Certain Identifying Information</i>	Information is confidential and excepted from the requirements of the PIA if the information identifies an individual as: <ol style="list-style-type: none"> 1. A victim of: <ol style="list-style-type: none"> a. An offense under Penal Code 20A.02, 20A.03, 21.02, 21.11, 22.011, 22.021, 43.05, or 43.25; or b. An offense that is part of the same criminal episode, as defined by Penal Code 3.01 as an offense described by item 1a; or 2. A victim of any criminal offense, if the victim was younger than 18 years of age when any element of the offense was committed. <p><i>Gov't Code 552.1315(a)</i></p>
Exception	Information under this provision may be disclosed: <ol style="list-style-type: none"> 1. To any victim identified by the information, or to the parent or guardian of a victim described by item 2, above, who is identified by the information; 2. To a law enforcement agency for investigative purposes; or 3. In accordance with a court order requiring the disclosure. <p><i>Gov't Code 552.1315(b)</i></p>
<i>Employees Who Are Victims of Certain Crimes</i>	An employee of a governmental body who is also a victim under Code of Criminal Procedure Chapter 56B, regardless of whether the employee has filed an application for compensation under that chapter, may elect whether to allow public access to information held by the attorney general's office or governmental body that would identify or tend to identify the victim, including a photograph or other visual representation of the victim. The election must be made in writing on a form developed by the governmental body, be signed by the employee, and be filed with the governmental body

before the third anniversary of the latest to occur of one of the following:

1. The date the crime was committed;
2. The date employment begins; or
3. The date the governmental body develops the form and provides it to employees.

If the employee fails to make the election, the identifying information is excepted from disclosure until the third anniversary of the date the crime was committed. In case of disability, impairment, or other incapacity of the employee, the election may be made by the guardian of the employee or former employee.

Gov't Code 552.132(d)-(e)

*Victim Impact
Statement*

The following information that is held by a governmental body or filed with a court and that is contained in a victim impact statement or was submitted for purposes of preparing a victim impact statement is confidential:

1. The name, social security number, address, and telephone number of a crime victim; and
2. Any other information the disclosure of which would identify or tend to identify the crime victim.

"Crime victim" means a person who is a victim as defined by Code of Criminal Procedure 56B.003.

"Victim impact statement" means a victim impact statement under Code of Criminal Procedure Chapter 56A, Subchapter D.

Gov't Code 552.1325

*Child Victim
Information*

A public servant or other person who has access to or obtains the name, address, telephone number, or other identifying information of a victim, as described by Code of Criminal Procedure 58.101, 58.155, or 58.201, younger than 17 years of age or of a victim, as described by Code of Criminal Procedure 58.251, younger than 18 years of age may not release or disclose the identifying information to any person who is not assisting in the investigation, prosecution, or defense of the case. *Code of Criminal Procedure 58.105, .155, .205, .255*

<p>Person Licensed or an Applicant for a License Under Occupations Code Chapter 1701</p> <p><i>Personnel File</i></p>	<p>Except as provided by Occupations Code 1701.4535, a law enforcement agency may not release any information contained in a license holder's personnel file to any other agency or person requesting information relating to the license holder unless required by law. The agency shall refer the person or agency requesting the information to the agency head or the head's designee. <i>Occupations Code 1701.4535(c)</i></p>
<p><i>Medical and Psychological Examination</i></p>	<p>Records relating to a request or order of TCOLE or a hearing or examination conducted under Occupations Code 1701.167, including, if applicable, the identity of the person notifying TCOLE that a license holder may not meet the standards required by the policy adopted by a law enforcement agency prescribing standards and procedures for the medical and psychological examination of a license holder or person for whom a license is sought by the agency are confidential and not subject to disclosure under Government Code Chapter 552. <i>Occupations Code 1701.167(i)</i></p>
<p><i>Licensing Status Database</i></p>	<p>Except as provided by Occupations Code 1701.168(b) and 1701.168(c), information maintained in the licensing status database is confidential and not subject to disclosure under Government Code Chapter 552. <i>Occupations Code 1701.168</i></p>
<p>Library Records</p>	<p>A record of a library or library system, supported in whole or in part by public funds, that identifies or serves to identify a person who requested, obtained, or used a library material or service is excepted from the requirements of the PIA, unless the records are disclosed:</p> <ol style="list-style-type: none"> 1. Because the library or library system determines that disclosure is reasonably necessary for the operation of the library or library system and the record is not confidential under other state or federal law; 2. Under Government Code 552.023; or 3. To a law enforcement agency or prosecutor under a court order or subpoena obtained after a showing to a district court that disclosure of the record is necessary to protect the public safety or the record is evidence of an offense or constitutes evidence that a particular person committed an offense. <p>A record of a library or library system that is excepted from required disclosure under this section is confidential.</p> <p><i>Gov't Code 552.124</i></p>
<p>Certain Products, Devices, and Processes</p>	<p>In order to protect the actual or potential value, the following information is confidential and is not subject to disclosure under the PIA, or otherwise:</p>

1. All information relating to a product, device, or process, the application or use of such a product, device, or process, and all technological and scientific information (including computer programs) developed in whole or in part at a state institution of higher education, including a college district, regardless of whether patentable or capable of being registered under copyright or trademark laws, that have a potential for being sold, traded, or licensed for a fee.
2. Any information relating to a product, device, or process, the application or use of such product, device, or process, and any technological and scientific information (including computer programs) that is the proprietary information of a person, partnership, corporation, or federal agency that has been disclosed to an institution of higher education solely for the purposes of a written research contract or grant that contains a provision prohibiting the institution of higher education from disclosing such proprietary information to third persons or parties.

Education Code 51.914(a)

Research

Information maintained by or for an institution of higher education that would reveal the institution's plans or negotiations for commercialization or a proposed research agreement, contract, or grant, or that consists of unpublished research or data that may be commercialized, is not subject to the PIA, unless the information has been published, is patented, or is otherwise subject to an executed license, sponsored research agreement, or research contract or grant. *Education Code 51.914(b)*

Research and
Development
Facility

The plans, specifications, blueprints, and designs, including related proprietary information, of a scientific research and development facility that is jointly financed by the federal government and a local government or state agency, including an institution of higher education, is confidential and is not subject to disclosure under the PIA if the facility is designed and built for the purposes of promoting scientific research and development and increasing the economic development and diversification of this state. *Education Code 51.914(a)*

Compliance
Investigations

The following are confidential:

1. Information that directly or indirectly reveals the identity of an individual who made a report to the compliance program of office of an institution of higher education, sought guidance from the office, or participated in an investigation conducted under the compliance program; and

2. Information that directly or indirectly reveals the identity of an individual as a person who is alleged to have or may have planned, initiated, or participated in activities that are the subject of a report made to the compliance program office of an institution of higher education if, after completing an investigation, the office determines the report to be unsubstantiated or without merit.

Information is excepted from disclosure under the PIA if it is collected or produced in a compliance program investigation and releasing the information would interfere with an ongoing compliance investigation.

Education Code 51.971(c), (e)

Exceptions

Education Code 51.971(c) does not apply to information related to an individual who consents to disclosure of the information.

Information made confidential or excepted from public disclosure by this section may be made available to the following on request in compliance with applicable law and procedure:

1. A law enforcement agency or prosecutor;
2. A governmental agency responsible for investigating the matter that is the subject of a compliance report, including the Texas Workforce Commission civil rights division or the federal Equal Employment Opportunity Commission; or
3. An officer or employee of an institution of higher education or compliance officer who is responsible under institutional policy for a compliance program investigation or for reviewing a compliance program investigation.

A disclosure to an individual listed above is not a voluntary disclosure for purposes of Government Code 552.007. [See AF]

Education Code 51.971(d), (f)-(g)

**Computer Network
Security**

Information is excepted from the requirements of the PIA if it is information that relates to computer network security, to network security information that is restricted under Government Code 2059.055, or to the design, operation, or defense of a computer network. The following information is confidential:

1. A computer network vulnerability report;
2. Any other assessment of the extent to which data processing operations, a computer, a computer program, network, system, system interface, or software of a governmental body or

of a contractor of a governmental body is vulnerable to unauthorized access or harm, including an assessment of the extent to which the governmental body's or contractor's electronically stored information containing sensitive or critical information is vulnerable to alteration, damage, erasure or inappropriate use;

3. A photocopy or other copy of an identification badge issued to an official or employee of a governmental body; and
4. Information directly arising from a governmental body's routine efforts to prevent, detect, investigate, or mitigate a computer security incident, including information contained in or derived from an information security log.

Item 4 does not affect the notification requirements related to a breach of system security as defined by Business and Commerce Code 521.053.

Information may be disclosed to a bidder if the governmental body determines that providing the information is necessary for the bidder to provide an accurate bid. Such a disclosure is not a voluntary disclosure for purposes of Government Code 552.007 (requiring disclosure to any person).

Gov't Code 552.139

Biennial Information Security Plan	Each information security plan is confidential and exempt from disclosure under Government Code Chapter 552. [See CS] <i>Gov't Code 2054.133(d)</i>
Information Security Assessment	An information security assessment and all documentation related to the information security assessment and report are confidential and not subject to disclosure under Government Code Chapter 552. A state agency, including a college district, may redact or withhold the information as confidential under Chapter 552 without requesting a decision from the attorney general under Chapter 552, Subchapter G. [See CS] <i>Gov't Code 2054.515(d)</i>
Security System Specifications, Operations, and Locations	Except as provided by Government Code 418.182(b) and (c), information, including access codes and passwords, in the possession of a governmental entity that relates to the specifications, operating procedures, or location of a security system used to protect public or private property from an act of terrorism or related criminal activity is confidential. <i>Gov't Code 418.182(a)</i>
Emergency Alert System	The personal identifying information obtained from an individual for the purpose of the emergency alert system of a college district, including an email address or telephone number, is confidential and

	not subject to disclosure under the PIA. [See CGC] <i>Education Code 51.218(e)</i>
Sensitive Crime Scene Image	A sensitive crime scene image, as defined by Government Code 552.1085(a)(6), in the custody of a governmental body, including a college district, is confidential and excepted from the requirements of Government Code 552.021, and a governmental body may not permit a person to view or copy the image except as provided by Government Code 552.1085. <i>Gov't Code 552.1085(c)</i>
Military Discharge Records	A military veteran's Department of Defense Form DD-214 or other military discharge record that is first recorded with or that otherwise first comes into the possession of a governmental body on or after September 1, 2003, is confidential for the 75 years following the date it is recorded with or otherwise comes into the possession of the governmental body in accordance with Government Code 552.140 or in accordance with a court order. A governmental body that obtains information from the record shall limit the governmental body's use and disclosure of the information to the purpose for which the information was obtained. <i>Gov't Code 552.140</i>
Military Personnel Information	<p>A service member's military personnel information is confidential and not subject to disclosure under the PIA.</p> <p>"Military personnel information" means a service member's name, Department of Defense identification number, home address, rank, official title, pay rate or grade, state active duty orders, deployment locations, military duty addresses, awards and decorations, length of military service, and medical records.</p> <p><i>Gov't Code 437.232</i></p>
Retirement System Information	Records of individual members, annuitants, retirees, beneficiaries, alternate payees, program participants, or persons eligible for benefits from a retirement system under a retirement plan or program administered by the retirement system that are in the custody of another governmental agency acting in cooperation with or on behalf of the retirement system are confidential and not subject to public disclosure. <i>Gov't Code 552.0038</i>
Election Judge or Clerk Information	An email address or personal phone number of an election judge or clerk collected or maintained by the authority conducting the election is confidential and does not constitute public information for purposes of the PIA. <i>Election Code 32.076(a)</i>
Exception	<p>An email address or phone number described by Election Code 32.076(a), above, shall be made available on request to:</p> <ol style="list-style-type: none"> 1. Any entity eligible to submit lists of election judges or clerks for that election; or

2. The state executive committee of a political party with a county chair eligible to submit lists of election judges or clerks for that election.

Election Code 32.076(b)

Electronic
Campaign Report
Data

Electronic campaign report data saved in a temporary storage location of the authority with whom the report is filed for later retrieval and editing before the report is filed is confidential and may not be disclosed. After the report is filed with the authority, the information disclosed in the filed report is public information to the extent provided by Election Code Title 15. *Election Code 254.0401(g)*

**Section III:
Information
Excepted from
Public Disclosure**

The PIA does not prohibit a governmental body or its officer for public information voluntarily making part or all of its information available to the public, unless the disclosure is expressly prohibited by law or the records are confidential by law. *Gov't Code 552.007*

Except for social security numbers as provided by Government Code 552.147, the confidentiality provisions of Government Code Chapter 552, or other law, information that is not confidential, but is excepted from required disclosure under the PIA, is public information and is available to the public on or after the 75th anniversary of the date the information was originally created or received by the governmental body. This paragraph does not limit the authority of a governmental body to establish retention periods for records under applicable law. *Gov't Code 552.0215*

Confidential
Information

Information is excepted from the requirements of the PIA if it is information considered to be confidential by law, either constitutional, statutory, or by judicial decision. *Gov't Code 552.101*

Personnel File

Information is excepted from the requirements of the PIA if it is information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, except that all information in the personnel file of an employee of a governmental body is to be made available to that employee or the employee's designated representative as public information is made available under the PIA. *Gov't Code 552.102*

Substantial Threat
of Physical Harm

Information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from the requirements of the PIA if, under the specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm. *Gov't Code 552.152*

Litigation

Information is excepted from the requirements of the PIA if it is information relating to litigation of a civil or criminal nature to which the state or a political subdivision is or may be a party or to which

an officer or employee of the state or political subdivision, as a consequence of the person's office or employment, is or may be a party. The state or a political subdivision is considered to be a party to litigation of a criminal nature until the applicable statute of limitations has expired or until the defendant has exhausted all appellate and postconviction remedies in state and federal court. Information relating to litigation involving a governmental body or an officer or employee of a governmental body is excepted from disclosure under the PIA only if the litigation is pending or reasonably anticipated on the date that the requestor applies to the officer for public information for access to or duplication of the information. *Gov't Code 552.103*

*Exception for
Election
Information*

The exception to disclosure provided by Government Code 552.103 does not apply to information requested under the PIA if the information relates to a general or special election and the information is in the possession of the governmental body that administers elections. *Gov't Code 552.103(d)*

Competition or
Bidding

Information is excepted from the requirements of the PIA if a governmental body demonstrates that release of the information would harm its interest by providing an advantage to a competitor or bidder in a particular ongoing competitive situation or in a particular competitive situation where the governmental body establishes the situation at issue is set to reoccur or there is a specific and demonstrable intent to enter into the competitive situation again in the future. Except as provided below, the requirement of Government Code 552.022 that a category of information listed under Section 552.022(a) is public information and not excepted from required disclosure under the PIA unless expressly confidential under law does not apply to information that is excepted from required disclosure under this provision. *Gov't Code 552.104(a)-(b)*

*Exception for
Entertainment
Events*

The exception to disclosure for information related to competition or bidding under Government Code 552.104(b) does not apply to information described by Government Code 552.022 relating to the receipt or expenditure of public or other funds by a governmental body for a parade, concert, or other entertainment event paid for in whole or part with public funds. A person, including a governmental body, may not include a provision in a contract related to an event described by this provision that prohibits or would otherwise prevent the disclosure of information described by this subsection. A contract provision that violates this provision is void. *Gov't Code 552.104(c)*

Location or Price of
Property

Information is excepted from the requirements of the PIA if it is information relating to the location of real or personal property for a

public purpose prior to public announcement of the project, or appraisals or purchase price of real or personal property for a public purpose prior to the formal award of contracts for the property.

Gov't Code 552.105

Drafts and Working
Papers

A draft or working paper involved in the preparation of proposed legislation is excepted from the requirements of the PIA. *Gov't Code 552.106*

Legal Matters

Information is excepted from the requirements of the PIA if it is information the attorney of a political subdivision is prohibited from disclosing because of a duty to the client under the Texas Rules of Evidence or the Texas Disciplinary Rules of Professional Conduct or a court by order has prohibited disclosure of the information.

Gov't Code 552.107

Law Enforcement
Information

Information held by a law enforcement agency that deals with detection, investigation, or prosecution of crime is excepted from the requirements of the PIA if:

1. Release of the information would interfere with the detection, investigation, or prosecution of crime;
2. It is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication; or
3. It is information relating to a threat against a peace officer collected or disseminated under Government Code 411.048.

An internal record or notation of a law enforcement agency that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from the requirements of the PIA if:

1. Release of the internal record or notation would interfere with law enforcement or prosecution; or
2. The internal record or notation relates to law enforcement only in relation to an investigation that did not result in conviction or deferred adjudication.

This section does not except from the requirements of the PIA information that is basic information about an arrested person, an arrest, or a crime. A governmental body shall promptly release basic information responsive to a PIA request unless the governmental body seeks to withhold the information as provided by another provision of the PIA and regardless of whether the governmental body requests an attorney general decision under Government Code 552, Subchapter G, regarding other information subject to the request.

Gov't Code 552.108(a)-(c)

*Certain Crime
Information*

The exception to disclosure provided by an internal record or notation relating to law enforcement only in relation to an investigation that did not result in conviction or deferred adjudication does not apply to information, records, or notations if:

1. A person who is described by or depicted in the information, record, or notation, other than a peace officer, is deceased or incapacitated; or
2. Each person who is described by or depicted in the information, record, or notation, other than a person who is deceased or incapacitated, consents to the release of the information, record, or notation.

Gov't Code 552.108(d)

Private
Correspondence
and
Communications

Private correspondence or communications of an elected office holder relating to matters the disclosure of which would constitute an invasion of privacy are excepted from the requirements of the PIA. *Gov't Code 552.109*

Contracting
Information

Trade Secrets

Information is excepted from public disclosure if it is demonstrated based on specific factual evidence that the information is a trade secret, as defined by Government Code 552.110(a). *Gov't Code 552.110(b)*

*Proprietary
Information*

Information submitted to a governmental body by a vendor, contractor, potential vendor, or potential contractor in response to a request for a bid, proposal, or qualification is excepted from public disclosure if the vendor, contractor, potential vendor, or potential contractor that the information relates to demonstrates based on specific factual evidence that the information is proprietary information under Government Code 552.1101. *Gov't Code 552.1101*

*Commercial or
Financial
Information*

Commercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained are excepted from the requirements of the PIA. *Gov't Code 552.110(b)*

Exceptions

The exceptions to disclosure provided by Government Code 552.110 and 552.1101 do not apply to the following types of contracting information:

1. A contract described by Government Code 2261.253(a), excluding any information that was properly redacted under Section 2261.253(e);
2. A contract described by Government Code 322.020(c), excluding any information that was properly redacted under Section 322.020(d);

3. The following contract or offer terms or their functional equivalent:
 - a. Any term describing the overall or total price the governmental body will or could potentially pay, including overall or total value, maximum liability, and final price;
 - b. A description of the items or services to be delivered with the total price for each if a total price is identified for the item or service in the contract;
 - c. The delivery and service deadlines;
 - d. The remedies for breach of contract;
 - e. The identity of all parties to the contract;
 - f. The identity of all subcontractors in a contract;
 - g. The affiliate overall or total pricing for a vendor, contractor, potential vendor, or potential contractor;
 - h. The execution dates;
 - i. The effective dates; and
 - j. The contract duration terms, including any extension options; or
4. Information indicating whether a vendor, contractor, potential vendor, or potential contractor performed its duties under a contract, including information regarding a breach of contract, a contract variance or exception, a remedial action, an amendment to a contract, any assessed or paid liquidated damages, a key measures report, a progress report, and a final payment checklist.

Gov't Code 552.0222(6)

Agency Memoranda	An interagency or intraagency memorandum or letters that would not be available by law to a party in litigation with the agency is excepted from the requirements of the PIA. <i>Gov't Code 552.111; City of Garland v. Dallas Morning News, 22 S.W.3d 351 (Tex. 2000) (concluding that the deliberative process privilege, incorporated into the exception found at Government Code 552.111, exempts communications related to a governmental agency's policymaking)</i>
Audit Working Paper	An audit working paper of an audit of the state auditor or the auditor of an institution of higher education is excepted from the requirements of the PIA. If information in an audit working paper is also maintained in another record, that other record is not excepted from the requirements of the PIA.

“Audit working paper” includes all information, documentary or otherwise, prepared or maintained in conducting an audit or preparing an audit report, including intra-agency and interagency communications and drafts of the audit report or portions of those drafts.

Gov’t Code 552.116

Contact Information

Information is excepted from the requirements of the PIA if it is information that relates to the home address, home telephone number, emergency contact information, or social security number of the following persons, or that reveals whether the person has family members:

1. A current or former official or employee of a governmental body, except as otherwise provided by Government Code 552.024.
2. A current or honorably retired peace officer as defined by Code of Criminal Procedure [2-122A.001](#), regardless of whether the officer complies with Government Code 552.024 or 552.1175, as applicable.
3. A commissioned security officer as defined by Occupations Code 1702.002, regardless of whether the officer complies with Sections 552.024 or 552.1175, as applicable.
4. An elected public officer, regardless of whether the officer complies with Section 552.024 or 552.1175, as applicable.
5. Other officials listed under Government Code 552.117.

Gov’t Code 552.117 [For officer information that is confidential under Government Code 552.1175, see Section II: Information that is Confidential]

Photographs of
Peace Officers

A photograph that depicts a peace officer, as defined by Code of Criminal Procedure [2-122A.001](#), the release of which would endanger the life or physical safety of the officer is excepted from the requirements of the PIA, unless:

1. The officer is under indictment or charged with an offense by information;
2. The officer is a party in a civil service hearing or a case in arbitration; or
3. The photograph is introduced as evidence in a judicial proceeding.

A photograph excepted from disclosure as described above may be made public only if the peace officer gives written consent to the disclosure.

Gov’t Code 552.119

Test Items	Test items developed by a state-funded educational institution. A test item developed by a licensing agency or governmental body is excepted from the requirements of the PIA. <i>Gov't Code 552.122</i>
Rare Books and Original Manuscripts	A rare book or original manuscript that was not created or maintained in the conduct of official business of a governmental body and that is held by a private or public archival and manuscript repository for the purpose of historical research is excepted from the requirements of the PIA. <i>Gov't Code 552.120</i>
Documents Held for Historical Research	An oral history interview, personal paper, unpublished letter, or organizational record of a nongovernmental entity that was not created or maintained in the conduct of official business of a governmental body and that is held by a private or public archival and manuscript repository for the purpose of historical research is excepted from the requirements of the PIA to the extent that the archival and manuscript repository and the donor of the interview, paper, letter, or record agree to limit disclosure of the item. <i>Gov't Code 552.121</i>
Chief Executive Officer Applicants	The name of an applicant for the position of chief executive officer of an institution of higher education, and other information that would tend to identify the applicant, is excepted from the requirements of the PIA except that the governing board of the institution must give public notice of the name or names of the finalists being considered for the position at least 21 days before the date of the meeting at which final action or a vote is to be taken on the employment of the person. <i>Gov't Code 552.123</i>
Motor Vehicle Record Information	<p>Information is excepted from the requirements of the PIA if the information relates to:</p> <ol style="list-style-type: none"> 1. A motor vehicle operator's or driver's license or permit issued by an agency of this state or another state or country; 2. A motor vehicle title or registration issued by an agency of this state or another state or country; or 3. A personal identification document issued by an agency of this state, or another state or country or a local agency authorized to issue an identification document. <p>Information described above may be released only if, and in the manner, authorized by Transportation Code Chapter 730 (the Motor Vehicle Records Disclosure Act).</p> <p>Subject to Chapter 730, a governmental body may redact information described above from any information the governmental body discloses without the necessity of requesting a decision from</p>

the attorney general under Government Code Chapter 552, Subchapter G. If a governmental body redacts or withholds information without requesting a decision from the attorney general about whether the information may be redacted or withheld, the requestor is entitled to seek a decision from the attorney general about the matter.

A governmental body that redacts or withholds information as described above shall provide the following information to the requestor on a form prescribed by the attorney general: a description of the redacted or withheld information; a citation to Government Code 552.130; and instructions regarding how the requestor may seek a decision from the attorney general regarding whether the redacted or withheld information is excepted from required disclosure.

Gov't Code 552.130

Commercial Book
or Publication

A governmental body is not required under the PIA to allow the inspection of or to provide a copy of information in a commercial book or publication purchased or acquired by the governmental body for research purposes if the book or publication is commercially available to the public. Although information in a book or publication may be made available to the public as a resource material, such as a library book, a governmental body is not required to make a copy of the information in response to a request for public information. A governmental body shall allow the inspection of information in a book or publication that is made part of, incorporated into, or referred to in a rule or policy of the governmental body.

Gov't Code 552.027

Social Security
Numbers

The social security number of a living person is excepted from the requirements of the PIA, but is not confidential under Government Code 552.147 and this section does not make the social security number of a living person confidential under the PIA or other law. A governmental body may redact the social security number of a living person from any information the governmental body discloses under the PIA without the necessity of requesting a decision from the attorney general. *Gov't Code 552.147(a)-(b)*

Donor Information

The name or other information that would tend to disclose the identity of a person, other than a governmental body, who makes a gift, grant, or donation of money or property to an institution of higher education or to another person with the intent that the money or property be transferred to an institution of higher education is excepted from the requirements of the PIA. This provision does not except from required disclosure other information relating to the described gifts, grants, and donations, including the amount or value of an individual gift, grant, or donation. *Gov't Code 552.1235*

Safety and Security
Audit

Any document or information collected, developed, or produced during a safety and security audit conducted under Education Code 37.108(b) is not subject to disclosure under the PIA [see CG].

*Multihazard
Emergency
Operations Plan
Exception*

A document relating to a public junior college district's multihazard emergency operations plan [see CGC] is subject to disclosure if the document enables a person to:

1. Verify that the district has established a plan and determine the agencies involved in the development of the plan and the agencies coordinating with the district to respond to an emergency, including the Texas Department of State Health Services, local emergency services agencies, law enforcement agencies, health departments, and fire departments;
2. Verify that the district's plan was reviewed within the last 12 months and determine the specific review dates;
3. Verify that the plan addresses the five phases of emergency management under Education Code 37.108(a);
4. Verify that district employees have been trained to respond to an emergency and determine the types of training, the number of employees trained, and the person conducting the training;
5. Verify that each campus in the district has conducted mandatory emergency drills and exercises in accordance with the plan and determine the frequency of the drills;
6. Verify that the district has completed a safety and security audit under Education Code 37.108(b) and determine the date the audit was conducted, the person conducting the audit, and the date the district presented the results of the audit to the district's board of trustees; and
7. Verify that the district has addressed any recommendations by the board for improvement of the plan and determine the district's progress within the last 12 months.

Education Code 37.108(c-1)–(c-2)

*Cybersecurity
Information*

A cyber threat indicator or defensive measure shared by or with a state, tribal, or local government under 6 U.S.C. 1503 shall be deemed voluntarily shared information and exempt from disclosure under any state or local freedom of information law, open government law, open meetings law, open records law, sunshine law, or similar law requiring disclosure of information or records. 6 U.S.C. 1503(d)(4)(B)

A cyber threat indicator or defensive measure shared with the federal government under Title 6, United States Code, shall be:

1. Deemed voluntarily shared information and exempt from disclosure under federal public information law and any state or local provision of law requiring disclosure of information or records; and
2. Withheld, without discretion, from the public under federal public information law and any state or local provision of law requiring disclosure of information or records.

6 U.S.C. 1504(d)(3) [See CS]

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Commercial Signs	A person commits an offense if the person erects or maintains a commercial sign in violation of Transportation Code Chapters 391 through 395 and 43 Administrative Code Chapter 21. <i>Transp. Code</i> 391.003, .0031 <u>031</u> , .061, .067, 392.032, 393.005, 394.021, <u>395.010</u> ; 43 TAC Chapter <u>Ch.</u> 21
General Definitions	<p>“Sign” means a structure, display, light, device, figure, painting, drawing, message, plaque, placard, poster, billboard, logo, or symbol that is designed, intended, or used to advertise or inform. <i>Transp. Code</i> 391.001(11-a), 392.001<u>031</u>, 393.001, 394.001, 395.002; 49<u>43</u> TAC 21.142(28<u>20</u>)</p> <p>“Commercial sign” means a sign that is at any time intended to be leased, or for which payment of any type is intended to be or is received, for the display of any good, service, brand, slogan, message, product, or company, except that the term does not include a sign that is leased to a business entity and located on the same property on which the business is located or is smaller than 50 square feet; or located on property owned or leased for the primary purpose of displaying a sign. <i>Transp. Code</i> 391.001(1-a); 43 TAC 21.142(1)</p> <p>“Electronic sign” means a commercial sign that changes its message or copy by programmable electronic or mechanical processes. 43 TAC 21.142(5)</p> <p>“Directional sign” means a sign that contains only a message that identifies an attraction or activity and provides directional information, such as mileage, route number, or exit number, useful to the traveler in locating the attraction or activity. 43 TAC 21.941</p>
Interstate or Primary System	<p>A college district that wishes to erect or maintain outdoor advertising that is visible from the main-traveled way of the interstate or primary system shall comply with Transportation Code Chapter 391 and 43 Administrative Code Chapter 21, Subchapter I.</p> <p>“Interstate system” means that portion of the national system of interstate and defense highways that is located in this state and is designated officially by the Texas Transportation Commission and approved under Title 23, United States Code.</p> <p>“Primary system” means that portion of connected main highways located in this state that is designated officially by the Texas Transportation Commission and approved under Title 23, United States Code.</p> <p><i>Transp. Code</i> 391.001</p>

State Highway Right-of-Way	<p>A college district that wishes to place or maintain a sign on a state highway right-of-way shall comply with Transportation Code Chapter 392.</p> <p>“State highway right-of-way” means the right-of-way of a highway designated as part of the state highway system.</p> <p><i>Transp. Code 392.001</i></p>
Public Road	A college district that wishes to place a sign on the right-of-way of a public road shall comply with Transportation Code Chapter 393.
Rural Road	<p>A college district that wishes to erect or maintain an outdoor sign that is visible from the main-traveled way of a rural road shall comply with Transportation Code Chapter 394 and 43 Administrative Code Chapter 21, Subchapter K.</p> <p>“Rural road” means a road, street, way, or bridge:</p> <ol style="list-style-type: none"> 1. That is located in an unincorporated area; 2. That is not privately owned or controlled; 3. That any part of which is open to the public for vehicular traffic; and 4. That is under the jurisdiction of the state or a political subdivision. <p><i>Transp. Code 394.002</i></p>
Toll Road	<p>A college district that wishes to erect or maintain an outdoor sign that is visible from the main-traveled way of a toll road and erected for the purpose of having the message seen from the main-traveled way shall comply with any rules adopted by the governing body of the toll road authority under Transportation Code Chapter 395.</p> <p>This provision applies only to a toll road located in a county with a population of 3.3 million or more or that is adjacent to a county with a population of 3.3 million or more and in which a municipality with a population of more than 60,000 is located.</p> <p><i>Transp. Code 395.001</i></p>
Electronic Sign	A college district that wishes to erect an electronic sign shall comply with 43 Administrative Code Chapter 21, Subchapter I.
Directional Sign	A college district that wishes to erect a directional sign shall comply with 43 Administrative Code Chapter 21, Subchapter Q.

Charitable Raffles

Definitions

Raffle

A “raffle” is the awarding of one or more prizes by chance at a single occasion among a pool or group of persons who have paid or promised a thing of value for a ticket that represents a chance to win a prize. *Occupations Code 2002.002(6)*

*Qualified
Nonprofit
Organization*

An organization incorporated or holding a certificate of authority under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon’s Texas Civil Statutes) is a “qualified nonprofit organization” for the purposes of Occupations Code 2002 if the organization:

1. Does not distribute any of its income to its members, officers, or governing body, other than as reasonable compensation for services;
2. Has existed for the three preceding years;
3. Does not devote a substantial part of its activities to attempting to influence legislation and does not participate or intervene in any political campaign on behalf of any candidate for public office in any manner, including by publishing or distributing statements or making campaign contributions;
4. Qualifies for and has obtained an exemption from federal income tax from the Internal Revenue Service under Section 501(c), Internal Revenue Code of 1986; and
5. Does not have or recognize any local chapter, affiliate, unit, or subsidiary organization in this state.

Occupations Code 2002.003(a)

An organization that is formally recognized as and that operates as a local chapter, affiliate, unit, or subsidiary organization of a parent organization incorporated or holding a certificate of authority under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon’s Texas Civil Statutes) is a “qualified nonprofit organization” if both it and its parent organization meet the qualifications set out above at items 1 through 3 and either the local or parent organization satisfies item 4. The local organization must have been formally recognized as a local chapter, affiliate, unit, or subsidiary organization of the parent organization for the previous three years.

Occupations Code 2002.003(b)

An organization that is formally recognized as and that operates as a local chapter, affiliate, unit, or subordinate lodge of a grand lodge or other institution or order incorporated under, Vernon’s Texas Civil Statutes Title 32, as authorized by Vernon’s Texas Civil Statutes Article 1399 is a “qualified nonprofit organization” if it satisfies

the provisions of Occupations Code 2002.003(b–1). *Occupations Code 2002.003(b–1)*

An unincorporated organization, association, or society is a “qualified nonprofit organization” if it meets the qualifications described at items 1, 3, and 4 above and, for the three preceding years, has been affiliated with a state or national organization organized to perform the same purposes as the unincorporated organization, association, or society. *Occupations Code 2002.003(c)*

A nonprofit wildlife conservation association and its local chapters, affiliates, wildlife cooperatives, or units are “qualified nonprofit organizations” if the parent association meets the eligibility criteria under Occupations Code 2002.003. *Occupations Code 2002.003(e)*

*Qualified
Organization*

“Qualified organization” means a qualified religious society, qualified volunteer fire department, qualified volunteer emergency medical service, or qualified nonprofit organization. *Occupations Code 2002.002(2)*

Generally

A qualified organization may conduct a raffle subject to the conditions imposed by Occupations Code Chapter 2002, Subchapter B. *Occupations Code 2002.051*

Time and
Frequency
Restrictions

In this section, “calendar year” means a period beginning January 1 and ending on the succeeding December 31. *Occupations Code 2002.052(a)*

A raffle is not authorized if the organization awards prizes in the raffle in a calendar year in which the organization has previously awarded prizes in four other raffles. For purposes of this provision, a raffle conducted in a preceding calendar year for which a prize or prizes are awarded on a later date set in accordance with Occupations Code 2002.052(e) that occurs in a subsequent calendar year is not included in the number of raffles for which prizes are awarded by the organization in that subsequent calendar year. *Occupations Code 2002.052(b)*

Before selling or offering to sell tickets for a raffle, a qualified organization shall set a date on which the organization will award the prize or prizes in a raffle. The organization must award the prize or prizes on that date unless the organization becomes unable to award the prize or prizes on that date. *Occupations Code 2002.052(d)*

A qualified organization that is unable to award a prize or prizes on the date set under Occupations Code 2002.052(d) may set another date not later than 30 days from the date originally set on which the organization will award the prize or prizes. If the prize or prizes are

not awarded within the 30 days, the organization must refund or offer to refund the amount paid by each person who purchased a ticket for the raffle. *Occupations Code 2002.052(e)-(f)*

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Note: For information regarding required cybersecurity training for contractors, see GG.

Facilities

Dual Usage
Educational
Complex

The board of trustees of a junior college district may establish and operate a dual usage educational complex to provide a shared facility for the educational activities of the district and other participating entities.

The board of trustees may enter into a cooperative agreement governing the operation and use of the complex with the governing bodies of one or more of the following entities: a county, municipality, or school district located in whole or in part in the service area of the junior college district; or another institution of higher education with a campus or other educational facility located in the same state uniform service region as adopted by the Coordinating Board.

The junior college district shall coordinate and supervise the operation of the complex. The use and the costs associated with the establishment and operation of the complex shall be shared by the district and the other participating entities under the terms of the cooperative agreement.

Education Code 130.0103

Design or
Construction of an
Instructional or
Athletic Facility

An independent school district and an institution of higher education, including a college district, located wholly or partially in the boundaries of the county in which the district is located, may contract for the district to contribute district resources to pay a portion of the costs of the design or construction of an instructional facility or a stadium or other athletic facilities owned by or under the control of the institution of higher education. A district may contribute district resources only if the district and the institution of higher education enter into a written agreement authorizing the district to use that facility.

One or more independent school districts and an institution of higher education may contract for the district to contribute district resources to pay a portion of the costs of the design, improvement, or construction of an instructional facility owned by or under the control of the institution of higher education. A district may contribute district resources only if the district and the institution of higher education enter into a written agreement authorizing the district to use that facility, including authorizing the enrollment of the district's students in courses offered at that facility.

Education Code 45.109(a-1)–(a-2)

Use of Athletic Facilities	<p>Any independent school district, acting by and through its board of trustees, may contract with any institution of higher education located wholly or partially within its boundaries, for the use of any stadium and other athletic facilities owned by or under the control of the institution of higher education. The contract may be for any period not exceeding 75 years and may contain terms agreed on by the parties. <i>Education Code 45.109(a)</i></p>
College Courses in School District Facilities	<p>The trustees of an independent school district located in a county contiguous to, but not a part of, a community college district and the governing board of the community college district may enter into a contract providing for the community college to hold college courses in the school district's facilities. The contract must be approved by resolution of the governing boards of the community college district and the school district.</p> <p>For purposes of state funding, a course held in the school district facilities is considered to be a course held in the community college district if the course:</p> <ol style="list-style-type: none">1. Has been approved by a regional higher education council recognized by rule of the Coordinating Board and in which the district has been designated a member by the Coordinating Board; and2. Is approved by the Coordinating Board as an out-of-district course for the community college district. <p>Any statutory or regulatory requirement of local support of a community college program is satisfied by the school district providing its facilities without charge to the community college if the total community college enrollment in the school district does not exceed 1,000 full-time students, or the equivalent.</p> <p>Either party may terminate a contract under this section by giving the other party at least one year's written notice.</p> <p><i>Education Code 130.006</i></p>
School District Courses on College District Campus	<p>The board of trustees of a school district may operate a school or program or hold a class on the campus of an institution of higher education in this state, including a college district, if the board obtains written consent from the president or other chief executive officer of the institution.</p> <p>The president or other chief executive officer of an institution of higher education may provide written consent to a board of trustees of a school district regardless of whether the institution is located within the boundaries of the school district.</p> <p><i>Education Code 11.166</i></p>

Reports of Academic Achievement

Each public two-year college shall report student performance as prescribed below to the high school or public two-year college last attended during the first year a student is enrolled after graduation from high school.

A student performance report includes initial assessment student test scores, as prescribed under 19 Administrative Code Chapter 4, Subchapter C (relating to the Texas Success Initiative (TSI)), descriptions of developmental education courses required, and individual student grade point averages.

Appropriate safeguards shall be implemented to ensure student privacy in these reports.

Education Code 51.403(e); 19 TAC 9.23

College Credit Program

Each school district shall implement a program under which students may earn the equivalent of at least 12 semester credit hours of college credit in high school. On request, a public institution of higher education in this state, including a college district, shall assist the school district in developing and implementing a program. The college credit may be earned through:

1. International baccalaureate, advanced placement, or dual credit courses;
2. Articulated postsecondary courses provided for local credit or articulated postsecondary advanced technical credit courses provided for state credit; or
3. Any combination of the courses described above.

A program implemented under the college credit program may provide a student the opportunity to earn credit for a course or activity, including an apprenticeship or training hours:

1. That satisfies a requirement necessary to obtain an industry-recognized credential or certificate or an associate degree; and is approved by the Coordinating Board; and
2. For which a student may earn credit concurrently toward both the student's high school diploma and postsecondary academic requirements.

Education Code 28.009(a)–(a-1)

Dual Credit Course Limitations

A dual credit course offered under this section must be:

1. In the core curriculum of the public institution of higher education providing college credit;
2. A career and technical education course; or

3. A foreign language course.

This requirement does not apply to a dual credit course offered as part of the early college education program established under Education Code 29.908 or any other early college program that assists a student in earning a certificate or an associate degree while in high school.

Education Code 28.009(a-4)–(a-5)

Payment of Costs

A school district is not required to pay a student's tuition or other associated costs for taking a course under this section. *Education Code 28.009(a-2)*

College Connect Courses

The purpose of this section is to encourage and authorize public institutions of higher education, including college districts, to deliver innovatively designed dual credit ~~or dual enrollment~~ courses that integrate both college-level content in the core curriculum of the institution alongside college-readiness content and skills instruction. These innovatively designed courses will allow students the maximum flexibility to obtain college credit and provide integrated college readiness skills to students who are on the continuum of college readiness and will benefit from exposure to college-level content. *19 TAC 4.86(b)*

Student Eligibility

An eligible student must be enrolled in a public school district or open-enrollment charter. ~~An institution of higher education may offer College Connect Courses to:~~ and meet the requirements of 19 Administrative Code 4.85(b).

4. ~~A~~ Notwithstanding Section 4.85(b), an institution may enroll a high school student who ~~has met the~~ is not exempt or college readiness standards set forth in ready under the requirements of 19 Administrative Code 4.57; or

5. ~~A student who has not yet demonstrated college readiness~~ 54 or 4.57 in a math or communications College Connect Course offered by ~~achieving minimum passing standards set forth in Section 4.57, if the student:~~

a. ~~Is a non-degree-seeking or non-certificate-seeking student under Education Code 51.338(a); and~~

b. ~~Has earned not more than 14 semester credit hours of college credits at an institution of higher education; or~~

c. ~~Is otherwise exempt from the Texas Success Initiative.~~

~~An institution may add eligibility requirements for students qualifying under items 2a and b.~~

	19 TAC 4.86(c)-(d)
Agreement	An institution of higher education must enter into an institutional agreement with the secondary school according to 19 Administrative Code 4.84 to offer College Connect Courses. 19 TAC 4.86(g)(2)
Course Content	<p>The following standards apply to delivery of College Connect Courses:</p> <ol style="list-style-type: none"> 1. An institution of higher education may <u>only</u> offer College Connect Courses within the institution's core curriculum. 2. An institution of higher education must <u>shall</u> also incorporate supplemental college readiness content to support students who have not yet demonstrated college readiness within these courses. <u>The supplemental college readiness content shall be related to and integrated with the subject matter of the course.</u> An institution may deliver this supplemental instruction through a method at their discretion, including through embedded course content, supplemental corequisite coursework, or other method <u>methods</u>. <p><u>The</u> Coordinating Board staff may provide technical assistance to public institutions <u>an institution</u> of higher education and secondary schools and districts <u>or school district</u> in developing and providing these courses.</p>
Additional Academic Policies	<p>19 TAC 4.86(d)-(e)-(f)</p> <p>College Connect Courses offered through dual credit or dual enrollment must confer both a college-level grade and a secondary-level grade upon a student's successful completion of the course. A grade conferred for the college-level course may be different from the secondary-level grade, to reflect whether a student has appropriately demonstrated college-level knowledge and skills as well as secondary-level knowledge and skills. An institution may determine how a student enrolled in this course may earn college credit, whether through college-level course completion or successful completion of a recognized college-level assessment <u>that the institution would otherwise use to award college credit</u>.</p> <p>An institution of higher education is strongly encouraged to provide the maximum latitude possible for a student to withdraw from the college-level course component beyond the census date, while still giving the student an opportunity to earn credit toward high school graduation requirements.</p> <p>19 TAC 4.86(g)(1), (3)</p>

<u>Funding and</u> Tuition	For College Connect Courses offered through dual credit under this option, an institution of higher education may waive a student's tuition for <u>The Coordinating Board shall fund</u> College Connect Courses in accordance with Education <u>19 Administrative</u> Code 54.216 and 28.0095. <u>19 TAC 4.86(h)</u>
Funding	<p>For College Connect Courses offered through dual credit under this option, an institution of higher education may receive formula funding for College Connect Course semester credit hours in accordance with Education Code 61.059 and Education Code Chapter 130, Subchapter A, and any Coordinating Board rules that authorize funding for courses offered under this section<u>87.</u></p> <p>Hours earned through this program before the student graduates from high school that are used to satisfy high school graduation requirements do not count against the limitation on formula funding for excess semester credit hours under 19 Administrative Code 13.104. [See FD]</p> <p><u>19 TAC 4.86(gf)(4), (hg)</u></p>
FAST Program	<p>The Texas Education Agency (TEA) and the Coordinating Board shall jointly establish the Financial Aid for Swift Transfer (FAST) program to allow eligible students to enroll at no cost to the students in dual credit courses at participating institutions of higher education, including participating college districts.</p> <p>"Dual credit course" is a course that meets the following requirements:</p> <ol style="list-style-type: none"> 1. The course is offered pursuant to an agreement under 19 Administrative Code 4.84. 2. A course for which the student may earn one or more of the following types of credit: <ol style="list-style-type: none"> a. Joint high school and junior college credit under Education Code 130.008; or <p>Another course offered<u>defined</u> by an institution of higher education, for which a high<u>19 Administrative Code 4.83.</u> A "school district" includes a charter school student may earn semester credit hours or the equivalent of semester credit hours toward satisfaction of; or district operating under Education Code Chapter 12, unless otherwise specified.</p> <ol style="list-style-type: none"> (1) A course defined as a career and technical education course under 19 Administrative Code 13.501(1) that satisfies a requirement necessary to obtain an industry-recognized credential, certificate, or associate degree;

- ~~(2)(1) — A foreign language requirement at an institution of higher education;~~
- ~~(3) — A requirement in the core curriculum at an institution of higher education; or~~
- ~~(4) — A requirement in a field of study curriculum developed by the Coordinating Board.~~

Education Code 28.0095(a)(3), (b); 19 TAC [4.83](#), 13.500(b), .501(~~43~~, [7](#))

Institution Eligibility A public institution of higher education is eligible to participate in the program. A participating institution may not charge students attending high school in a Texas school district ~~or charter school~~ a tuition rate for dual credit courses in excess of the tuition rate outlined in 19 Administrative Code 13.504. *Education Code 28.0095(d); 19 TAC 13.502(a)-(b)*

The commissioner shall determine and announce the annual FAST tuition rate not later than the final day of January prior to the start of each fiscal year. The annual tuition rate takes effect in the fall semester following the announcement. *19 TAC 13.504(c)-(d)*

Student Eligibility A student is eligible to enroll at no cost in a dual credit course under the program if the student:

1. Is enrolled in and eligible for Foundation School Program funding at a high school in a Texas school district ~~or charter school~~ under the TEA rules;
2. Is enrolled in a dual credit course at a participating institution of higher education that has entered into a dual credit agreement with the student's school district as set out in 19 Administrative Code 4.84; and
3. Was educationally disadvantaged at any time during the four school years preceding the student's enrollment in the dual credit course described by item 2, as certified to the institution by the eligible student's school district ~~or charter school~~, or other means authorized by rule.

A school district's ~~or charter school's~~ notice to the institution regarding a student's status as educationally disadvantaged shall occur through the school district's ~~or charter school's~~ notice to TEA, unless otherwise provided by rule.

A participating institution shall submit to the Coordinating Board identifying information, as outlined by the Coordinating Board, for students registered for or enrolled in dual credit courses. The Coor-

	<p>dinating Board will compare the identifying information to data provided by TEA and will notify the institution as to which students fulfill the requirement outlined in item 3.</p> <p><i>Education Code 28.0095(c), (e), (g); 19 TAC 13.503</i></p>
Participation Agreement	<p>Each eligible institution must enter into an agreement with the Coordinating Board, the terms of which shall be prescribed by the commissioner prior to being approved to participate in the program. <i>19 TAC 13.502(d)</i></p>
Cost of Enrollment	<p>A participating institution must ensure that an eligible student incurs no cost for their enrollment in any dual credit course at the institution. This includes, but is not limited to, tuition, fees, books, supplies, or other mandatory course-related expenses. This provision does not prohibit a participating institution from charging a school district for course-related expenses, other than tuition, for an eligible student. <i>19 TAC 13.502(c)</i></p>
Funding	<p>The Coordinating Board will provide each participating institution with a disbursement for each fall, spring, and summer semester upon the certification of the institution's eligible enrollments. The Coordinating Board will combine enrollment periods when a semester includes more than one enrollment period (for example, a Summer 1 and a Summer 2 session).</p> <p>Each disbursement will equal the amount outlined in 19 Administrative Code 13.504 for the relevant semester multiplied by the number of semester credit hours or equivalent in which students who met the eligibility criteria in 19 Administrative Code 13.503 were enrolled in dual credit courses at the institution for the relevant semester.</p> <p>Funding provided to an institution shall be subject to 19 Administrative Code Chapter 13, Subchapter R.</p> <p><i>Education Code 28.0095(h); 13 TAC 13.505(a)-(b), .506</i></p>
Instructional Partnerships with Public Secondary Schools	<p>Types of instructional partnerships between a public two-year college and a school district include:</p> <ol style="list-style-type: none">1. Partnerships for award of high school credit only [see High School Credit-Only Courses, below].2. Partnerships for award of concurrent course credit [see Dual Credit Programs, below].3. Partnerships for tech-prep programs [see Tech-Prep Programs, below].4. Partnerships for remedial or development instruction for high school graduates [see Remedial Programs, below].

5. Partnerships to develop and provide college preparatory courses for high school students [see College Prep Courses, below].

19 TAC 9.143

Agreements
Required

Generally

For any instructional partnership between a secondary school and a public two-year college, an agreement must be approved by the governing boards of both the public school district or private secondary school and the public two-year college prior to the offering of courses. Any partnership agreement must address the following elements:

1. Student eligibility requirements;
2. Faculty qualifications;
3. Location and student composition of classes;
4. Provision of student learning and support services;
5. Eligible courses;
6. Grading criteria;
7. Transcribing of credit; and
8. Funding provisions.

19 TAC 9.144

A local government, including a college district, may contract or agree with another local government to perform governmental functions and services in accordance with Government Code Chapter 791. An interlocal contract must be authorized by the governing body of each party to the contract, with limited exceptions. [See GGB] Gov't Code 791.011(a), (d)(1)

Dual Credit
Agreements

For any dual credit partnership between a ~~secondary school district~~ or private school and a ~~public college~~ an institution, an agreement must be approved by the governing boards or designated authorities (e.g., ~~principal and superintendent~~ or chief academic officer) of both the public school district or private secondary school, as applicable, and the ~~public college~~ institution prior to the offering of such courses. 19 TAC 4.84(a)

Any Elements

An institutional agreement entered into or renewed between a ~~public~~ an institution ~~of higher education~~ and ~~public~~ school district ~~on or after September 1, 2021~~ private school, including a memorandum of understanding or articulation agreement, ~~must:~~

- ~~9. Include specific program goals aligned with the statewide goals developed under Education Code 28.009(b-1);~~

- ~~10. Establish common advising strategies and terminology related to dual credit and college readiness;~~
- ~~11. Provide for the alignment of endorsements described by Education Code 28.025(c-1) offered by the school district, and dual credit courses offered under the agreement that apply towards those endorsements, with postsecondary pathways and credentials at the institution and industry certifications;~~
- ~~12. Identify tools, including tools developed by TEA, the Coordinating Board, or the Texas Workforce Commission (TWC), to assist counselors, students, and families in selecting endorsements offered by the district and dual credit courses offered under the agreement;~~
- ~~13. Establish, or provide a procedure for establishing, the course credits that may be earned under the agreement, including developing a course equivalency crosswalk or other method for equating high school courses with college courses and identifying the number of credits that may be earned for each course completed through the program;~~
- ~~14. Describe the academic supports and, if applicable, guidance that will be provided to students participating in the program;~~
- ~~15. Establish the institution of higher education's and the school district's respective roles and responsibilities in providing the program and ensuring the quality and instructional rigor of the program;~~
- ~~16. State the sources of funding for courses offered under the program, including, at a minimum, the sources of funding for tuition, transportation, and any required fees or textbooks for students participating in the program;~~
- ~~17. Require the school district and the institution to consider the use of free or low-cost open educational resources in courses offered under the program;~~
- ~~18. Ensure the accurate and timely exchange of information necessary for an eligible student to enroll at no cost in a dual credit course as provided by Education Code 28.0095;~~
- ~~19. Designate at least one employee of the school district or institution as responsible for providing academic advising to a student who enrolls in a dual credit course under the program before the student begins the course; and~~
- ~~20. Be posted each year on the institution of higher education's and the school district's respective internet websites.~~

~~Any dual credit partnership must address~~ shall include the following elements:

1. Eligible courses;
2. Student eligibility;
3. Location of class;
4. Student composition of class;
5. Faculty selection, supervision, and evaluation;
6. Course curriculum, instruction, and grading;
7. Academic policies and student support services;
8. Transcribing of credit;
- ~~9. Funding; and~~
9. Funding, including the sources of funding for courses offered under the program, including, at a minimum, the sources of funding for tuition, transportation, and any required fees, instructional materials, or textbooks for students participating in the program, including for students eligible to take dual credit courses at no cost to the student under the Financial Aid Swift Transfer (FAST) program, under 19 Administrative Code Chapter 13, Subchapter Q;
10. All requirements for joint implementation of the FAST program under Education Code 28.0095, including ensuring the accurate and timely exchange of information necessary for an eligible student to enroll at no cost in a dual credit course, for eligible public schools and students participating in the FAST program, under Chapter 13, Subchapter Q;
- ~~10.~~ 11. Defined sequences of courses that apply to academic or career and technical education program requirements at the institution or industry-recognized credentials, where applicable;
12. Specific program goals aligned with the statewide goals developed under Education Code 28.009(b-1), 130A.004, and 130A.101(c)(3);
13. Coordinated advising strategies and terminology related to dual credit and college readiness, including strategies to assist students in selecting courses that will satisfy applicable high school and college requirements for the student's intended program;

14. Provision for the alignment of endorsements described by Education Code 28.025(c-1) offered by the school district and dual credit courses offered under the agreement that apply towards those endorsements with postsecondary pathways and credentials at the institution and industry-recognized credentials;
15. Identification of tools, including online resources developed by TEA, the Coordinating Board, or the Texas Workforce Commission (TWC), to assist counselors, students, and families in selecting endorsements offered by the school district and college courses offered by the institution under the agreement;
16. A procedure for establishing the course credits that may be earned under the agreement, including developing a course equivalency crosswalk or other method of identifying the number of high school and college credits that may be earned for each course completed through the program;
17. A description of the academic supports and, if applicable, other support that will be provided to students participating in the program (e.g., transportation to and from a college campus);
18. The respective roles and responsibilities of the institution of higher education and the school district or private school in providing the program and ensuring the quality of instruction and instructional rigor of the program;
19. A requirement that the school district and the institution consider the use of free or low-cost open educational resources in courses offered under the program; and
20. Designation of at least one employee of the school district or private school or the institution as responsible for providing academic advising to a student who enrolls in a dual credit course under the program before the student begins the course.

Education Code 28.009(b-2); 19 TAC 4.84(b)

Publish Online

Each agreement must be posted each year on the institution of higher education's and the school district's respective internet websites. Education Code 28.009(b-2); 19 TAC 4.84(c)

Reporting

Each institution shall report to the Coordinating Board a list of school districts and private schools with which it has institutional agreements, and the URL where these agreements are posted on the institution's internet website. 19 TAC 4.84(a)

High School Credit-
Only Courses

Public two-year colleges may contract to provide instruction for public secondary schools. An agreement between the public two-year college and the public secondary school must be approved by both governing boards.

Provision of instruction for public secondary schools by public two-year colleges must be in accordance with rules and guidelines established by the State Board of Education. Instruction provided under a contractual agreement may include only coursework necessary for students to complete high school. It does not apply to early admission programs for high school students entering college.

19 TAC 9.125(a), (b)(2), .143(a)

Instructors

Instructors in contract programs with public secondary schools must meet qualifications required by the public two-year college as well as the minimum guidelines approved by the State Board of Education. *19 TAC 9.125(b)(1)*

Funding

Funding for this type of instruction must flow to the public secondary school as the contracting agency. An agreed cost for instruction must be negotiated between the public two-year college and the public secondary school. *19 TAC 9.125(b)(3)*

Dual Credit
Programs

Under an agreement with a school district or, in the case of a private high school, with the organization or other person that operates the high school, a public junior college may offer a course in which a student attending a high school operated in this state by the school district, organization, or other person may enroll and for which the student may simultaneously receive both:

1. Course credit toward the student's high school academic requirements; and
2. Course credit as a student of the junior college, if the student has been admitted to the college district or becomes eligible to enroll in and is subsequently admitted to the junior college.

A public junior college may enter into an agreement with a school district, organization, or other person that operates a high school to offer a course as provided by this section regardless of whether the high school is located within the service area of the junior college district. A public junior college with a service area located wholly or partly in a county with a population of more than three million shall enter into an agreement with each school district located wholly or partly in a county with a population of more than three million to offer one or more courses as provided by Education Code 130.008. A student enrolled in a school district to which this provision applies may enroll in a course at any junior college that has entered into an agreement with the district to offer the course under this provision.

*Education Code 130.008(a), (d), (g-1)**Student Eligibility
Requirements*

In admitting or enrolling high school students in a course offered for joint high school and junior college credit, a public junior college must apply the same criteria and conditions to each student wishing to enroll in the course without regard to whether the student attends a public school or a private or parochial school, including a home school. For purposes of this section, a student who attends a school that is not formally organized as a high school and is at least 16 years of age is considered to be attending a high school.

~~To be eligible for enrollment in a dual credit course offered by a public college, students must meet all the college's regular prerequisite requirements designated for that course (e.g., minimum score on a specified placement test, minimum grade in a specified previous course, etc.).~~

A high school student, a student who is enrolled in private or non-accredited secondary schools, or a student who is home-schooled is eligible to enroll in ~~academic~~-dual credit courses if the student:

1. Is not a degree-seeking student as defined in 19 Administrative Code 4.83(10);
2. Demonstrates that the student is exempt under the provisions of the TSI;
- ~~1.3.~~ 3. Demonstrates college readiness by achieving the minimum passing standards under the provisions of the TSI [see EI] on relevant section(s) of an assessment instrument approved by the Coordinating Board; or
- ~~2.~~ Meets the provisions of the TSI.

~~A high school student is also eligible to enroll in academic dual credit courses that require demonstration of TSI college readiness in reading, writing, and/or mathematics under any of the following conditions:~~

- ~~3.~~ Courses that require demonstration of TSI college readiness in reading and/or writing:
4. If the student achieves eligibility requirements for a Level 2 final recommended score, as defined by TEA, on the English II State of Texas Assessment of Academic Readiness End of Course (STAAR EOC); or First Diploma.
 - ~~a.~~ If the student achieves one of the following scores on the PSAT/NMSQT (mixing or combining scores from the PSAT/NMSQT administered prior to October 15, 2015,

- ~~and the PSAT/NMSQT administered on or after October 15, 2015, is not allowable):~~
- ~~(1) A combined score of 107 with a minimum of 50 on the reading test on a PSAT/NMSQT exam administered prior to October 15, 2015; or~~
- ~~(2) A score of 460 on the evidence-based reading and writing (EBRW) test on a PSAT/NMSQT exam administered on or after October 15, 2015; or~~
- ~~b. If the student achieves a composite score of 23 on the PLAN with a 19 or higher in English or an English score of 435 on the ACT-Aspire.~~
- ~~5. Courses that require demonstration of TSI college readiness in mathematics:~~
- ~~a. If the student achieves a minimum score of 4000, on the Algebra I STAAR EOC and passing grade in the Algebra II course; or~~
- ~~b. If the student achieves one of the following scores on the PSAT/NMSQT (mixing or combining scores from the PSAT/NMSQT administered prior to October 15, 2015, and the PSAT/NMSQT administered on or after October 15, 2015, is not allowable):~~
- ~~(1) A combined score of 107 with a minimum of 50 on the mathematics test on a PSAT/NMSQT exam administered prior to October 15, 2015; or~~
- ~~(2) A score of 510 on the mathematics test on a PSAT/NMSQT exam administered on or after October 15, 2015; or~~
- ~~c. If the student achieves a composite score of 23 on the PLAN with a 19 or higher in mathematics or a mathematics score of 431 on the ACT-Aspire.~~

Education Code 130.008(e); 19 TAC 4.85(b)(1)-(2), (5)-(6)

Workforce
Education Level
1 Certificate
Program or Less

~~A high school student is eligible to enroll in workforce education dual credit courses contained in a postsecondary Level 1 certificate program, or a program leading to a credential of less than a Level 1 certificate, at a public junior college or public technical institute and shall not be required to provide demonstration of college readiness or dual credit enrollment eligibility. 19 TAC 4.85(b)(3)~~

Workforce Education Level 2 Certificate or Applied Associate Degree Program	A high school student is eligible to enroll in workforce education dual-credit courses contained in a postsecondary Level 2 certificate or applied associate degree program under the following conditions: 6. Courses that require demonstration of TSI college readiness in reading and/or writing: a. If the student achieves a minimum score of 4000 on the English II STAAR EOC; or b. If the student achieves one of the following scores on the PSAT/NMSQT (mixing or combining scores from the PSAT/NMSQT administered prior to October 15, 2015, and the PSAT/NMSQT administered on or after October 15, 2015, is not allowable): (1) A combined score of 107 with a minimum of 50 on the reading test on a PSAT/NMSQT exam administered prior to October 15, 2015; or (2) A score of 460 on the evidence-based reading and writing (EBRW) test on a PSAT/NMSQT exam administered on or after October 15, 2015; or c. If the student achieves a composite score of 23 on the PLAN with a 19 or higher in English or an English score of 435 on the ACT Aspire. 7. Courses that require demonstration of TSI college readiness in mathematics: a. If the student achieves a minimum score of 4000 on the Algebra I STAAR EOC and passing grade in the Algebra II course; or b. If the student achieves one of the following scores on the PSAT/NMSQT (mixing or combining scores from the PSAT/NMSQT administered prior to October 15, 2015, and the PSAT/NMSQT administered on or after October 15, 2015, is not allowable): (1) A combined score of 107 with a minimum of 50 on the mathematics test on a PSAT/NMSQT exam administered prior to October 15, 2015; or (2) A score of 510 on the mathematics test on a PSAT/NMSQT exam administered on or after October 15, 2015; or
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~~c. If the student achieves a composite score of 23 on the PLAN with a 19 or higher in mathematics or a mathematics score of 431 on the ACT-Aspire.~~

~~A student who is exempt from taking STAAR EOC assessments may be otherwise evaluated by an institution to determine eligibility for enrolling in workforce education dual credit courses.~~

~~19 TAC 4.85(b)(4)~~

Additional
Eligibility
Requirements

An institution may require a student who seeks to enroll in a dual credit course to meet all the institution's regular prerequisite requirements designated for that course (e.g., a minimum score on a specified placement test, minimum grade in a specified previous course, etc.).

An institution may impose additional requirements for enrollment in ~~courses for~~ specific dual credit courses that do not conflict with 19 Administrative Code ~~4.85-~~ Chapter 4, Subchapter D.

~~19 TAC 4.85(b)(73)-(4)~~

Selection,
Supervision, and
Evaluation of
Faculty
~~Qualifications~~

~~The college shall select instructors of dual credit courses.~~ A course offered for joint high school and junior college credit under this section must be taught by a qualified instructor approved or selected by the public junior college. An instructor is qualified if the instructor holds:

1. A doctoral or master's degree in the discipline that is the subject of the course;
2. A master's degree in another discipline with a concentration that required completion of a minimum of 18 graduate semester hours in the discipline that is the subject of the course; or
3. For a course that is offered in an associate degree program and that is not designed for transfer to a baccalaureate degree program:
 - a. A degree described by item 1 or 2 above;
 - b. A baccalaureate degree in the discipline that is the subject of the course; or
 - c. An associate degree and demonstrated competencies in the discipline that is the subject of the course, as determined by the Coordinating Board.

~~These instructors must meet the same standards, including minimal requirements of the Southern Association of Colleges and~~

~~Schools Commission on Colleges (SACSCOC), and approval procedures used by the college to select faculty responsible for teaching the same courses at the main campus of the college.~~

Each institution shall apply the standards for selection, supervision, and evaluation for instructors of dual credit courses as required by the institution's accreditor. A high school teacher may only teach a high school course offered through a dual credit agreement if the teacher is approved by the institution offering the dual credit course.

Education Code 130.008(g); 19 TAC 4.85(e)(1)

Application
Approval

Not later than the 60th day after receipt, a public junior college shall approve or reject an application for approval to teach a course at a high school that is submitted by an instructor employed by the school district, organization, or other person that operates the high school with which the junior college entered into an agreement under this section to offer the course. *Education Code 130.008(h)*

~~Supervision and
Evaluation of
Faculty~~

~~The college shall supervise and evaluate instructors of dual credit courses using the same or comparable procedures used for faculty at the main campus of the college. 19 TAC 4.85(e)(2)~~

Location and
Course
Composition

An institution may teach dual credit courses ~~may be taught~~ on the college campus or on the high school campus. For dual credit courses taught exclusively to high school students on the high school campus and for dual credit courses taught ~~electronically, public colleges shall comply with applicable rules and procedures for offering courses at a distance in 19 Administrative Code Chapter 4, Subchapters P and Q of this chapter (relating to Approval of Distance Education Courses and Programs for Public Institutions and Approval of Off-Campus and Self-Supporting Courses and Programs for Public Institutions).~~ In addition, dual credit courses taught electronically shall comply with the board's adopted Principles of Good Practice for Courses Offered Electronically. ~~[See EBA and EBB] 19 TAC 4.85(c), .255-.264,~~via distance education, the institution shall comply with 19 Administrative Code Chapter 2, Subchapter J. [See EBA and EBB] 19 TAC 2.200-.207, 4.85(c), .270-.279

A dual credit ~~courses~~course may be composed of dual credit students only or of a mixture of dual credit and college ~~credit~~ students. Notwithstanding the requirements of 19 Administrative Code 4.85(e), exceptions for a mixed class that combines ~~college~~dual credit students and high school credit-only students, ~~may be allowed only~~ when the creation of a high school credit-only class is

not financially viable for the high school and only under one of the following conditions:

1. If the course involved is required for completion under the State Board of Education high school program graduation requirements, ~~and the high school involved is otherwise unable to offer such a course;~~
2. If the high school credit-only students are College Board Advanced Placement or International Baccalaureate students; or
3. If the course is a career and technical/~~college workforce~~ education course and the high school credit-only students are eligible to earn articulated college credit. ~~"Articulated College Credit" is credit earned through a high school-level course that fulfills specific requirements of an identified college-level course and provides a pathway for high school students to earn credit toward a technical certificate or technical degree at a partnering institution of higher education.~~

19 TAC 4.83(1), ~~85(d)~~

Student Services

~~Students in dual credit courses must be eligible to utilize the same or comparable support services that are afforded college students on the main campus. The college is responsible for ensuring timely and efficient access to such services (e.g., academic advising and counseling), to learning materials (e.g., library resources), and to other benefits for which the student may be eligible. 19 TAG 4.85(g)(2)~~

Eligible Courses

~~A college course offered for "dual credit~~ must be course or dual enrollment course" is a course that meets the following requirements:

1. ~~In the core curriculum~~ The course is offered pursuant to an agreement under 19 Administrative Code 4.84.
2. A course for which the student may earn one or more of the ~~public~~ following types of credit:
 - a. Joint high school and junior college credit under Education Code 130.008; or
 - ~~a.b.~~ Another course offered by an institution of higher education providing the credit, for which a high school student may earn semester credit hours or equivalent of semester credit hours toward satisfaction of:
 1. ~~A career and technical education course; or~~
 2. ~~A foreign language course.~~

- (1) ~~This provision does not apply described by 19 Administrative Code 4.83(3) that satisfies a requirement necessary to a college course for dual credit offered as part of~~obtain ~~an approved early college education program established under Education Code 29.908 or an early college program as defined in 19 Administrative Code Chapter 4, Subchapter D. Any college course for dual credit offered as part of an early college program must be a core curriculum course of the public institution of higher education providing the credit, a career and technical education course, a foreign language course, or a course that satisfies specific degree plan requirements leading to the completion of a board-approved certificate, Associate of Arts (A.A.), Associate of Science (A.S.), and Associate of Applied Science (A.A.S.) degree program, Field of Study Curriculum (FOSC), or Program of Study Curriculum (POSC).~~industry-recognized credential, certificate, or an associate degree;

- (2) A foreign language requirement at an institution of higher education;

~~Courses offered for dual credit by public two-year associate degree granting institutions must be identified as college-level academic courses in the current edition of the Lower Division Academic Course Guide Manual adopted by the Coordinating Board or as college-level workforce education courses in the current edition of the Workforce Education Course Manual adopted by the Coordinating Board.~~

- (3) ~~Public colleges~~A requirement in the core curriculum, as that term is defined by Education Code 61.821 at an institution of higher education; or

- (4) A requirement in a field of study curriculum developed by the Coordinating Board under Education Code 61.823.

3. Dual credit includes a course for which a high school student may earn credit only at an institution of higher education, previously referred to as a dual enrollment course, if the course meets the requirements of this definition.

4. A student may earn a single grade toward both the college course and the high school credit or may earn two separate grades where the high school grade only reflects a student's mastery of secondary content.

5. Dual credit and dual enrollment are synonymous in Administrative Code Title 19, Part 1, of these rules unless otherwise expressly provided by rule.

6. Each dual credit course must meet the requirements of 19 Administrative Code Chapter 4, Subchapter D.

A dual credit course offered by an institution must be in the approved undergraduate course inventory of the institution.

An early college high school may offer any dual credit course as defined above or in Education Code 28.009 and 130.008, subject to the provisions of 19 Administrative Code Chapter 4, Subchapter G.

An institution may not offer a remedial ~~and/or~~ developmental ~~courses~~ education course for dual credit. This limitation does not prohibit an institution from offering a dual credit course that incorporates non-course-based college readiness content or other academic support designed to increase the likelihood of student success in the college course, including any college connect course.

The ~~college~~ institution shall ensure that a dual credit course ~~and offered at a high school is at least equivalent in quality to~~ the corresponding course offered at the main campus of the ~~college are equivalent~~ institution with respect to ~~the academic rigor~~, curriculum, materials, instruction, and ~~method/rigor~~ methods of student evaluation. These standards must be upheld regardless of the student composition of the class, location, and mode of delivery.

Education Code 130.008(a-1)-(a-2); 19 TAC 4.~~83(10); 85(a)(1), (3)-(4), (f)~~

Academic
Policies and
Student Support
Services Transfer
~~pts~~

Regular academic policies applicable to courses taught at ~~the college's~~ an institution's main campus must also apply to dual credit courses. These policies ~~could~~ may include the appeal process for disputed grades, drop policy, the communication of grading policy to students, when the syllabus must be distributed, etc. Additionally, each institution is strongly encouraged to provide maximum flexibility to high school students in dual credit courses, consistent with the institution's academic policies, especially with regard to drop policies, to encourage students to attempt rigorous courses without potential long-term adverse impacts on students' academic records.

~~For~~ Each student in a dual credit course must be eligible to utilize support services that are appropriate for dual credit students. The institution is responsible for ensuring timely and efficient access to such services (e.g., academic advising and counseling), to learning

materials (e.g., library resources), and to other benefits for which the student may be eligible.

A student enrolled in a dual credit course at an institution shall file a degree plan with the institution as prescribed by Education Code 51.9685.

19 TAC 4.85(g)

Transcripts

Each institution or high school ~~courses, as well as college credit should be transcribed~~ shall immediately transcript the credit earned by a student upon a student's completion of the performance required in the course. 19 TAC 4.85(h)

~~19 TAC 4.85(g)(1), (h)~~

Tuition and State Funding

~~The junior college~~ An institution may waive all or part of ~~the~~ tuition and fees for a Texas high school student enrolled in a course for which the student may receive ~~joint~~ dual course credit.

~~The contact hours attributable to the enrollment of a high school student in a course offered for joint high school and junior college credit, excluding a course for which the student attending high school may receive course credit toward the physical education curriculum requirement under Education Code 28.002(a)(2)(C), shall be included in the contact hours used to determine the junior college's allocation of the state money appropriated and distributed to public junior colleges under Education Code Chapter 130 and Chapter 130A, even if the junior college waives all or part of the tuition or fees for the student. The college may only claim funding for students earning college credit in core curriculum, field of study curriculum, career and technical education, and foreign language dual credit courses.~~

~~The funding provisions of 19 Administrative Code 4.85(i) do not apply to students enrolled in approved early college high school programs under Education Code 29.908.~~

A public junior college may submit for funding any course that meets the requirements of 19 Administrative Code Chapter 4, Subchapter D, as provided in 19 Administrative Code Chapter 13, Subchapter S or Subchapter P [see CAAA]. A public junior college may report a course for funding for which a high school student may earn college credit that does not otherwise meet the requirements of Chapter 4, Subchapter D, for the purpose of calculating base tier funding according to the provisions of Chapter 13, Subchapter S or Subchapter P. Such a course is not considered a dual credit or dual enrollment course under Administrative Code Title 19, Part 1.

An institution may submit a dual credit course for funding under the Financial Aid for Swift Transfer (FAST) Program of 19 Administrative Code Chapter 13, Subchapter Q, only if the course meets all the FAST requirements. Nothing in Chapter 4, Subchapter D, shall be construed to prohibit an early college high school program under Education Code 29.908 from participating in or receiving funding under the FAST program.

Education Code 130.008(b)-(c); 19 TAC 4.85(4)87

<i>No Requirement</i>	An institution is not required, under the provisions of 19 Administrative Code 4.85, to offer dual credit courses for high school students. 19 TAC 4.85(b)(85)
Tech-Prep Programs	Public two-year colleges may partner with school districts to allow for the articulation of high school technical courses taught by the high school to high school students for immediate high school credit and later college credit to be awarded upon enrollment of the students in the two-year college in an associate degree or certificate program. 19 TAC 9.143(c)
Remedial Programs	<p>As outlined in 19 Administrative Code 9.125 [see High School Credit-Only Courses, above], the governing board of a junior college district may contract with the governing board of an independent school district in the junior college district's service area for the junior college to provide remedial programs for students enrolled in secondary schools in the independent school district in preparation for graduation from secondary school and entrance into college. The governing board of a junior college district located wholly or partly in a county with a population of more than three million may contract to provide remedial programs described above with the governing board of any independent school district located wholly or partly in a county with a population of more than three million.</p> <p>High school students who have passed all sections of the STAAR EOC assessments with the high school graduation standard may be permitted to enroll in state-funded developmental courses offered by a college at the college discretion if a need for such coursework is indicated by student performance on an assessment instrument approved by the Coordinating Board.</p> <p>Remedial and developmental courses may not be offered for dual credit.</p> <p><i>Education Code 130.090(a)-(a-1); 19 TAC 9.143(d), .146(a)-(c)</i></p>
<i>Tuition and Funding</i>	The governing board of a junior college district may exempt from tuition a student enrolled in a remedial program.

	<p>Remedial courses provided for students enrolled in public secondary schools in preparation for graduation from high school are not eligible for state appropriations.</p> <p><i>Education Code 130.090(b)-(d); 19 TAC 9.146(d)</i></p>
College Prep Courses	<p>Each school district shall partner with at least one institution of higher education to develop and provide courses in college preparatory mathematics and English language arts. The courses must be designed:</p> <ol style="list-style-type: none">For students at the 12th grade level whose performance on:<ol style="list-style-type: none">An end-of-course assessment instrument required under Section 39.023(c) does not meet college readiness standards; orCoursework, a college entrance examination, or an assessment instrument designated under Section 51.3062(c) indicates that the student is not ready to perform entry-level college coursework; andTo prepare students for success in entry-level college courses. <p>College preparatory courses are not developmental education courses contained in the Lower Division Academic Course Guide Manual (ACGM). College preparatory courses are locally developed through a memorandum of understanding created between school districts and public two-year colleges.</p> <p><i>Education Code 28.014(a); 19 TAC 9.147(a)-(b)</i></p>
Course Location	<p>A course developed under this section must be provided on the campus of the high school offering the course or through distance learning or as an online course provided through an institution of higher education with which the school district partners. <i>Education Code 28.014(b)</i></p>
Course Development	<p>Appropriate faculty of each high school offering courses under this section and appropriate faculty of each institution of higher education with which the school district partners shall meet regularly as necessary to ensure that each course is aligned with college readiness expectations.</p> <p>Each school district, in consultation with each institution of higher education with which the district partners, shall develop or purchase instructional materials for a course developed under this section consistent with Education Code Chapter 31. The instructional materials must include technology resources that enhance</p>

	<p>the effectiveness of the course and draw on established best practices.</p> <p><i>Education Code 28.014(c), (g)</i></p>
<p><i>Credit May Be Awarded</i></p>	<p>A course provided under this section may be offered for dual credit at the discretion of the institution of higher education with which a school district partners. <i>Education Code 28.014(f)</i></p>
<p><i>Funding</i></p>	<p>College preparatory courses are not eligible for state appropriations through two-year college formula funding. <i>19 TAC 9.147(c)</i></p>
<p>Workforce Continuing Education</p>	<p>A public junior college may offer, or may enter into an agreement with a school district, organization, or other person that operates a high school to offer, workforce continuing education courses other than learning framework courses, basic employability courses, and basic learning skills courses to a person who:</p> <ol style="list-style-type: none">1. Is enrolled in high school on the completion of the person's sophomore year;2. Is enrolled in a school that is not formally organized as a high school and is at least 16 years of age; or3. Is attending high school while incarcerated, is at least 16 years of age, and is not eligible for release from incarceration before the person's 18th birthday. <p>This section does not prohibit a public junior college from offering community interest continuing education courses using local funds.</p> <p><i>Education Code 130.303; 19 TAC 9.114(c)</i> [See EFAB for general workforce continuing education]</p>
<p><i>Funding</i></p>	<p>Notwithstanding Education Code 130.003 or any other law, contact hours attributable to the enrollment of a student in a workforce continuing education course offered by a public junior college shall be included in the contact hours used to determine the college's proportionate share of state money appropriated and distributed to public junior colleges under Education Code 130.003 and 130.0031, regardless of whether the college waives all or part of the tuition or fees for the course under Education Code 130.304. <i>Education Code 130.302</i></p>
<p><i>Waiver of Tuition and Fees</i></p>	<p>A public junior college may waive all or part of the tuition or fees charged to a student for a workforce continuing education course only if:</p> <ol style="list-style-type: none">1. The student:<ol style="list-style-type: none">a. Is enrolled in high school or in a school that is not formally organized as a high school;

- b. Is 16 years of age or older, who has had the disabilities of minority removed, and is not enrolled in secondary education; or
- c. Is under the age of 18 and is incarcerated; or
- 2. The institution:
 - a. Determines all or a significant portion of the college's costs for facilities, instructor salaries, equipment, and other expenses for the course are covered by business, industry, or other local public or private entities; or
 - b. Offers the course in a federal correctional facility and the facilities, equipment, supplies, and other expenses for the course are funded by the federal government.

Education Code 130.304; 19 TAC 9.116

Definitions

Adult

"Adult" means a person who:

- 1. Has completed the person's sophomore year of high school;
- 2. Is 17 years of age and has been awarded a high school diploma or its equivalent; or
- 3. Is 18 years of age or older, regardless of the person's previous educational experience.

Education Code 130.301(1); 19 TAC 9.113(1)

Avocational Course

"Avocational course" means a course of study in a subject or activity that is usually engaged in by a person in addition to the person's regular work or profession for recreation or in relation to a hobby. The term includes a community interest course. *Education Code 130.301(2); 19 TAC 9.113(2)*

Workforce Continuing Education

"Workforce continuing education" means a program of instruction that is designed primarily for adults and is intended, on completion by a participant, to prepare the participant to qualify to apply for and accept an employment offer or a job upgrade within a specific occupational category or to bring the participant's knowledge or skills up to date on new developments in a particular occupation or profession. *Education Code 130.301(4); 19 TAC 9.113(8)*

Workforce Continuing Education Course

"Workforce continuing education course" means a course of instruction in workforce continuing education that is approved by the Coordinating Board. The term does not include an avocational course. *Education Code 130.301(1); 19 TAC 9.113(9)*

Dropout Recovery Partnership Programs

A public junior college may enter into an articulation agreement to partner with one or more school districts located in the public junior college district to provide on the campus of the public junior college

a dropout recovery program for eligible students to successfully complete and receive a diploma from a high school of the appropriate partnering school district in accordance with Education Code 29.402. A public junior college with a service area located wholly or partly in a county with a population of more than three million may enter into an articulation agreement described by Section 29.402(a) with any school district located wholly or partly in a county with a population of more than three million.

A public junior college under this section may partner with a public technical institute, as defined by Education Code 61.003, to provide, as part of the dropout recovery program curriculum, career and technology education courses that lead to industry or career certification.

Education Code 29.402(a)-(a-1), (c-1)

Financing

A public junior college may receive from each partnering school district for each student from that school district enrolled in a dropout recovery program under this section an amount negotiated between the junior college and that partnering district not to exceed the total average per student funding amount in that school district during the preceding school year for maintenance and operations, including state and local funding, but excluding money from the available school fund.

A public technical institute may receive from a partnering public junior college for each student enrolled in a career and technology education course as provided by Education Code 29.402(c-1), above, an amount negotiated between the public technical institute and the partnering public junior college.

To the extent consistent with the General Appropriations Act, a public junior college is eligible to receive dropout prevention and intervention program funds appropriated to the agency.

A public junior college may receive gifts, grants, and donations to use for the purposes of this section.

Education Code 29.403~~-.404~~

**Higher Education
Assistance Plans**

The institution of higher education, including a college district, in closest geographic proximity to a public high school in this state identified by the Coordinating Board for purposes of this section as substantially below the state average in the number of graduates who enroll in higher education institutions shall enter into an agreement with that high school to develop a plan to increase the number of students from that high school enrolling in higher education institutions. Under the plan, the institution shall:

1. Collaborate with the high school to:
 - a. Provide to prospective students information related to enrollment in an institution of higher education or a private or independent institution of higher education, including admissions, testing, and financial aid information;
 - b. Assist those prospective students in completing applications and testing related to enrollment in those institutions, including admissions and financial aid applications, and fulfilling testing requirements; and
 - c. Target efforts to increase the number of Hispanic students and African-American male students enrolled in higher education institutions; and
2. Actively engage with local school districts to provide access to rigorous, high-quality dual credit opportunities for qualified high school students as needed.

An institution of higher education must include a plan developed by the institution under this section and the results of that plan in its annual report to the Coordinating Board under Education Code 51.4032.

Education Code 51.810(b)-(c)

Early College High Schools

The commissioner of education shall establish and administer an early college education program for students who are at risk of dropping out of school or who wish to accelerate completion of the high school program. The program must:

1. Provide for a course of study that enables a participating student to combine high school courses and college-level courses during grade levels 9 through 12;
2. Allow a participating student to complete high school and enroll in a program at an institution of higher education that will enable the student to, on or before the fifth anniversary of the date of the student's first day of high school, receive a high school diploma and either:
 - a. An applied associate degree; or
 - b. An academic associate degree with a completed field of study curriculum that is transferable toward a baccalaureate degree at one or more general academic teaching institutions;

3. Include articulation agreements with colleges, universities, and technical schools in this state to provide a participating student access to postsecondary educational and training opportunities at a college, university or technical school; and
4. Provide a participating student flexibility in class scheduling and academic mentoring.

Education Code 29.908; 19 TAC 4.151, 102.1095

P-TECH Programs

The commissioner of education shall establish and administer, in accordance with Education Code Chapter 29, Subchapter N, a Pathways in Technology Early College High School (P-TECH) program for students who wish to participate in a work-based education program. The P-TECH program must:

1. Be open enrollment;
2. Provide for a course of study that enables a participating student in grade levels 9 through 12 to combine high school courses and postsecondary courses;
3. Allow a participating student to complete high school and, on or before the sixth anniversary of the date of the student's first day of high school receive a high school diploma and an associate degree, a two-year postsecondary certificate, or industry certification; and complete work-based training through an internship, apprenticeship, or other job training program;
4. Include:
 - a. Articulation agreements with institutions of higher education in this state to provide a participating student access to postsecondary educational and training opportunities at an institution of higher education; and
 - b. Memoranda of understanding with regional industry or business partners in this state to provide a participating student access to work-based training and education; and
5. Provide a participating student flexibility in class scheduling and academic mentoring.

Education Code 29.553(a)-(b); 19 TAC 102.1095

Rural Pathway Excellence Partnership

The commissioner of education shall establish and administer, in accordance with Education Code 29.912, the Rural Pathway Excellence Partnership (R-PEP) program to incentivize and support multidistrict, cross-sector, rural college and career pathway partnerships that expand opportunities for underserved students to

succeed in school and life while promoting economic development in rural areas.

The program must enable an eligible school district that has fewer than 1,600 students in average daily attendance to partner with at least one other school district located within a distance of 100 miles to offer a broader array of robust college and career pathways. Each partnership must:

1. Offer college and career pathways that align with regional labor market projections for high-wage, high-demand careers; and
2. Be managed by a coordinating entity that:
 - a. Has or will have at the time students are served under the partnership the capacity to effectively coordinate the partnership;
 - b. Has entered into a performance agreement approved by the board of trustees of each partnering school district that confers on the coordinating entity the same authority with respect to pathways offered under the partnership provided to an entity that contracts to operate a district campus under Education Code 11.174;
 - c. Is an eligible entity, including a college district; and
 - d. Has on the entity's governing board as either voting or ex officio members, or has on an advisory body, representatives of each partnering school district and members of regional higher education and workforce organizations.

Education Code 29.912(b)-(c); [19 TAC 102.1021](#)

Criminal Background Checks

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

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

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

If a contracting or subcontracting entity determines that Section 22.0834(a) does not apply to an employee, the contracting or subcontracting entity shall make a reasonable effort to ensure that the conditions or precautions that resulted in the determination that Section 22.0834(a) did not apply to the employee continue to exist throughout the time that the contracted services are provided.

Education Code 22.0834(a)-(a-1), (I)

Qualified School
Contractors

If the contracting entity is a qualified school contractor, a person to whom Section 22.0834(a) applies must submit to a national criminal history record information review by the qualified school contractor before being employed or serving in a capacity described by Section 22.0834(a).

A qualified school contractor may provide a fitness determination based on criminal history record information obtained under Government Code 411.12505 to a school district, charter school, or shared services arrangement.

"Qualified school contractor" means an entity that:

1. Contracts or subcontracts to provide services to a school district, charter school, or shared services arrangement; and
2. Is determined eligible by the Department of Public Safety (DPS) to obtain criminal history record information under the National Child Protection Act of 1993, 34 U.S.C. 40101 et seq., for an employee, applicant for employment, or volunteer of the qualified school contractor.

Education Code 22.0834(b); Gov't Code 411.12505(a), (d)

Subcontractors

A qualified school contractor acting as a contracting entity shall require that any of its subcontracting entities obtain all criminal history record information that relates to an employee to whom Section 22.0834(a) applies if the subcontracting entity is also a qualified school contractor.

A qualified school contractor shall require that any of its subcontracting entities that are not qualified school contractors comply with Education Code 22.0834(b-1) as it relates to an employee to whom Section 22.0834(a) applies.

Education Code 22.0834(d-1)-(d-2)

Exception

The requirements of Education Code 22.0834(b), (d-1), and (d-2) do not apply to a qualified school contractor if a school district, open-enrollment charter school, or shared services arrangement obtains the criminal history record information of a person to whom this section applies through the criminal history clearinghouse as

	provided by Government Code 411.0845. <i>Education Code 22.0834(e)</i>
Other School Contractors	If the contracting entity or subcontracting entity is not a qualified school contractor, a person to whom Section 22.0834(a) applies must submit to a national criminal history record information review by the school district, charter school, regional education service center, commercial transportation company, or education shared services arrangement. <i>Education Code 22.0834(b-1)</i>
Background Check Procedure	<p>A qualified school contractor or a school district, open-enrollment charter school, or shared services arrangement shall obtain all criminal history record information that relates to a person to whom Section 22.0834(a) applies through the criminal history clearing-house as provided by Government Code 411.0845.</p> <p>Before or immediately after employing or securing the services of a person to whom Education Code 22.0834(a) applies, the qualified school contractor or school district, open-enrollment charter school, or shared services arrangement shall send or ensure that the person sends to the DPS information that is required by DPS for obtaining national criminal history record information, which may include fingerprints and photographs.</p> <p>A school district, open-enrollment charter school, shared services arrangement, or qualified school contractor may obtain from any law enforcement or criminal justice agency all criminal history record information that relates to a person to whom this section applies.</p> <p>A school district, charter school, regional education service center, commercial transportation company, education shared services arrangement, or qualified school contractor, contracting entity, or subcontracting entity may not permit an employee to whom Section 22.0834(a) applies to provide services at a school if the employee has been convicted of a felony or misdemeanor offense that would prevent a person from being employed under Education Code 22.085(a).</p> <p><i>Education Code 22.0834(c)-(d), (h), (o)</i></p>

Exhibit 3.1
Information Items
(No Action Required)

Beltran, Nohemi

Campus Life Representative
Professional Staff
Student Leadership & Campus Life
Temporary Status
11/12/24 – 08/31/25
Grade B
Competitive Appointment
(Replacement Action)

Fragoso, Maricela

Employment Services Assistant
Classified Staff
Human Resources
11/04/24 – 08/31/25
Grade D
Competitive Appointment
(Replacement Action)

Camacho, Analinda

Manager, Grants Management
Professional Staff
Grants Management
12/9/24 – 08/31/25
Grade E
Competitive Appointment
(Replacement Action)

Fuentes, Nidia

Academic Computing Services Lab Assistant
Classified Staff
Open Computer Lab
11/18/24 – 08/31/25
Grade C
Competitive Appointment
(Replacement Action)

Casavantes, Maria del Carmen

Director, Center for College Access &
Development
Administrator
Center for College Access & Development
11/25/24 – 08/31/25
Grade C
Competitive Appointment
(New Position)

Garcia, Erika

Admissions, Registration, & Evaluations
Specialist
Classified Staff
Admissions & Registration
11/25/24 – 08/31/25
Grade E
Competitive Appointment
(Replacement Action)

Castruita, Maribel

Executive Assistant to the President
and the Board of Trustees
Professional Staff
Office of the President
12/9/24 – 08/31/25
Grade F
Competitive Appointment
(Replacement Action)

Guevara, Crystal

Program Assistant
Classified Staff
Workforce Strategic Initiatives
Temporary Status
09/01/24 – 08/31/25
Grade D
Extension of Appointment

Exhibit 3.1
Information Items
(No Action Required)

Hubail, Abraham

Executive Director, Information Technology
Software Applications & Analytics
Administrator
Enterprise Computing
09/01/24 – 08/31/25
Grade E
Temporary Increase in Responsibilities (10%)

Pasillas, Mirella

Manager, Student Support Services Program
Professional Staff
Student Support Services Program
Temporary Status
12/02/24 - 08/31/25
Grade D
Competitive Appointment
(Replacement Action)

Marquez, Esmeralda

Bid Analyst
Classified Staff
Purchasing & Contract Management
11/25/24 – 08/31/25
Grade F
Competitive Appointment
(Replacement Action)

Ramirez, Orson

Academic Computing Services Lab Assistant
Classified Staff
Open Computer Lab
11/18/24 – 08/31/25
Grade C
Competitive Appointment
(Replacement Action)

Mobley, Anthony

Manager, Admissions, Districtwide Outreach,
Communication, and Enrollment Services
Professional Staff
Admissions & Registration
11/25/24 – 08/31/25
Grade E
Competitive Appointment
(Replacement Action)

Montes, Jose

Dispatcher
Classified Staff
Police Department
11/25/24 - 08/31/25
Grade C
Competitive Appointment
(Replacement Action)

Exhibit 3.1
Information Items
(No Action Required)

Advancements for Educational
Achievement:

Mendoza, Gabriel

Mathematics Instructor
Master's Degree + 60 sem hrs
12/01/24

Exhibit 3.1
Information Items
(No Action Required)

Resignations:

Herrera, Nineveh

Administrative Associate
Education & Career & Technical Education
10/31/24

Licon-Gonzalez, Cindy

Employment Specialist
Human Resources
10/31/24

Montezuma, Edward

Career & Transfer Services Specialist
Career & Transfer Services
10/11/24

Ontiveros, Olinka

Accounts Receivable Specialist
Accounts Receivable
09/30/24

Retirements:

None

PHYSICAL FACILITIES ABSTRACT

Item(s) to be Considered: Discussion and action on the approval to purchase from Ramtech Building Systems a portable modular restroom building.	Amount (Not to Exceed): \$236,958										
Requestor: Jim Booher	Area Responsible: Physical Plant										
Resource Persons: Fernando Flores, Jim Booher											
<p>Purpose: To request approval for the purchase of a new 24'x32' portable modular restroom building, which includes delivery, installation, an aluminum landing, ramp, switchback ramp and steps (assemblies) for the Fire Technology Department at the Valle Verde Campus.</p> <p>Explanation: The Fire Technology training ground has no lavatory facilities and is currently isolated from other buildings at Valle Verde Campus. During training if the students require a restroom break they need to walk to other facilities that are 20 to 25 minutes away from the Fire Technology training ground. This modular facility will alleviate this issue and reduce student training interruptions. These facilities will provide services for all students and training staff. It will also provide a locker area to allow students to change, when necessary, from the classroom uniform to the lab uniform. Eventually, a classroom portable will be located in the same area and students who are in class will be able to use these facilities.</p> <p>This purchase will be conducted through the BuyBoard Purchasing Cooperative Contract #732-24, which complies with Texas Education Code 44.031; and the provisions of Texas Government Code, Chapter 791 – Interlocal Cooperation Contracts. Such contracts are competitively awarded.</p> <table style="margin-left: auto; margin-right: auto;"> <tr> <td style="text-align: right;">Restroom Modular Building</td> <td style="text-align: right;">\$206,050</td> </tr> <tr> <td style="text-align: right;">Contingency 15%</td> <td style="text-align: right;"><u>\$30,908</u></td> </tr> <tr> <td style="text-align: right;">Total</td> <td style="text-align: right;">\$236,958</td> </tr> </table> <p>Funding is provided by the VV Fire Technology Portable budget.</p>		Restroom Modular Building	\$206,050	Contingency 15%	<u>\$30,908</u>	Total	\$236,958				
Restroom Modular Building	\$206,050										
Contingency 15%	<u>\$30,908</u>										
Total	\$236,958										
Recommendation: Approval by the Board of Trustees.	<div style="border: 1px solid black; padding: 5px;"> <table style="width: 100%;"> <tr> <td>Date:</td> <td style="text-align: right;"><u>11/07/24</u></td> </tr> <tr> <td>Account:</td> <td style="text-align: right;"><u>91919- 91919</u></td> </tr> <tr> <td>Budget:</td> <td style="text-align: right;"><u>\$397,747</u></td> </tr> <tr> <td>Expenditures to date:</td> <td style="text-align: right;"><u>\$30,600</u></td> </tr> <tr> <td>Balance:</td> <td style="text-align: right;"><u>\$367,147</u></td> </tr> </table> </div>	Date:	<u>11/07/24</u>	Account:	<u>91919- 91919</u>	Budget:	<u>\$397,747</u>	Expenditures to date:	<u>\$30,600</u>	Balance:	<u>\$367,147</u>
Date:	<u>11/07/24</u>										
Account:	<u>91919- 91919</u>										
Budget:	<u>\$397,747</u>										
Expenditures to date:	<u>\$30,600</u>										
Balance:	<u>\$367,147</u>										
Vendor: Ramtech Building Systems 1400 US Hwy 287 South Mansfield, TX 76063											

PHYSICAL FACILITIES ABSTRACT

Item(s) to be Considered:	Discussion and action on the approval to increase the existing limit on expenditures to El Paso Disposal for districtwide waste disposal and recycling services.	Amount (Not to Exceed): \$30,000 <i>(Additional amount to previously approved \$80,000)</i>
Requestor:	Jim Booher	Area Responsible: Physical Plant
Resource Persons: Fernando Flores, Jim Booher		
Purpose:	To request approval for the increase of the existing annual expenditures with El Paso Disposal by \$30,000.	
Explanation:	<p>On August 28, 2024, the Board of Trustees approved contracts to be issued on as-needed basis, to El Paso Disposal in the cumulative amount not to exceed \$80,000. In September 2024, Physical Plant was informed of the rate increases implemented by El Paso Disposal for front load and roll-off containers utilized for recycling and waste disposal districtwide. The administration is requesting this cumulative total amount be increased by \$30,000 for a new cumulative total amount of \$110,000.</p> <p>This recommendation is based on the continued utilization of the contracts through Region 19 #22-7441, EPISD CSP No. 22-010 or EPISD RFP No. 23-071. These contracts are all in compliance with Texas Code 44.031; and the provisions of Texas Government Code 791, Interlocal Cooperation Contracts. Such contracts are competitively awarded.</p> <p>Funding is provided by the approved budgets allocated in the Plant Funds.</p>	
Recommendation:	Approval by the Board of Trustees.	
Vendor:	El Paso Disposal dba BARCO 5539 El Paso Dr. El Paso, TX 79905	

CURRICULUM AND INSTRUCTION ABSTRACT

Item(s) to be Considered: Discussion and action on the acceptance of a grant award from the Texas Workforce Commission.	Amount: \$137,960												
Requestor: Blayne Primozich	Area Responsible: Workforce Strategic Initiatives												
Resource Persons: Steven Smith, Blayne Primozich, Robert Elliott													
<p>Purpose: To approve the acceptance of a 12-month grant award from the Texas Workforce Commission (TWC) that supports training and development for Vinton Steel LLC employees.</p> <p>Explanation: The Texas Workforce Commission Skills Development Fund (SDF) grant will provide up-skilling to 65 new and incumbent employees of Vinton Steel LLC for 5,172 training hours. The funds will cover tuition and fees, instructional costs, curriculum development, books, and administrative costs. The training will increase employee skills through courses specialized in Electricity and Power flow, Electrical Troubleshooting, Electronic Fundamentals, Facility Operation and Maintenance, English in the Workplace, HVAC, Fundamentals of Lean Practices, Maintenance Hydraulics, Microsoft Excel, Motors & Controls, and Programmable Logic Controllers. This project is the first SDF grant between EPCC and Vinton Steel LLC.</p> <p>The cost category of Fringe represents those employer benefit costs that vary based upon an employee's actual salary and benefit options chosen by each employee. Benefits choices include the health/dental insurance plan and retirement programs selected. Other employer benefit costs normally borne by the institution and charged to the grant also apply to workers' compensation, state unemployment insurance, life insurance, and long-term disability insurance.</p> <p style="text-align: center;">Budget Account Number: 22757-E22757: Budget Summary: \$137,960 January 6, 2025 – January 5, 2026 Detailed Budget Overview:</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 15%;">61601</td> <td style="width: 60%;">Classified Staff PT</td> <td style="width: 25%; text-align: right;">\$12,485</td> </tr> <tr> <td>62000</td> <td>Fringe Benefits¹</td> <td style="text-align: right;">1,311</td> </tr> <tr> <td>74604</td> <td>Tuition/Special Programs</td> <td style="text-align: right;"><u>124,164</u></td> </tr> <tr> <td></td> <td>TOTAL BUDGET</td> <td style="text-align: right;">\$137,960</td> </tr> </table> <p>¹Part-time fringe benefit rate is 10.5%, and overall composite fringe benefit rate is 10.5%.</p>		61601	Classified Staff PT	\$12,485	62000	Fringe Benefits ¹	1,311	74604	Tuition/Special Programs	<u>124,164</u>		TOTAL BUDGET	\$137,960
61601	Classified Staff PT	\$12,485											
62000	Fringe Benefits ¹	1,311											
74604	Tuition/Special Programs	<u>124,164</u>											
	TOTAL BUDGET	\$137,960											
Recommendation: Approval by the Board of Trustees.													

CURRICULUM AND INSTRUCTION ABSTRACT

Item(s) to be Considered:	Discussion and action on the acceptance of a grant from the Texas Workforce Commission (TWC).	Amount: \$121,307												
Requestor:	Blayne Primozych	Area Responsible: Workforce Strategic Initiatives												
Resource Persons:	Steven Smith, Blayne Primozych, Robert Elliott													
Purpose:	To approve the acceptance of a 12-month grant from the Texas Workforce Commission (TWC). The grant supports apprenticeship training programs in the El Paso area.													
Explanation:	<p>The Texas Workforce Commission Apprenticeship Training Program grant allows El Paso Community College's Workforce Strategic Initiatives department to reimburse a portion of the training expenses incurred by the apprenticeship training partners included in the grant. A total of 13 apprenticeship partners will provide approximately 60,424 contact hours of training during the 12-month period. Occupations receiving training include; Electricians, Cement Mason, Painters, HVAC Technicians, Plumbers, Pipefitters, Motor Grader Operators, Drywall Installers, Bricklayers, Iron Workers, and Community Health Workers.</p> <p>TWC determines each partner's funding based on their total contact hours. The grant is awarded in two parts. This initial award is based on 70% of the estimated contact hours reported by the apprenticeship partners, funded by the TWC at \$2.87 per contact hour. A mid-year revision will increase the funding rate to \$4.00 per contact hour, based on the actual number of trainees and contact hours reported by each partner. Currently, one apprenticeship partner, Southwest Line Constructors, is expected to receive over \$50,000 in reimbursements. With an estimated 31,680 training hours, Southwest Line Constructors would be reimbursed an amount not to exceed \$135,000 in the 12-month grant period. The total award amount of \$121,307 represents an award of 70% of the 60,424 training hours, funded at the \$2.87 per contact hour rate.</p> <p>The cost category of fringe represents those employer benefit costs that vary based upon an employee's actual salary and benefit options chosen by each employee. Benefits choices include the health/dental insurance plan and retirement programs selected. Other employer benefit costs normally borne by the institution and charged to the grant also apply, like workers' compensation, state unemployment insurance, life insurance, and long-term disability insurance.</p> <p style="text-align: center;">Budget Account Number: 22755-E22755: Budget Summary: \$121,307 October 1, 2024 – September 30, 2025 Detailed Budget Overview:</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 15%;">61605</td> <td style="width: 60%;">Classified Staff FT</td> <td style="width: 25%; text-align: right;">\$13,997</td> </tr> <tr> <td>62000</td> <td>Fringe Benefits¹</td> <td style="text-align: right;">4,199</td> </tr> <tr> <td>71317</td> <td>Other Professional/Tech</td> <td style="text-align: right;"><u>103,111</u></td> </tr> <tr> <td></td> <td>TOTAL</td> <td style="text-align: right;">\$121,307</td> </tr> </table> <p>¹Full -time fringe benefit rate is 32%, and overall composite fringe benefit rate is 32%.</p>		61605	Classified Staff FT	\$13,997	62000	Fringe Benefits ¹	4,199	71317	Other Professional/Tech	<u>103,111</u>		TOTAL	\$121,307
61605	Classified Staff FT	\$13,997												
62000	Fringe Benefits ¹	4,199												
71317	Other Professional/Tech	<u>103,111</u>												
	TOTAL	\$121,307												
Recommendation:	Approval by the Board of Trustees													

CURRICULUM AND INSTRUCTION ABSTRACT

Item(s) to be Considered: Discussion and action on the acceptance of a grant from the Texas Higher Education Coordinating Board.	Amount: \$29,971						
Requestor: Hafid Guerrero	Area Responsible: Nursing						
Resource Persons: Steven Smith, Hafid Guerrero, Robert Elliott							
<div style="margin-bottom: 15px;"> Purpose: To approve the acceptance of a Nursing Shortage Reduction Program grant by the Texas Higher Education Coordinating Board (THECB) that supports retention and program completion in the Associate of Applied Sciences Nursing Program. </div> <div> Explanation: The Nursing Shortage Reduction Program (NSRP) addresses a critical shortage of registered nurses in Texas, highlighting the need to enhance the nursing workforce to safeguard public health and welfare. Established to support nursing education programs at public and independent institutions of higher education in Texas, the NSRP provides grants aimed at increasing the number of qualified nurses in the state. Our proposal seeks funding to offer student stipends specifically designed to assist with the costs associated with registering for the NCLEX-RN licensing exam. This initiative will help alleviate financial barriers for nursing students, ultimately contributing to a more robust nursing workforce in Texas. </div> <div style="text-align: center; margin-top: 20px;"> Budget Account Number: 22107-E22107 Budget Summary: \$29,971 July 29, 2024 – August 31, 2028 Detailed Budget Overview: </div> <table style="margin-left: auto; margin-right: auto; border: none;"> <tr> <td style="text-align: right; padding-right: 20px;">74606</td> <td style="padding-right: 20px;">Student Stipends</td> <td style="text-align: right; border-bottom: 1px solid black;">\$29,971</td> </tr> <tr> <td></td> <td>TOTAL BUDGET</td> <td style="text-align: right; border-bottom: 1px solid black;">\$29,971</td> </tr> </table>		74606	Student Stipends	\$29,971		TOTAL BUDGET	\$29,971
74606	Student Stipends	\$29,971					
	TOTAL BUDGET	\$29,971					
Recommendation: Approval by the Board of Trustees.							

GRANT AGREEMENT USING STATE FUNDS

Section 1. Parties

This agreement ("Agreement") is entered into by and between the TEXAS HIGHER EDUCATION COORDINATING BOARD, an agency of the State of Texas, hereinafter designated "THECB" or "Funding Agency" and **El Paso County Community College District**, hereinafter designated "Grantee." At times, THECB and the Grantee are referred to singularly as "Party" and plurally as "Parties".

Funding Agency: Texas Higher Education Coordinating Board
1801 N. Congress Ave.
Suite 12.200
Austin, Texas 78701

Grantee: El Paso County Community College District
P.O. Box 20500
El Paso, TX 79998

Authority: Texas Education Code 61.9621-.9629, GAA 2024-2025, Rider 26,
Article III-59, and 19 Texas Administrative Code 22.501-.508

Section 2. Term of Agreement

The term of this Agreement shall be from **upon execution** and shall terminate on **August 31, 2028**, unless extended or terminated as otherwise provided for in this Agreement ("Agreement Term"). Grantee must obligate all funds by July 31, 2028 and expend all funds by August 31, 2028.

Section 3. Purpose and Project Description

3.1 Purpose

The Professional Nursing Shortage Reduction Program (NSRP) is designed to aid in reducing the professional nursing shortage in the state of Texas. THECB released a program announcement on December 13, 2023. The program announcement is attached as Exhibit A and is hereby incorporated into this Agreement. Grantee submitted an application for an award, which is attached as Exhibit B and is hereby incorporated into this Agreement.

Per the referenced program announcement, applicants are required to submit a completed, signed, and dated Chief Financial Officer (CFO) Statement of Support Form. This is included as Attachment A and should be completed and returned with the signed Notice of Grant Agreement.

3.2 Grant Program Requirements

Grantee shall comply with applicable laws and regulations pertaining to the NSRP grant program, including Texas Education Code §§ 61.9621-.9629 and 19 Texas Administrative Code §§ 22.501-22.508.

All awards made under this program are subject to restrictions as determined by the THECB, including applicable conditions and State Assurances under the [Texas Grant Management Standards \(TxGMS\)](#).

Texas Education Code § [61.9623](#) sets restrictions on the use of NSRP funds. NSRP awards are limited to support the following costs related to:

- Enrolling additional nursing students;
- Encouraging innovation in the recruitment and retention of students, including the recruitment and retention of Spanish-speaking and bilingual students.
- Identifying, developing, and/or implementing innovative methods to make the most effective use of limited professional nursing program faculty, instructional or clinical space, and other resources, including, but not limited to:
 - (A) Sharing curriculum and administrative or instructional personnel, facilities, and responsibilities between two or more professional nursing programs located in the same region of this state; and
 - (B) Using preceptors or part-time faculty to provide clinical instruction to address the need for qualified faculty to accommodate increased student enrollment in the professional nursing program.

Grantee shall submit timely, complete and accurate reports in accordance with the grant and maintain appropriate backup documentation to support the reports. Failure to meet the reporting requirements set forth in this Agreement may result in termination of the Agreement and/or a reduction in the grant award. Annual Program Reports are due on **October 1** for each award year and expenditure year until all funds are expended and a final report that shows the expenditure of all award funds is submitted.

Section 4. Agreement Amount and Payment

4.1 Grant Amount

THECB shall award Grantee for the reasonable and necessary costs related to this Agreement in an amount that shall not exceed **\$29,971.26** ("Agreement Amount"). The total amount shall be paid to Grantee upon execution of the Agreement.

4.2 Payment Schedule and Instructions

THECB shall advance 50% upon the beginning of the Agreement Term. At THECB's sole discretion, the receipt of the remaining grant funding is contingent upon the Grantee using grant funds appropriately, meeting project benchmarks, and producing expected outcomes during the first year of the Agreement Term. Grantee will receive the remaining 50% of the awarded funds following the receipt of Annual Performance Report, due October 1, 2024. The advancement of funds is necessary to enable Grantee to fully perform under the Agreement.

Payments under this Agreement are subject to the availability of appropriated funds. Submission of financial and program reports shall constitute Grantee's certification that the Project and other obligations under the Agreement have been performed in accordance with this Agreement. THECB reserves the right to reduce the Agreement Amount based on Grantee reports and progress to meeting the Grant Agreement Program Requirements.

To the extent there is any advancement of funds, this is necessary to enable the Grantee to fully perform its obligations.

Any award funds remaining unspent at the end of the grant term must be returned to the THECB within sixty days.

Section 5. Certain Certifications

Grantee certifies the following:

Grantee must make full disclosure to THECB prior to entering into this Agreement if it intends to subcontract or subgrant with a former employee/retiree of THECB if such former employee/retiree will participate in the Project in any way. Any former employee/retiree selected by the Grantee for subcontracting shall not perform work on the Project until prior written approval is received from THECB. Furthermore in accordance with Texas Government Code §669.003 relating to contracting with the executive head of a state agency, Grantee certifies that it is not (1) the executive head of THECB, (2) a person who at any time during the four years before the date of the Agreement was the executive head of THECB, or (3) a person or entity who employs a current or former executive head of the THECB.

Pursuant to Section 2155.006(b) of the Texas Government Code, Grantee certifies that it has not been, during the five-year period preceding the date of this Agreement: (1) convicted of violating a federal law in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005; or (2) assessed a penalty in a federal civil or administrative enforcement action in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005.

Section 6. Terms and Conditions

6.1 Termination: As consistent with applicable law, THECB may, by written notice to Grantee, terminate this Agreement, in whole or in part. For example, THECB may terminate if: (a) THECB is not reasonably satisfied with Grantee's Project; (b) default or abandonment by Grantee occurs; or (c) Grantee fails to comply fully with any term or condition of this Agreement, through no material fault of THECB. If Grantee fails or refuses to perform its obligations under this Agreement, THECB may exercise any and all rights as may be available to it by law or in equity.

6.1.1 Non-Appropriation: As consistent with applicable law, this Agreement may be terminated immediately if funds allocated to THECB should become reduced, depleted, or otherwise unavailable (including, but not limited to, lack of appropriations, legislative or executive budget cuts, amendment of the Appropriations Act, state agency consolidations, or any other disruptions of current appropriations) during the Agreement Term.

6.1.2 Effect of Termination: As consistent with applicable law, upon any termination, all indemnities, including without limitation those set forth in this Agreement, as well as Agreement provisions regarding confidentiality, records retention, right to audit, and dispute resolution, shall survive the termination of this Agreement for any reason whatsoever and shall remain in full force and effect. In the event of any termination, Grantee shall, unless otherwise mutually agreed upon in writing, cease all Project work immediately upon the effective date of termination, except such Project work that THECB deems are necessary to wind-up in a cost-effective manner. THECB shall be liable to Grantee for that portion of the Project work authorized by THECB and which have been completed prior to the effective date of termination, provided that THECB shall not be liable for any work performed that is not acceptable to THECB and/or does not meet Agreement requirements. In the event of termination, THECB reserves the right to negotiate another award if it is in the state's best interest.

6.2 Amendment: This Agreement may be modified only by written amendment executed by the Parties hereto.

6.3 Indemnification (Not applicable to state agencies): To the extent allowed by law, Grantee shall defend, indemnify, and hold harmless the State of Texas, its officers, and employees, and THECB, its officers, and employees and contractors, from and against all claims, actions, suits, demands, proceedings, costs, damages, and liabilities, including without limitation attorneys' fees and court costs, arising out of, connected with, or resulting from any negligent acts or omissions of Grantee or any agent, employee, subcontractor, subgrantee or supplier of Grantee in the execution or performance of this Agreement. Grantee shall coordinate its defense with the Texas Attorney General as requested by THECB.

This subsection is not intended to and shall not be construed to require Grantee to indemnify or hold harmless the State of Texas or THECB for any claims or liabilities resulting solely from the negligent acts or omissions of THECB or its employees.

6.4 Intellectual Property Indemnification (Not applicable to state agencies):

Additionally, if Grantee requires or desires to use any design, trademark, device, material, software, or process covered by letters of patent or copyright and which is selected by Grantee, Grantee, to the extent allowed by law, shall indemnify, defend and hold harmless the State of Texas and THECB, as well as officers, agents, and employees of THECB, from any liability, for any and all claims, demands, suits or actions brought by any third party, including any subcontractors of Grantee, and related fees (including reasonable attorney's fees) based on any claims for infringement by reason of the use of any such trademark, copyrighted material, or patented design, device, material, software, or process in connection with the Project agreed to be performed and shall indemnify (to the extent allowed by law) and/or reimburse the State of Texas and THECB, as well as officers, agents, and employees of THECB, from any costs, fees (including reasonable attorney's fees), expenses, royalty/ies or damages which the State of Texas and THECB, as well as officers, agents, and employees of THECB may be obligated to pay by reason of such infringement at any time during the performance of or after completion of this Agreement. Grantee shall pay all reasonable costs of the State's and THECB's legal counsel and shall also pay costs of multiple legal counsels, if required to avoid conflicts of interest. Grantee represents and warrants that it has determined what licenses, patents and permits are required under this Agreement and has lawfully acquired all such licenses, patents, and permits.

6.5 Sovereign Immunity: The Parties stipulate and agree that no provision of, or any part of this Agreement between THECB and Grantee, or any subsequent change order, amendment, or other Agreement modification shall be construed: (1) as a waiver of the doctrine of sovereign immunity or immunity from suit as provided for in the Texas Constitution and the Laws of the State of Texas; (2) to extend liability to THECB or to Grantee (if Grantee is another Texas state agency) beyond such liability provided for in the Texas Constitution and the Laws of the State of Texas; or (3) as a waiver of any immunity provided by the 11th Amendment or any other provision of the United States Constitution or any immunity recognized by the Courts and the laws of the United States.

6.6 Assignment, Delegation, or Subcontracting: Unless as otherwise provided for in the Agreement, no Agreement rights, interest, or obligation shall be assigned, delegated, subcontracted or subgranted by Grantee without prior written approval of THECB. No assignment, delegation, subcontract, or subgrant approved by THECB shall relieve Grantee of any obligation or responsibility under this Agreement. It is THECB's intent that to the extent subcontracting is approved by THECB, Grantee make a good faith effort to subcontract with Historically Underutilized Business(es) (HUB) during the performance of this Agreement. The goal of the HUB program is to promote full and equal business opportunities for all businesses contracting with the State of Texas.

Grantee represents and warrants that it will maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

- 6.7 Right to Audit; Records Retention:** Grantee understands that acceptance of funds under this Agreement, or indirectly through a subcontract under this Agreement, acts as acceptance of the authority of the State Auditor's office, THECB or any successor agency, as well as any external auditors selected by the State Auditor's office, THECB or any auditors selected by the United States (collectively referred to as "Audit Entities"), to conduct an audit or investigation in connection with those funds. Grantee further agrees to cooperate fully with the above parties in the conduct of the audit or investigation, including promptly providing all records requested. Grantee will ensure that this clause concerning the authority to audit funds received by subcontractors or subgrantees through Grantee and the requirements to cooperate is included in any subcontract or subgrant it awards.

Grantee shall maintain its records and accounts in a manner which shall assure a full accounting for all funds received and expended by Grantee in connection with the Agreement Project. These records and accounts (which includes all receipts of expenses incurred by Grantee) shall be retained by Grantee and made available for inspecting, monitoring, programmatic or financial auditing, or evaluation by THECB and by others authorized by law or regulation to do so for a period of not less than seven (7) years from the date of completion of the Agreement Project or the date of the receipt by THECB of Grantee's final claim for payment or final expenditure report or until a resolution of all billing questions in connection with this Agreement, whichever is later. If an audit has been announced, the records shall be retained until such audit has been completed. Grantee shall make available at reasonable times and upon reasonable notice, and for reasonable periods, all documents and other information related to the Project provided in this Agreement. Grantee and any subcontractors or subgrantees shall provide any Audit Entities with any information the entity deems relevant to any monitoring, investigation, evaluation, or audit.

Grantee's failure to comply with this subsection (Right to Audit; Records Retention) shall constitute a material breach of this Agreement and shall authorize THECB and the State of Texas to immediately assess appropriate damages for such failure. THECB reserves the right to require the reimbursement of any over-payments determined as a result of any audit or inspection of records on work performed under this Agreement. Grantee shall reimburse THECB for any over-payments within thirty (30) calendar days of receipt of THECB's written notice.

- 6.8 Family Code Applicability (Not applicable to state agencies or non-profits):** By signing this Agreement, Grantee certifies that under Section 231.006, Family Code, Grantee is not ineligible to receive payment under this Agreement and acknowledges that this Agreement may be terminated, and payment may be withheld or recouped if this certification is inaccurate. If this certification is shown to be false, Grantee is liable to THECB for attorneys' fees, the costs necessary to complete the Agreement, including the cost of advertising and awarding a second grant agreement, and any other damages provided by law or Agreement.

Grantee shall include the following clause in the award documents for every subaward and subcontract and will require subrecipients and contractors to certify accordingly: "Under Section 231.006 of the Family Code, the vendor or applicant certifies that the individual or business entity named in this contract or grant agreement is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract or agreement may be terminated and payment may be withheld if this certification is inaccurate. A bid or an application for a contract, grant, or loan paid from state funds must include the name and social security number of the individual or sole proprietor and each partner, shareholder, or owner with an ownership interest of at least 25 percent of the business entity submitting the bid or application."

6.9 Release of Information by Grantee:

FERPA. Grantee shall NOT release any data that is not FERPA compliant. Failure to follow the guidelines established may result in immediate termination of the Contract/Grant.

Prior Notification. Publication in scholarly journals is encouraged; however, Grantee agrees to notify the Coordinating Board prior to the publication of any information, including results, findings or reports, regarding the activities being conducted under any Grant. Grantee shall ensure the following statements are included in any published work:

This work was supported in whole or in part by a grant from the Texas Higher Education Coordinating Board (THECB). The opinions and conclusions expressed in this document are those of the author(s) and do not necessarily represent the opinions or policy of the THECB.

Potential Publication in News Media.

- (a) Should Grantee be contacted by any news media about any information, including results, findings, or reports regarding activities being conducted under any Grant, Grantee shall notify its Program Contact, listed under Section 6.39, when possible, before communicating with news media. When not possible, Grantee shall notify its THECB Program Contact immediately after concluding the communication with the news media since the Coordinating Board is likely, based on experience, to also be contacted by the news media.
- (b) Should Grantee desire to contact any news media about any information, including results, findings, or reports regarding activities being conducted under any Contract/Grant, Grantee shall notify its THECB Program Contact before communicating with news media.

Any written publication shall be sent electronically to the THECB Program Contact.

6.10 Applicable State Funding Source Laws: Grantee agrees to follow the Texas Grant Management Standards ("TxGMS"), including all its applicable conditions and State Assurances (TxGMS is herein incorporated for all purposes into this Agreement).

All applicable conditions and uniform assurances may be located at: [TxGMS](#)

- 6.11 Reporting Suspected Fraud and Unlawful Conduct:** Grantee represents and warrants that it will comply with Texas Government Code §321.022 which requires that suspected fraud and unlawful conduct be reported to the State Auditor's Office. Grantee shall inform THECB of any such report pertaining to this Agreement that does not name THECB as the party suspected of fraud or unlawful conduct.
- 6.12 Excluded Parties:** Grantee certifies that it and any subcontractor or subgrantee is not listed in the prohibited vendors list authorized by Executive Order No. 13224, "Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism," published by the United States Department of the Treasury, Office of Foreign Assets Control.
- 6.13 Monitoring:** Pursuant to this Agreement and other applicable law, THECB may conduct desk reviews and/or on-site monitoring reviews to determine compliance with the approved Application and the applicable statute(s), law(s), regulations, and guidelines.
- 6.14 Time and Effort Recordkeeping:** For those personnel whose salaries are prorated between or among different funding sources, time and effort records will be maintained by Grantee that confirm the Project carried out within each funding source. Grantee must adjust payroll records and expenditures based on this documentation. This requirement applies to all projects, regardless of funding source, unless specified otherwise.
- 6.15 Forms, Assurances, and Reports:** Grantee shall timely file with the proper authorities all forms, assurances and reports required by federal or state laws and regulations. THECB shall be responsible for reporting to the proper authorities any failure by Grantee to comply with the foregoing laws and regulations coming to THECB's attention and may deny reimbursements or recover payments made by THECB to Grantee in the event of Grantee's failure to so comply.
- 6.16 Disclosure Protections for Certain Charitable Organizations, Charitable Trusts, and Private Foundations:** Grantee represents and warrants that it will comply with Texas Government Code §2252.906 relating to disclosure protections for certain charitable organizations, charitable trusts and private foundations.
- 6.17 Public Information Act, Confidentiality, and FERPA:**
- 6.17.1 PIA Provision for Non-State Agencies:** Notwithstanding any provisions of this Agreement to the contrary, Grantee understands that as a Texas state agency, THECB is subject to and will comply with the Texas Public Information Act, Government Code, Chapter 552 as interpreted by judicial opinions and opinions of the Attorney General of the State of Texas. Grantee will cooperate with THECB in the production of documents responsive to any such requests under the Public Information Act. Grantee is required to make any information created or exchanged with the state pursuant to this Agreement, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to

the state. THECB will make a determination whether to submit a Public Information Act request to the Attorney General. This Agreement and all data and other information generated or otherwise obtained in its performance may be subject to the Texas Public Information Act. To the extent Grantee is subject to the Public Information Act, Grantee will notify THECB's General Counsel within three (3) business days of receipt of any third-party requests for information it receives relating to this Agreement.

6.17.2 PIA Provision for State Agencies: Notwithstanding any provision of this Agreement to the contrary, the Parties understand that as Texas state agencies, they are subject to and will comply with the Texas Public Information Act, Government Code, Chapter 552 as interpreted by judicial opinions and opinions of the Attorney General of the State of Texas. The Parties will cooperate with each other in the production of responsive documents to any such requests under the Public Information Act. The Party receiving a request under the Public Information Act will make a determination whether to submit a Public Information Act request to the Attorney General. This Agreement and all data and other information generated or otherwise obtained in its performance may be subject to the Texas Public Information Act. The Party receiving a request under the Public Information Act will notify the other Party's General Counsel within three (3) business days of receipt of any third-party requests for information it receives relating to this Agreement.

6.17.3 Confidentiality: Grantee agrees to maintain the confidentiality of information received from THECB and the State of Texas during the performance of this Agreement, including information which discloses confidential personal information particularly, but not limited to, social security numbers. Grantee will not disclose any information to which it is privy under this Agreement without the prior written consent of THECB. If Grantee is not a state agency, Grantee, to the extent allowed by law, will indemnify and hold harmless the State of Texas, its officers and employees, and THECB, its officers and employees for any claims for damages that arise from the disclosure by Grantee of information held by the State of Texas or THECB to which Grantee is privy under this Agreement.

6.17.4 FERPA, COPPA & IDEA: Grantee agrees to comply with the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. §1232g, and the implementing federal regulations, 34 CFR Part 99, the Children's Online Privacy Protection Act (COPPA); and Individuals with Disabilities Education Act (IDEA). Grantee agrees (1) to protect any confidential student information it receives or accesses that could make a student's identity traceable, and (2) any confidential data analysis or report shall not be disclosed to any third party without THECB's prior written consent.

6.17.5 Cybersecurity Training Program for State Agencies: Grantee represents and warrants its compliance with Texas Government Code §2054.5191 for

government employees who have access to a government computer system or database.

6.17.6 Cybersecurity Training Program for non-State Agencies: If Grantee has access to any state computer system or database, Grantee shall complete cybersecurity training and verify such completion in writing to THECB pursuant to and in accordance with Texas Government Code §2054.5192.

6.18 Copyright: When copyrightable material is developed in the course of or under this Grant, Grantee is free to copyright the materials or permit others to do so. THECB shall have a royalty-free, non-exclusive, fully-paid up, no cost, transferable, worldwide, and irrevocable right and license to reproduce, publish, or otherwise use and to authorize others to use for governmental and educational purposes: (1) the copyright in any work developed under the Grant and (2) any rights of copyright to which a Grantee (or any subgrantee or subcontractor of the Grantee) purchases ownership with Grant funds. In no event shall the Grantee (or any subgrantee or subcontractor to the Grantee) charge other Texas state agencies, institutions of higher education, and independent institutions of higher education (as the terms “institution of higher education” and “independent institutions of higher education” are defined in the Texas Education Code) for any license to use any or all copyrights purchased with Grant funds or in any work developed under the Grant. Grantee will further ensure that its copyrightable documents shall include the following statements:

This work was supported in whole or in part by a grant from the Texas Higher Education Coordinating Board (THECB). The opinions and conclusions expressed in this document are those of the author(s) and do not represent the opinions or policy of THECB.

6.19 Data: THECB has the right to: (1) obtain, reproduce, publish or otherwise use the data first produced under this Grant and (2) authorize others to receive, reproduce, publish, or otherwise use such data for governmental and educational purposes. In no event shall the Grantee (or any subgrantee or subcontractor to the Grantee) charge other Texas state agencies, institutions of higher education, and independent institutions of higher education (as the terms “institution of higher education” and “independent institutions of higher education” are defined in the Texas Education Code) for any license to use any or all data first produced under this Grant.

6.20 Applicable Law and Venue: This Agreement and any incorporated documents shall be governed by and construed in accordance with the laws of the State of Texas. The exclusive venue of any suit brought concerning the Agreement and any incorporated documents is fixed in any Court of competent jurisdiction in Travis County, Texas, unless the specific venue is otherwise identified in a statute that directly names or otherwise identifies its applicability to the contracting state agency, and all payments under the Agreement shall be due and payable in Travis County, Texas.

- 6.21 Dispute Resolution:** The dispute resolution process provided in Chapter 2009 of the Texas Government Code is available to the parties to resolve any dispute arising under the Agreement.
- 6.22 Grantee Responsibilities:** Grantee shall comply with all federal, state and local laws, statutes, ordinances, rules and regulations and the orders and decrees of any court or administrative bodies or tribunals in any matter affecting the performance of this Agreement, including, if applicable, workers compensation laws, compensation statutes and regulations, and licensing laws and regulations. When requested to do so by THECB, Grantee shall furnish THECB with satisfactory proof of its compliance.
- 6.23 Key Personnel:** Grantee shall assign only qualified personnel to this Agreement. Grantee, in its reasonable discretion, reserves the right to substitute appropriate key personnel to accomplish its duties so long as the substituted personnel are equally qualified to accomplish the required Project. Grantee shall provide to THECB prior written notice and obtain written approval from THECB prior to any change in key personnel specified in the grant application or the Agreement.
- 6.24 Debts and Delinquencies to the State:** THECB shall not issue any payment to a person or entity that has been reported as having an indebtedness or delinquency to the state until such debt or delinquency has been paid in full or otherwise satisfied. Grantee agrees to comply with all applicable laws regarding satisfaction of debts or delinquencies to the State of Texas.
- 6.25 Conflict of Interest:** Grantee represents and warrants that performance under the Agreement will not constitute an actual or potential conflict of interest or reasonably create an appearance of impropriety. Further, Grantee represents and warrants that in the administration of the grant, it will comply with all conflict of interest prohibitions and disclosure requirements required by applicable law, rules, and policies, including Chapter 176 of the Texas Local Government Code. If circumstances change during the course of the Agreement, Grantee shall promptly notify THECB.
- 6.26 Financial Interests; Gifts:** Grantee represents and warrants that neither Grantee nor any person or entity that will participate financially in this Agreement has received compensation from THECB or any agency of the State of Texas for participation in preparation of specifications for this Agreement. Grantee represents and warrants that it has not given, offered to give, and does not intend to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, travel, favor or service to any public servant or employee in connection with this Agreement.
- 6.27 Grantee's Representations:** To the extent allowed by law, Grantee hereby covenants, represents and warrants that Grantee (including, for purposes of this section, its employees, consultants, subcontractors, and agents) (1) have the technical expertise and general skills necessary to carry out the Project competently and professionally in accordance with this Agreement, (2) is not a party to or bound by any agreement, obligation, or understanding which restricts or limits in any way Grantee's right to

enter into this Agreement or Grantee's right or ability to perform Grantee's obligations under this Agreement, (3) shall not knowingly use the trade secrets, intellectual property rights, copyrights, or other proprietary rights of any third party in the performance of Grantee's obligations under this Agreement without having first lawfully obtained the right, in writing, to do so, and (4) has the necessary equipment, facilities and workers to perform Grantee's obligations under this Agreement.

- 6.28 Open Meetings:** If Grantee is a governmental entity, Grantee represents and warrants its compliance with Chapter 551 of the Texas Government Code which requires all regular, special or called meetings of a governmental body to be open to the public, except as otherwise provided by law.
- 6.29 Political Polling Prohibition:** Grantee represents and warrants that it does not perform political polling and acknowledges that appropriated funds may not be granted to, or expended by, any entity which performs political polling. This prohibition does not apply to an academic institution or institution of higher education so long as the polling is not conducted for the benefit of a particular candidate or party.
- 6.30 Antitrust:** Grantee represents and warrants that neither Grantee nor any firm, corporation, partnership, or institution represented by or affiliated with Grantee, or anyone acting for such firm, corporation, partnership, or institution has violated the antitrust laws of the State of Texas under Tex. Bus. & Com. Code, Chapter 15, or the federal antitrust laws.
- 6.31 Deceptive Trade Practices; Unfair Business Practices:** Grantee represents and warrants that it has not been the subject of allegations of Deceptive Trade Practices violations under Tex. Bus. & Com. Code, Chapter 17, or allegations of any unfair business practice, in any administrative hearing or court suit, and further, that if it has been the subject of either or both such allegations, that Grantee has not been found to be liable for any such practices in such proceedings. Grantee certifies that it has no officers who have served as officers of other entities which have been the subject of allegations of Deceptive Trade Practices Act conduct, violations thereof, or allegations of any unfair business practices, in an administrative hearing or court suit and further, that if such officer(s) has been the subject of either or both such allegations, that such officers have not been found to be liable for any such practices in such proceedings.
- 6.32 Equal Opportunity:** Grantee represents and warrants that it shall not discriminate against any person on the basis of race, color, national origin, religion, sex, age, or disability in the performance of this Agreement.
- 6.33 Employment Provisions:** Grantee and its employees or agents shall not be deemed or construed to be the employees or agents of THECB for any purposes whatsoever. Grantee agrees that it shall have complete responsibility in the area of employment law and relations regarding its own employees, contractors, and agents, including but not limited to: wrongful discharge lawsuits, unemployment issues, workers' compensation, employment taxes, and reimbursement due to losses in these areas.

Consistent therewith, Grantee agrees that it shall make its own arrangements to provide its employees with all necessary employee benefits, including unemployment and workers' compensation benefits, and THECB is, in no way, a party to such arrangements. Regarding its employees, Grantee shall have the sole authority to hire, fire, transfer, train, evaluate, discipline, pay and assign work.

- 6.34 System for Award Management (SAM):** THECB is federally mandated to adhere to the directions provided in the President's Executive Order 13224, Executive Order on Terrorist Financing – Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism and any subsequent changes made to it. Grantee certifies that Grantee is in compliance with the State of Texas statutes and rules relating to procurement and that Respondent is not listed on the federal government's terrorism watch list as described in Executive Order 13224. Entities ineligible for federal procurement are listed at <http://www.sam.gov>.
- 6.35 Suspension and Debarment:** Grantee certifies that it and its principals are not suspended or debarred from doing business with the state of Texas or federal government as listed on the State of Texas Debarred Vendor List maintained by the Texas Comptroller of Public Accounts and the System for Award Management (SAM) maintained by the General Services Administration.
- 6.36 Eligibility/Authorization to Work in the United States:** Grantee shall ensure that all personnel provided to carry out the Project under this Agreement possess proof of eligibility/authorization to work in the United States in compliance with the Immigration Reform and Control Act of 1986, the Immigration Act of 1990, and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. Grantee shall maintain written records on all personnel provided under the Agreement and shall provide such records to THECB upon request. Failure to maintain and provide records upon request shall represent a material breach of this Agreement and THECB shall have the right to terminate the Agreement for cause. Grantee shall ensure this section is included in all subcontracts it is authorized by THECB to enter.
- 6.37 Drug Free Work Place:** The Grantee shall comply with the applicable provisions of the Drug-Free Work Place Act of 1988 (Public Law 100-690, Title V, Subtitle D; 41 U.S.C. 701 et seq.) and maintain a drug-free work environment; and the final rule, government-wide requirements for drug-free work place (grants), issued by the Office of Management and Budget and the Department of Defense (32 CFR Part 280, Subpart F) to implement the provisions of the Drug-Free Work Place Act of 1988 is incorporated by reference and the Grantee shall comply with the relevant provisions thereof, including any amendments to the final rule that may hereafter be issued.
- 6.38 No Commissions:** THECB shall not pay any commissions to Grantee under this Agreement.
- 6.39 Contacts:** Unless otherwise agreed to in writing by the Parties, primary contacts for routine communications related to the carrying out of the Project under this Agreement are as follows:

THECB Staff	Grantee Staff
Carl Krueger, Senior Policy Analyst	Hafid A. Guerrero
Academic and Health Affairs	Dean of Nursing
NSRP@highered.texas.gov	hguerr20@epcc.edu

- 6.40 Applicable Taxes:** This Agreement shall not be construed so as to supersede the laws of the United States or the State of Texas that accord the State of Texas, THECB, and all departments, agencies, and instrumentalities of the State of Texas exemptions from payment(s) of all taxes of whatever kind. More specifically, to the extent permitted by applicable law, THECB shall not directly or indirectly be liable for taxes of any kind. Grantee represents and warrants that it shall pay all taxes or similar amounts resulting from this Agreement, including, but not limited to, any federal, State, or local income, sales or excise taxes of Grantee or its employees. To the extent permitted by applicable law, THECB shall provide all applicable tax exemption certificates upon the Grantee's request.
- 6.41 Prohibition on Use of Funds for Lobbying:** Grantee represents and warrants that THECB's payments and Grantee's receipt of appropriated or other funds under this Agreement are not prohibited by Texas Government Code, Sections 403.1067 or 556.0055 which restrict lobbying expenditures.
- 6.42 Eligibility:** Under Section 2155.004, Texas Government Code, Grantee certifies that the individual or business entity named herein is not ineligible to receive this Agreement and acknowledges that this Agreement may be terminated and payment withheld if this certification is inaccurate.
- 6.43 Smoking Policy:** THECB has a policy of being a smoke-free agency. The policy reflects THECB's commitment to providing a healthy environment for all THECB employees and visitors. This policy prohibits smoking within any state building. Grantee, by acceptance of this Agreement, agrees to abide by this policy when on the property of THECB.
- 6.44 Notice:** All notices required to be given hereunder shall be in writing and shall be given by personal delivery thereof, overnight courier, certified or registered mail, postage prepaid, return receipt requested, or email to the office shown below. Any notice served shall be deemed given on the date of hardcopy original document delivery.

THECB Staff	Grantee Staff
Texas Higher Education Coordinating Board Office of Contract Management Services P.O. Box 12788 Austin, Texas 78711-2788 NSRP@highered.texas.gov	El Paso County Community College District P.O. Box 20500 El Paso, TX 79998 hguerr20@epcc.edu

- 6.45 False Statements; Breach of Representations:** By signature to this Agreement, Grantee makes all the representations, warranties, guarantees, certifications, and affirmations included in this Agreement. If Grantee signs this Agreement with a false

statement or it is subsequently determined that Grantee has violated any of the representations, warranties, guarantees, certifications, or affirmations included in this Agreement, Grantee shall be in default under this Agreement and THECB may terminate or void this Agreement for cause and pursue other remedies available to THECB under this Agreement and applicable law.

Grantee represents that it possesses legal authority to apply for and enter into this Agreement.

- 6.46 Severability and Waiver:** The invalidity, illegality, or unenforceability of any provisions of this Agreement shall in no way affect the validity, legality, or enforceability of any other provisions.

Each and every right granted to the Parties hereunder or under any other document delivered hereunder or in connection herewith, or allowed them by law or equity, shall be cumulative and may be exercised from time to time. Failure by THECB or Grantee at any time to require strict performance of any contractual provision or obligation contained herein shall not constitute a waiver or diminish the rights of either party thereafter to demand strict compliance. Neither THECB's review, approval, acceptance of, nor payment for any of the Project provided in this Agreement shall be construed to operate as a waiver of any rights under the Agreement, or of any cause of action arising out of the performance of the Project required by the Agreement.

- 6.47 Entire Agreement and Order of Precedence:** This Agreement consists solely of the following documents, and, in the event of conflicts or inconsistencies between this Agreement and its exhibits or attachments, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of precedence: (1) Amendments to this Agreement (if any), (2) the Agreement (including its Exhibits, if any), (3) THECB's Grant Announcement, if any (and its Addenda, if any), and (4) Grantee's Application, if any (and its Addenda, if any). This Agreement (including its Exhibits, if any) contains the final, complete, and exclusive understanding of the Parties, and supersedes all prior contemporaneous, oral, or written understandings, representations, and negotiations between the Parties relating to the subject matter of this Agreement. The Parties further agree that this Agreement may not in any way be explained or supplemented by a prior or existing course of dealings between the Parties, by usage of trade or custom, or by any prior performance between the Parties pursuant to this Agreement or otherwise.

[Signature page to follow]

Section 7. Signatures

By signature hereon, the individual(s) below represent and warrant that they are duly authorized representative(s) of the Parties and have the authority to bind the Parties in this Agreement.

Grantee



William Serrata, Ph.D.
President
El Paso County Community College District

Date: 7/19/24

Texas Higher Education Coordinating Board

Elizabeth Mayer Digitally signed by Elizabeth Mayer
Date: 2024.07.29 15:15:37 -05'00'

Elizabeth Mayer
Assistant Commissioner, Academic and Health Affairs
Texas Higher Education Coordinating Board

Date: 7/29/24

CURRICULUM AND INSTRUCTION ABSTRACT

Item(s) to be Considered:	Discussion and action on the acceptance of the Translating Opportunity Texas grant from the Texas Success Center.	Amount: \$25,000															
Requestor:	Myshie Pagel	Area Responsible: Education and CTE															
Resource Persons:	Steven Smith, Myshie Pagel, Robert Elliott																
Purpose:	To approve the acceptance of a three-year grant from the Texas Success Center to support community colleges in Texas in establishing effective English as a Second Language (ESL) pathways from adult education to credentials of value, including industry-based certifications, certificates, and degrees leading to careers with living wages.																
Explanation:	<p>The Texas Success Center and Ascendium Education Group are partnering with WestEd, Student-Ready Strategies, and the Center for Community College Engagements to work with four Texas community colleges. The colleges will be working on determining baseline data on multi-lingual learners of English for each institution, attending meetings to review institutional policy, mapping the student journey, ESL curriculum, and student services. EPCC commits to complete a college readiness assessment, identify an institutional team, attend and engage in all in-person and virtual cohort convenings and events over a three-year period, provide needed documentation, develop and track implementation of a comprehensive institutional action plan, contribute to a limited number of blogs, videos, and other external learning documents, collect and submit data, engage and nominate students to participate in project activities.</p> <p>The cost category of Fringe represents those employer benefit costs that vary based upon an employee's actual salary and benefit options chosen by each employee. Benefits choices include the health/dental insurance plan and retirement programs selected. Other employer benefit costs normally borne by the institution and charged to the grant also apply to workers' compensation, state unemployment insurance, life insurance, and long-term disability insurance.</p> <p style="text-align: center;">Budget Account Number: 22109-E22109 Budget Summary: \$25,000 September 1, 2024 – December 31, 2027 Detailed Budget Overview:</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 15%;">61000</td> <td style="width: 65%;">Instructor PT Pool¹</td> <td style="width: 20%; text-align: right;">\$8,783</td> </tr> <tr> <td>62000</td> <td>Benefits Pool</td> <td style="text-align: right;">1,217</td> </tr> <tr> <td>71432</td> <td>Marketing</td> <td style="text-align: right;">5,000</td> </tr> <tr> <td>72200</td> <td>Travel: Out of Town</td> <td style="text-align: right;"><u>10,000</u></td> </tr> <tr> <td></td> <td>TOTAL</td> <td style="text-align: right;">\$25,000</td> </tr> </table> <p>¹Part-time fringe benefit rate is 12.5%, and overall composite fringe benefit rate is 12.5%.</p>		61000	Instructor PT Pool ¹	\$8,783	62000	Benefits Pool	1,217	71432	Marketing	5,000	72200	Travel: Out of Town	<u>10,000</u>		TOTAL	\$25,000
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71432	Marketing	5,000															
72200	Travel: Out of Town	<u>10,000</u>															
	TOTAL	\$25,000															
Recommendation:	Approval by the Board of Trustees.																



TRANSLATING OPPORTUNITY TEXAS:

A STRATEGY OF TALENT STRONG TEXAS PATHWAYS

COHORT 1 PROJECT COMMITMENTS

About the Opportunity

Translating Opportunity Texas: A Strategy of Talent Strong Texas Pathways aims to support all community colleges in Texas in establishing effective English as a Second Language (ESL) pathways from adult education to credentials of value, including industry-based certifications, certificates, and degrees leading to careers with living wages. In partnership with WestEd, Student-Ready Strategies, and the Center for Community College Engagement, and with generous support from Ascendium Education Group, the Texas Success Center (TSC) will launch this opportunity with a cohort of four Texas community colleges. These colleges will be codevelopment partners in refining processes and tools to redesign and accelerate ESL pathways to students' completion and career success within their Talent Strong Texas Pathways framework for institutional reform.

The products and learnings from this initial cohort will inform activities for another cohort of Texas community colleges, as well as contribute to the scaling of best practices across the state.

Participating colleges will receive a grant in the amount of \$25,000 in order to support the data needs for the project.

Submitting the Commitment Form

Please complete the form [linked here](#) by August 30, 2024, to confirm your institution's commitment to participating in the project.

The form will also provide important institutional context to inform the work ahead. Your submission will include:

- Identification of the project lead from your institution
- Responses to narrative questions about your institution's interest in this project
- Signed copy of this commitment document from the president or CEO of your institution
- Signed letter of support for the Texas State University Institutional Review Board (IRB) using [this template](#). Dr. Emily Suh of Texas State University (TSU) will be conducting interviews with students, staff, and faculty throughout the project and this letter is required as part of the TSU IRB review process. Questions regarding the study and the IRB process can be directed to Dr. Suh at emily.suh@txstate.edu.

College Commitments

Colleges participating in this project will be expected to:

- **Complete a readiness assessment** to determine a baseline for your institution's work in this area
- **Identify an institutional team** inclusive of faculty and student services staff to provide leadership for the project
- **Attend and engage in all in-person and virtual cohort convenings and events over a three-year period**, including the biannual (fall and spring) Texas Pathways Institute convenings that take place in person
- **Participate in meetings and provide needed documentation** for technical assistance activities, including institutional policy review, student journey mapping, ESL curricular mapping, and student-facing communications and services review
- **Develop and track implementation of a comprehensive institutional action plan** to strengthen the institution's ESL pathways and support MLE students
- **Contribute to a limited number of blogs, videos, and other external learning documents** to assist with scaling these efforts to other colleges
- **Collect and submit data** on MLE students at your campus to the Texas Success Center:
 - **Facilitate any required institutional review board (IRB) processes** to authorize the submission of those data to the project partners
- **Engage and nominate students** to participate in project activities, including focus groups and a project advisory group

Timeline of Major Project Activities

September 27
Project launch
webinar

Spring 2025-Fall 2025
Technical assistance &
research activities

Spring 2027-Fall 2027
Student outcomes analysis &
identification of best practices

November 14
Initial cohort meeting
at the Texas Pathways
Institute

Spring 2026-Fall 2026
Action plan implementation
& tracking

FAQs

How is the target population for this project defined?

This project will focus on multilingual learners of English (MLE) who meet the following criteria:

- Students who are enrolled in adult education and literacy (i.e., High School Equivalency or English as a Second Language/English for Speakers of Other Languages) at a community college, and with a goal of attending college credit-bearing courses (i.e., those leading to a certificate or degree)
- Students enrolled in ESL continuing education courses at a community college, and with a goal of attending college credit-bearing courses (i.e., those leading to a certificate or degree)
- Students enrolled in ESL courses that are considered pre-college or college credit

Is there a cost to participate?

No. Thanks to the generosity of Ascendium Education Group, this opportunity is provided to institutions at no cost. Institutions may incur costs related to attending the Texas Pathways Institute convenings if the number of institutional attendees exceeds the seven team members covered by the Texas Success Center.

What are the project outcomes?

Participating colleges will, throughout this project:

- Provide leadership for MLE-focused institutional reform for Texas community colleges
- Provide clear and accessible credential pathways from ESL to credential completion and career success
- Prepare faculty and staff to help students navigate the pathways by implementing early opportunities for students to connect with programs, enroll in continuing education or credit courses, and build a sense of purpose and belonging
- Implement student-centered, holistic supports within and outside of the classroom

What are the benefits of participating?

This is an opportunity to work with technical assistance providers, content experts, and peers at other institutions in a focused effort to improve the educational opportunities for students in ESL programs. The participating colleges will receive customized support throughout the process and will contribute to improving processes and tools for use by other colleges. We also expect this work to garner national attention as colleges across the country are looking at how to better support the growing population of MLE students.

What kind of data will we be required to submit?

- A list of ESL courses, including courses within Adult Literacy, Continuing Education, and those offered as pre-college or college credit, with the following:
 - Course name
 - Credits earned
 - Prerequisite(s)
- De-identified student records from a representative academic term, including:
 - Demographics (age, race, income, and enrollment status)
 - Result of the ESL placement process
 - Course enrollment indicator and course grades in ESL course(s)

Commitment Statement

My institution is committed to participating in the Translating Opportunity Texas: A Strategy of Talent Strong Texas Pathways cohort. As the CEO, I will support this effort to ensure the appropriate staff, faculty, and students are fully engaged in all cohort events, meetings, activities, and opportunities and that the resulting work aligns with the college's Talent Strong Texas Pathways strategy.



William Serrata, Ph.D.

President/CEO Signature



Date

Please direct any questions to Dr. Martha Ellis at mellis@tacc.org.

CURRICULUM AND INSTRUCTION ABSTRACT

Item(s) to be Considered: Discussion and action on the approval of a cooperative agreement from the University of Texas at San Antonio.		Amount: \$65,000																								
Requestor: Audrey Marrufo	Area Responsible: Small Business Development Center																									
Resource Persons: Steven Smith, Blayne Primozych, Robert Elliott, Audrey Marrufo																										
Purpose:	To approve the acceptance of Cooperative Agreement 25-603001-Z-0049-38-EPCC consisting of \$65,000 in State Funds from the Texas South-West (TXSW) Small Business Development Center (SBDC) network of the University of Texas at San Antonio (UTSA). Funds will be utilized to continue operations of the SBDC Program from September 1, 2024, through August 31, 2025.																									
Explanation:	<p>Enacted by Congress in 1980 and funded through the US Small Business Administration, the SBDC program is the largest management and technical assistance program for small businesses in the United States. Since 1985, EPCC has hosted one of over 900 service centers throughout the United States and Puerto Rico. For fiscal year 2024, the EPCC SBDC program served 4,060 clients and trainees. Direct assistance had an economic impact of 322 new jobs, 210 jobs retained, 43 new business starts, and 47 business expansions. Capital infusion (loans and equity investment) resulted in \$13,581,036 in approved projects and increased local sales of \$23,236,991 to assisted companies.</p> <p>The \$65,000 State award under this cooperative agreement is received in addition to the expected \$307,395 federal portion of the award, which will fund operations from January 2025 to December 31, 2026. The EPCC SBDC currently operates under the prior Board approved two-year federal grant expiring in December of this year. EPCC contributes matching funds, cash and in-kind totaling \$359,949, that provide office space at the Administrative Service Center and fund four full-time staff at the SBDC.</p> <p>The cost category of Fringe represents those employer benefit costs that vary based upon an employee’s actual salary and benefit options chosen by each employee. Benefits choices include the health/dental insurance plan and retirement programs selected. Other employer benefit costs normally borne by the institution and charged to the grant also apply like workers’ compensation, state unemployment insurance, life insurance, and long-term disability insurance</p> <table><tr><th colspan="3">Detailed Budget Overview:</th></tr><tr><td>61305</td><td>Professional Staff FT</td><td>\$34,286</td></tr><tr><td>62000</td><td>Fringe Benefits ¹</td><td>11,657</td></tr><tr><td>71120</td><td>Office Supplies</td><td>1,500</td></tr><tr><td>71123</td><td>Furn & Equip. < 5000 Grant</td><td>7,032</td></tr><tr><td>71420</td><td>Subscriptions</td><td>10,250</td></tr><tr><td>72100</td><td>Travel: In-Town Travel</td><td>275</td></tr><tr><td></td><td>TOTAL</td><td>\$65,000</td></tr></table>		Detailed Budget Overview:			61305	Professional Staff FT	\$34,286	62000	Fringe Benefits ¹	11,657	71120	Office Supplies	1,500	71123	Furn & Equip. < 5000 Grant	7,032	71420	Subscriptions	10,250	72100	Travel: In-Town Travel	275		TOTAL	\$65,000
Detailed Budget Overview:																										
61305	Professional Staff FT	\$34,286																								
62000	Fringe Benefits ¹	11,657																								
71120	Office Supplies	1,500																								
71123	Furn & Equip. < 5000 Grant	7,032																								
71420	Subscriptions	10,250																								
72100	Travel: In-Town Travel	275																								
	TOTAL	\$65,000																								
¹ Full-time fringe benefit rate is 34% and overall composite fringe benefit rate is 34 %																										
Recommendation:	Approval by the Board of Trustees.																									

THE UNIVERSITY OF TEXAS AT SAN ANTONIO
SOUTH-WEST TEXAS BORDER SMALL BUSINESS DEVELOPMENT CENTER

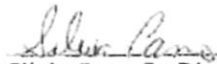
COOPERATIVE AGREEMENT

1. **AUTHORIZATIONS:** 15 USC Section 648;
31 USC Section 6305; C.F.R. Part 130
2. **COOPERATIVE AGREEMENT** **25-603001-Z-0049-38-EPCC**
3. **SUBCONTRACTOR** **El Paso Community College**
4. **PROJECT PERIOD - FEDERAL:** From 01/01/25 through 12/31/26
- 5.
6. **PROJECT PERIOD - STATE:** From 09/01/24 through 8/31/25
7. **BUDGET PERIOD - FEDERAL:** From 01/01/25 through 12/31/26
8. **BUDGET PERIOD - STATE:** From 09/01/24 through 8/31/25
9. **TITLE OF PROJECT:** Small Business Development Center
10. **DIRECTOR OF PROJECT:** Audrey Marrufo, Director

ADDRESS: El Paso Community College
Small Business Development Center
9050 Viscount Blvd, B-520
El Paso, Texas 79925-6511
(915)831-7743
(915)831-7734 (FAX)
11. **AMOUNT OF AWARD:** Federal Funds (CFDA 59.037) \$0
State Funds \$65,000
RBP State Funds \$0.0
12. **MATCHING COMMITMENT:** \$317,806 (cash) & \$42,143 (in-kind)
13. **THIS AWARD IS SUBJECT TO THE TERMS AND CONDITIONS INCORPORATED EITHER DIRECTLY OR BY REFERENCE IN THE FOLLOWING:**
 - a. The program legislation cited above in Section 1 "Authorizations".
 - b. The program regulation cited above in Section 1 "Authorizations".
 - c. SBA Federal Assistance Regulations or Manual issuances in effect as of the beginning date of the budget period.
 - d. SBA Policy Guidelines in effect of the beginning date of the budget period.
 - e. SBA Administrative Regulation/Guidelines in effect as of the beginning date of the budget period.
 - f. Approved SBDC proposal submitted to UTSA by the Subcontractor.
 - g. The CY 2025 Program Announcement (Funding Opportunity)
 - h. Program Year 2025 SBA Award Program Terms and Conditions – Small Business Development Center Program

In the event there are conflicting or otherwise inconsistent policies applicable to this award, the above order of precedence shall prevail. Acceptance of ALL terms and conditions and the Standard Provisions is acknowledged by the Subcontractor when funds are drawn or otherwise obtained from the University of Texas System.

13. THE UNIVERSITY OF TEXAS AT SAN ANTONIO:



Silvia Cano, Sr. Director Finance & Administration

Date: 10/28/2024

14. DATE ISSUED: October 28, 2024

- 15.** This Cooperative Agreement is issued pursuant to your approved application to the University to participate in the Texas South-West (TXSW) Small Business Development Center (SBDC) Network.

16. ACCEPTANCE OF AWARD:



William Serrata, Ph.D., President

Date: 11/12/24

Cooperative Agreement

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STANDARD PROVISIONS

1. SCOPE OF PROJECT

This Cooperative Agreement is awarded to carry out the activities set forth in Federal Assistance Application and Proposal on 08/22/2024 date.

This Cooperative Agreement between The University of Texas at San Antonio (UTSA) and El Paso Community College (herein referred to as Subcontractor) is awarded as federal assistance to manage and operate, a Center of the Texas South-West (TXSW) Small Business Development Center (SBDC) Network in accordance with the provisions contained in the "Small Business Development Center Act of 1980" (P.L. 96-302 as amended by P.L. 98-395, 8/21/84) and as presented in the Program Announcement upon which application for this award was made. Varied resources will be utilized to advise and train small business owners and managers in dealing with financial, marketing, production, organizational, engineering, technical and other problems. Clients shall also be assisted in developing feasibility studies, business plans, cash flows, financial statements, etc. Advising assistance shall be provided at no cost to the client. One-on-one advising assistance shall be provided at no cost to the client. However, a reasonable fee to cover costs may be charged for training activities and/or certain specialized services (refer to Section 10 DISPOSITION OF PROGRAM INCOME).

El Paso Community College will be required to provide funds from non-federal sources, which as a minimum will match the funds supplied by SBA. These matching funds may come from sources such as the University, state, or private sector.

Members of the TXSW SBDC Network are as follows at this time:

1. The University of Texas at San Antonio
2. Texas State University
3. Del Mar College
4. The University of Texas Rio Grande Valley
5. El Paso Community College
6. Texas A&M International University
7. Angelo State University
8. University of Houston-Victoria
9. Sul Ross State University/ Alpine
10. Sul Ross State University/ RGC Eagle Pass
11. UTSA Center for Government Contracting
12. UTSA International Trade Center
13. UTSA Technology Commercialization Center

2. DELINEATION OF PROGRAM CONTROL CENTER INVOLVEMENT

- a. UTSA shall monitor and oversee the Cooperative Agreement and ongoing operations of the Subcontractor to ensure effective and efficient use of Federal funds. This includes reviewing records, files, and procedures relating to performance under this agreement, as well as interviewing the Subcontractor clients to determine effectiveness.
- b. UTSA shall provide orientation, direction, and clarification for the Subcontractor in matters relating to the proper execution and implementations of this agreement.

- c. UTSA shall apply provisions of Section 10 executing its Program Income Control responsibilities under this agreement.

3. DELINEATION OF SBA INVOLVEMENT

- a. SBA shall determine acceptability of SBDC proposals.
- b. SBA shall ensure that SBDC activities conform to the requirements of the law, the Program Announcement, and the Cooperative Agreement.
- c. SBA shall monitor and oversee the Cooperative Agreement and ongoing operations of the SBDC to ensure effective and efficient use of Federal funds. This includes reviewing records, files, and procedures relating to performance under this agreement, as well as interviewing SBDC clients to determine effectiveness.
- d. SBA shall refer clients to SBDC for assistance consistent with SBDC Resources.
- e. SBA shall indicate acceptability of SBDC activities submitted as part of accountability requirements.
- f. The selection of the SBDC State/Network office Director requires the concurrence of the cognizant SBA District Director. The selection of the SBDC Center Director requires the concurrence of the TXSW SBDC Executive Director.
- g. SBA personnel shall participate in the evaluation and dissemination of project results and in the resolution of policy issues.
- h. SBA shall ensure that the SBDC has developed adequate procedures to track program income and determine whether this income was used to further eligible SBDC program objectives.

4. FISCAL ADMINISTRATION

a. **Payment Data**

1. Subcontractor shall submit an invoice not more often than monthly for allowable costs. All invoices shall be submitted using Subcontractor's standard invoice, but at a minimum shall include current and cumulative costs (including cost sharing), UTSA's agreement number, and certification as to truth and accuracy of invoice to include the statement below:

"By signing this report, I certify to the best of my knowledge and belief that the report is true, complete and accurate and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information or the omission of any material fact, may subject me to criminal, civil, or administrative penalties for fraud, false statements, false claims, or otherwise."

2. Payments will be made to the Subcontractor under the authority of The University of Texas at San Antonio. Monthly or quarterly payments shall be made to the Subcontractor upon submission and acceptance of the required reports as set forth in Section 6 below (Reporting Requirements). The TXSW SBDC Network office will conduct a Mid-Year Expenditure Review on July 5th for the purpose of assessing expenditure rates in accordance with the budget. If needed, the TXSW SBDC Network office will proportionally redirect funds.

b. Payment Information

Problems or questions in relation to payment should be directed promptly to:

Silvia Cano
UTSA Texas South-West SBDC Network
Sr. Director of Finance & Administration
501 West César E. Chávez Blvd., DB 4.370
San Antonio, Texas 78207

5. PRIOR APPROVAL

The following shall constitute a deviation and are considered outside the scope and objectives of this agreement and the approved financial plan, and will require prior written approval of the TXSW SBDC Network office and the SBA Project Officer. Some examples may include, but are not limited to:

- a. Changes in project scope or objectives.
- b. All sub-grants and contracts not limited to Subcontractor's proposal, in which project performance is transferred to other parties.
- c. Additional line items not specified on the approved budget or as required by applicable cost principles cited in Section 9.
- d. Any budget revisions including fund transfers between cost categories when cumulative amounts of such transfers exceed, or are expected to exceed, ten percent of the total budget and as required for other reasons by 2 C.F.R. Part 200, Subpart D, 200.308: or ten percent (State and Local Government-based SBDCs), as required by 13 C.F.R., Part 130.620 and 13 C.F.R., Part 143.30.
- e. When special OMB and other clearances or governmental approvals are required in relation to film production, news releases, publications, questionnaires, surveys and other such materials.
- f. Any proposed aggregate contract expenditure expected to exceed \$5,000 if (i) proposed contract will be awarded sole source and (ii) any contract proposed to be awarded after seeking competition but only one bid or proposal was received.

6. REPORTING REQUIREMENTS

- a. Recordkeeping and Reporting - University-based SBDCs are governed by 2 C.F.R. Part 200 Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards. State-based SBDCs are governed by 13 C.F.R. 143.42. To ease the space problem that

may occur, SBDC Networks may transfer these records to electronic format, as long as a hard copy can be produced when necessary.

The Subcontractor agrees to maintain complete and accurate records and supporting documentation to support and facilitate any thorough financial and/or program audit. Further, the Subcontractor shall be prepared to furnish such records for audit review.

b. Advising - All advise advising services are regulated by the current TXSW SBDC Advising Standard Operating Procedures, including but not limited to:

1. MIS: The Small Business Development Center is responsible for reporting all advising activity via SBA's Client Intake Form (SBA Form 641 Parts I, II, and III or its approved equivalent) and recording accurate data in the Neoserra Management Information System (MIS).
2. Initial Client Session Minimum: At least one-half hour of substantive face-to-face or electronic contact time must have occurred to count an initial client session.
3. Only SBA-eligible advising cases performed 10/01/24 through 9/30/25 are to be applied to the fiscal year milestone accomplishments. Each SBDC will maintain individual files on each advising case, including documentation necessary to provide a clear audit trail.

c. Training - All training is regulated by the current TXSW SBDC Training Standard Operating Procedures. *The minimum standard of two (2) hours was reduced effective 4/1/21 until further notice to a minimum of one (1) hour to address the pivot from classroom to online activity.*

1. SBA Form 888 shall be used to report and document SBDC training activity. The Subcontractor shall report the number of SBA approved training programs, the number of attendees, fees collected and the attendee demographic data as specified on the SBA Form 888.
2. Advising services must be cross-marketed to training attendees during the event to promote the availability of a traditional SBDC client relationship, especially when providing more substantive, longer-term and/or multi-session training. SBA products and services, along with the local District Office, must also be promoted.

d. Other Activity Records

Records and supporting documentation are to be maintained on all other SBDC services proposed by the Subcontractor and upon which funding is based. Quarterly Narrative Reports describing other activities and client success stories will be submitted per the TXSW SBDC Network guidelines.

e. Financial Reports

Financial Reports shall be furnished to the TXSW SBDC Network office, and submitted electronically to silvia.cano@utsa.edu and to norma.gomez@utsa.edu

1. The Budget Report must contain a narrative of all program income earned and disposition thereof (refer to Section 10). Subcontractors shall be responsible for

maintaining adequate documentation of all program income. This information should be available and reported in detail on a monthly basis.

2. Financial reports and requests for payment shall have the concurring approvals and signatures of the SBDC Director and host institution's financial officer.

3. The financial reports submitted to the TXSW SBDC Network office as a request for payment should be accompanied by its corresponding journal/ledgers which show the expenses that were incurred in that particular period for each line item. A separate request for payment should be submitted for each of the following fund groups: Federal, State-Core and State-Rural. To ensure a clear audit trail of the financial resources used under this Cooperative Agreement separate ledgers must be maintained for each funding source (Federal, State-Core, and State-Rural).

4. Program income journal/ledgers which show both income and expenses for the period should be provided to the TXSW SBDC Network office every time that a program income report is submitted.

5. Financial reports shall be due no later than thirty (30) days after the end of each month or quarter, and no later than forty-five (45) days after the end of the project period for the annual report. The annual report shall contain the final expenditures per cost category proposed, in addition to the information requested in the Budget Report. The annual report shall also represent the fourth quarter report.

6. When applicable original letters of in-kind support should be maintained by the subcontractor and a copy should be provided to the TXSW SBDC Network office. The letter should be for the proposed funding period and contain a detailed list of all in-kind reported. This list should contain the name of the donor, what was donated, and the amount of the donation. Each Center should ensure that each donation has a separate document which contains the following:

- a. Name of donor
- b. Phone number of donor
- c. The dollar value of the donation
- d. The basis for the valuation
- e. A clear description of what was donated
- f. Signature of donor

f. Narrative/Performance Reports

Quarterly Performance reports shall be furnished to the TXSW SBDC Network office, and submitted electronically in **Microsoft Word format** by email to michael.gonzalez@utsa.edu, no later than **ten (10) days** after the end of each quarter, **utilizing the abbreviated format found on pages 15-16.**

7. DISPUTES

Except as otherwise provided by law or regulations, any dispute arising under this agreement shall be decided by the Agreements Officer, who shall reduce his/her decision to writing and mail or otherwise furnish a copy thereof to the Subcontractor. This decision will be made in consultation with SBA field and central office personnel. Such a decision of the GMO shall be final and conclusive unless, within thirty (30) days from the date of receipt of such copy, the Subcontractor otherwise delivers a written appeal.

Such appeal shall be addressed to the Chairman of the SBA Grants and Cooperative Agreement Appeals Committee. A copy shall be furnished to the Agreements Officer. The decision of the Committee of such appeal shall be final and conclusive, unless determined by a court of competent jurisdiction to have been (1) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; (2) contrary to constitutional right, power, privilege, or immunity; (3) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right; (4) without observance of procedures required by law; (5) unsupported by substantial evidence in a case subject to section 556 and 557 of Title 5, United States Code, or otherwise reviewed on the record of an agency hearing provided by statute; or (6) unwarranted by the facts to the extent that the facts are subject to trial, de novo by the reviewing court.

In connection with an appeal proceeding under this article, the federal assistance Subcontractor shall be afforded an opportunity to be heard, to be present, to offer evidence and testimony in support of any appeal, to cross-examine Government witnesses and to examine documentation or exhibits offered in evidence by the Government witnesses and to examine documentation or exhibits offered in evidence by the Government or admitted to the appeal record (subject to the Government's, right to offer its own evidence and testimony, to cross-examine the appellant's witnesses, and to examine documentation or exhibits offered in evidence by the appellant or admitted to the appeal record). The appeal shall be determined solely upon the appeal record.

This Disputes article shall not preclude consideration of any question of law in connection with decisions provided for by this article; provided, that nothing in this award document or related regulations shall be considered as making final the decision of any administrative official, representative, or board, on a question of law.

(1) To the extent that Chapter 2260, Texas Government Code, as it may be amended from time to time ("Chapter 2260"), is applicable to this Agreement and is not preempted by other applicable law, the dispute resolution process provided for in Chapter 2260 shall be used, as further described herein, by UTSA and the Subcontractor to attempt to resolve any claim for breach of contract made by the Subcontractor:

(A) Subcontractor's claims for breach of this Agreement that the parties cannot resolve pursuant to other provisions of this Agreement or in the ordinary course of business shall be submitted to the negotiation process provided in subchapter B of Chapter 2260. To initiate the process, Subcontractor shall submit written notice, as required by subchapter B of Chapter 2260, to UTSA in accordance with the notice provisions in this Agreement. Subcontractor's notice shall specifically state that the provisions of subchapter B of Chapter 2260 are being invoked, the date and nature of the event giving rise to the claim, the specific contract provision that UTSA allegedly breached, the amount of damages Subcontractor seeks, and the method used to calculate the damages. Compliance by Subcontractor with subchapter B of Chapter 2260 is a required prerequisite to Subcontractor's filing of a contested case proceeding under subchapter C of Chapter 2260. The Chief Business Officer of UTSA, or such other officer of UTSA as may be designated from time to time by UTSA by written notice thereof to Subcontractor in accordance with the notice provisions in this Agreement, shall examine Subcontractor's claim and any counterclaim and negotiate with Subcontractor in an effort to resolve such claims.

(B) If the parties are unable to resolve their disputes under subparagraph (A) of this section, the contested case process provided in subchapter C of Chapter 2260 is Subcontractor's sole and exclusive process for seeking a remedy for any and all of Subcontractor's claims for breach of this Agreement by UTSA.

(C) Compliance with the contested case process provided in subchapter C of Chapter 2260 is a required prerequisite to seeking consent to sue from the Legislature under Chapter 107 of the Texas Civil Practices and Remedies Code. The parties hereto specifically agree that (i) neither the execution of this agreement by UTSA nor any other conduct, action or inaction of any representative of UTSA relating to this Agreement constitutes or is intended to constitute a waiver of UTSA or the state's sovereign immunity to suit and (ii) UTSA has not waived its right to seek redress in the courts.

(2) The submission, processing and resolution of Subcontractor's claim is governed by the published rules adopted by the Texas Attorney General pursuant to Chapter 2260, as currently effective, hereafter enacted or subsequently amended.

(3) Neither the occurrence of an event giving rise to a breach of contract claim nor the pendency of a claim constitute grounds for the suspension of performance by Subcontractor, in whole or in part. UTSA and Subcontractor agree that any periods set forth in this Agreement for notice and cure of defaults are not waived.

(4) The 2260 Dispute Resolution Clause may be superseded by controlling federal law.

8. CLAUSE ENTITLED "PATENT RIGHTS" REQUIRED

37 C.F.R Part 401-Patent Rights, is incorporated into the Provisions of this award.

9. ADMINISTRATIVE REQUIREMENTS AND COST PRINCIPLES

The following OMB Uniform Guidance regarding Administrative Regulations and Cost Principles are applicable to this agreement as appropriate and are incorporated by reference.

<u>ENTITY</u>	<u>ADMINISTRATIVE & COST PRINCIPLES</u>
Universities	2 C.F.R. Part 200
States & Local Governments	2 C.F.R. Part 200
Other Non-Profit Org.	2 C.F.R. Part 200

*(Or any regulation promulgated to supplement or replace it)

10. DISPOSITION OF PROGRAM INCOME

All program income as defined in 2 C.F.R. Part 200 shall be reported in the Budget Report submitted to the Network office and is to be added to funds committed to the project by the Federal sponsoring agency and Subcontractor organization and used to further eligible program objectives only. All revenues received from clients served by the Small Business Development Centers under the auspices of this award are considered to be program income. Program income cannot be used to satisfy match requirements.

11. GRANTOR AGENCY PROJECT OFFICER

The San Antonio District Office Lead Lender Relations specialist will serve as the SBA Project Officer and will be assigned to monitor the technical aspects of the TXSW SBDC award and will serve as the liaison with SBA.

12. SUBCONTRACTOR/SUBGRANTEE REPORTS

Copies of all reports required to be furnished by all Subcontractors (also referred to as Centers), acquired through the use of Federal assistance funds, shall be furnished to the TXSW SBDC Network office. Individual private consultant reports will be made available if requested.

13. PUBLICATION REQUIREMENTS

SBA will have an unlimited license to use data and written materials generated under this Cooperative Agreement, whether or not the materials are copyrighted.

Any publication resulting from this project, whether copyrighted or not, must include an acknowledgment of support by the Small Business Administration. Except for the scientific articles and papers appearing in scientific journals, materials must also contain the following disclaimer:

"Any opinions, findings and conclusions or recommendations expressed in this publication are those of the author(s) and do not necessarily reflect the views of the U.S. Small Business Administration."

Subcontractor is reminded that it is their responsibility, in addition to complying with these and the provisions of Subpart D, 200.316, 2 C.F.R. Part 200, to take all necessary and prudent steps required to protect the Government's license when conveying rights to publishers.

14. ADVANCE UNDERSTANDINGS

a. Operational Hours - To assure assistance to the small business community to the extent possible, the Center will operate on a forty- (40) hour week basis or during normal state business hours throughout the calendar year. Any office closure shall require notice in writing to the TXSW SBDC Network office and SBA Project Officer.

b. This project is not to be subgranted to a third party. Contracting out of certain functions, as approved herein, is permissible; however, the Subcontractor shall insure compliance with all applicable laws and regulatory requirements by third parties, included but not limited to the requirements outlined under Appendix A of this Agreement.

c. This Cooperative Agreement provides a total of **\$0.0** federal funds (CFDA 59.037), **\$65,000** State Formula Funding, and **\$0.0** RBP State Funding for continuation of the Small Business Development Center for FY 2025 (State) & CY2025 (Federal) based on availability of funds. Performance by the UTSA under the Agreement may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (the "Legislature") and/or allocation of funds by the Board of Regents of The University of Texas System (the "Board"). If the Legislature fails to appropriate or allot the necessary funds, or the Board fails to allocate the necessary funds, then UTSA shall issue written notice to Subcontractor and UTSA may terminate the Agreement without further duty or obligation hereunder. Subcontractor acknowledges that appropriation, allotment, and allocation of funds are beyond the control of UTSA.

1. Lease space (if applicable) – It is the responsibility of the Center Director to contract with the landlord for SBDC lease space. Such budgeted leases are to be identified and broken down by site(s), costs, and specified terms of the agreement as an attachment for annual review.

d. Indirect or administrative overhead costs shown on the budget are approved for budgetary purposes only and may not be exceeded nor charged against this agreement unless allowability is established in accordance with the applicable cost principles. Statement of all costs must be consistent with acceptable accounting procedures and in accordance with an indirect cost agreement negotiated with a cognizant federal agency. In no instance shall indirect costs charged against this award exceed amounts shown on the budget without prior written approval of the

TXSW SBDC Network office. Approval of indirect costs on future awards may be contingent upon the establishment of approved rates.

e. The Subcontractor agrees to furnish the Network office copies of indirect cost agreements negotiated with other federal agencies, and copies of current financial statements upon requests.

f. The Subcontractor agrees to maintain time and effort records by part-time employees for determination of time charged to this agreement, as specified in 2 C.F.R. Part 200.

g. The Subcontractor agrees that any cash match "overmatch" committed to the program over and above the amount required by law will be budgeted to support the level of effort approved by both parties for the cooperative agreement year in which the "overmatch" is applied. Verified, unspent dollars of "overmatch" funds are budgeted to support the proposed, approved level of effort. The Subcontractor may, as an alternative, utilize these verified, unspent "overmatch" dollars as a credit to offset any confirmed audit disallowances applicable to the budget period in which the "overmatch" exists; provided, that these offsetting funds would be considered obligated and not allowable as match for past or future budget periods.

h. Any and all out-of-state travel, not approved as part of this agreement, shall be listed and justified in the quarterly programmatic reports to the TXSW SBDC Network office. Failure to provide such listing and justification may result in disallowance of costs incurred for such travel. Restrictions on "out of area" travel do not apply to SBDC-related travel within the State of Texas.

i. The Recipient agrees that no award funds will be used:

1. to create or supplement a reserve or contingency fund or account;
2. to provide financial assistance, including but not limited to subgrants and seed money for business ventures, unless authorized by statute;
3. for the cost of promotional items and memorabilia including models, gifts, prizes and souvenirs;
4. for costs of entertainment, including alcoholic beverages, amusement, diversion and social activities, and any costs directly associated with such costs (such as tickets to shows or sports events, meals, lodging, rentals transportation and gratuities);
5. for contributions and donations (including cash, property and services) or similar gratuitous transfers of funds or of goods or property;
6. for the purpose of 'fund-raising';
7. for lobbying as set forth in applicable 2 C.F.R. Part 200;
8. for membership fees or dues in any civic or community organization, country club, social or dining club or organization; or
9. for individual membership fees or dues in business, technical, and professional organizations.

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j. The Subcontractor is not authorized to incur any expenses beyond August 31, 2025, for State Funds and December 31, 2026, for SBA Federal Funds without an amendment to this agreement from The University of Texas at San Antonio. Such notice will be contingent upon the TXSW SBDC Network office and SBA District Office approval.

k. Mutual agreement of the recipient and the Network office Director is required to change, replace, terminate or hire Center Director.

l. Prominent display of the SBA/SBDC partnership logo at the front of each office.

m. The SBA logo must also appear prominently on all SBDC websites that are related to this Cooperative Agreement. The following disclaimer must be in legible, easily readable print (within 2 inches of the SBA logo).

"Funded in part through the State of Texas and a Cooperative Agreement with the U.S. Small Business Administration. Reasonable accommodations for persons with disabilities or limited English proficiency will be made if requested at least two weeks in advance. Contact (insert name and phone number of contact person)."

Center must display SBDC name, logo, and the words "a partnership program with the U.S. Small Business Administration" on the "front page" of the Center's web site. Center must provide links on this web site to the Network office's web site (<http://www.txsbdc.org>) and SBA's web site (<http://www.sba.gov>).

n. All publications, promotional pieces, websites, information and training materials must expressly acknowledge that the SBDC program is "partially funded by the U.S. Small Business Administration." This acknowledgement may include the SBDC's other major funding partners.

o. Full compliance with the current TXSW SBDC Master Operating Procedures (MOP) and Standard Operating Procedures (SOPs).

p. The specific identification "Small Business Development Center" must be a part of the legal name of every SBDC organization within the SBDC network.

q. Any surveys or information collections to be conducted by the Recipient as a requirement of the grant project are subject to the requirements of the Paperwork Reduction Act, as amended. The SBA agrees that before the Recipient is required to conduct any survey or information collection that the SBA will complete the necessary requirement under the Paperwork Reduction Act. Surveys conducted by the Recipient independent of SBA are not subject to the Paperwork Reduction Act.

r. Mandatory Participation

1. Minimum salary requirements for key Full-Time Equivalent SBDC staff are: Center Director: \$76,000, Business Advisor (aka Business Development Specialist, Advisor): \$55,000, Training Coordinator: \$44,000. Centers not currently in compliance with these minimum salary thresholds must submit a narrative plan detailing the timeline associated with full compliance by 12/31/2026.

2. Surveys/Studies - Centers must actively participate in the following surveys, documenting the *Analysis, Learning, and Actions Taken* of the results indicated by an asterisk:

- SBDC National Impact (formerly known as Chrisman) annual study,
- Federal Reserve Bank Dallas Small Business Credit Survey (direct promotion and also indirect promotion by engaging community partners to make the survey available to their constituents)
- DISC staff work behavioral individual and team studies.

- *Employee Satisfaction Survey (Annual VBL Engagement, SurveyMonkey system-based)
- *Instant Client Satisfaction survey (Wufoo system-based)
- *Client Satisfaction Survey (Semi-Annual, MIS-based)
- *Stakeholder Satisfaction (Annual Needs Assessment Survey, MIS-based) - Center Director must update contacts in the MIS for the annual activity.

3. Meetings - Center Director participation is mandatory in SBDC quarterly TXSW leadership, management, and professional development meetings (in person or virtually). The TXSW SBDC Executive Director must be notified in writing two (2) weeks in advance if substitute participation is planned.

4. Center Strategic Plan must be developed is in alignment with the host institution and the TXSW SBDC Network strategic plan. Center SWOT and Strategic Plan documents must be posted on the Mission Met (Causey) online platform.

6. Professional Development and TXSW SBDC New Employee Orientation - The budget process must address the Network Orientation, professional development of SBDC leadership and all staff and incorporate core and developing capacities into the operating and strategic plan for the Center.

7. Certification - All advisors must **advance** within the Certified Business Advisor (CBA) program. Administrative Staff is required to participate in the Certified Administrative Professional (CAP) program. Training Coordinators are required to participate in the Certified Training Professional (CTP) program.

8. SBA Collaboration - Centers must actively participate in SBA's annual National Small Business Week by submitting at least one nominee to their respective SBA District or Branch Office by the annual deadline. Centers must engage with their respective SBA District or Branch Office to explore collaborative efforts such as outreach events and training sessions. **All SBDC training events must include a slide promoting the local SBDC District Office.**

9. Success Stories - Centers must submit **two (2) success stories per quarterly report** (total of eight (8) stories annually), two of which must include a high-resolution color photograph suitable for publication and client release of information for publicity purposes.

10. Special Initiatives: Centers must actively engage in TXSW SBDC efforts to address additional contractual or strategic efforts.

11. Succession Plan: Each Center must have a written document detailing the designated source for authorized signature approvals and management (fiscal and operations).

12. **Disaster/Emergency Operations Plan:** Centers must have written documentation to address continuation of services due to man-made and natural disasters. This must complement the host institution's plan to specifically address the SBDC program and include remote deployment procedures.

14. **Brand Compliance:** All SBDC materials and online presence must be in compliance with the current TXSW Brand Guide (including but not limited to logo usage, business cards, indoor and outdoor signage, banners, tablecloths, event flyers, newsletters, and logo shirts)

s. **Entire Agreement; Modifications:** The Agreement supersedes all prior agreements, written or oral, between the Subcontractor and UTSA and shall constitute the entire Agreement and understanding between the parties with respect to the subject matter hereof. The Agreement and each of its provisions shall be binding upon the parties and may not be waived, modified, amended or altered except by a writing signed by UTSA and the Subcontractor.

t. **Venue; Governing Law.** Bexar County, Texas shall be the proper place of venue for suit on or in respect of the Agreement. The Agreement and all of the rights and obligations of the parties hereto and all of the terms and conditions hereof shall be construed, interpreted and applied in accordance with and governed by and enforced under the laws of the State of Texas.

u. **Reporting – Advance Understandings**

Reports are due on the dates listed below and summarized in Attachment 3 – Schedule of Deadlines. *Note: The MIS will be closed to data entry five (5) days after the close of each quarter.*

January 10, 2025– Quarterly Financial Report and Quarterly Performance Report for First Quarter FY 2025 (October 1, 2024 – December 31, 2024)

April 10, 2025 – Quarterly Financial Report and Quarterly Performance Report for Second Quarter FY 2025 (January 1, 2025 – March 31, 2025);

July 1, 2025 – The TXSW SBDC Network office will conduct a Mid-Year Expenditure Review for the purpose of assessing expenditure rates in accordance with budget. If needed, the TXSW SBDC Network office will proportionally redirect funds.

July 10, 2025 – Quarterly Financial Report and Quarterly Performance Report for Third Quarter FY 2025 (April 1, 2025 – June 30, 2025)

September 9, 2025 – Financial Status Report for Centers Receiving State Funds

October 10, 2025 – Quarterly Financial Report and Quarterly Performance Report for Fourth Quarter, FY 2025 (July 1, 2025 – September 30, 2025.) Nomination packages to the SBA District/Branch office are due.

SBA Quarterly Performance Reports: Performance/Narrative reports are due on a quarterly basis and must be submitted in MS Word format to michael.gonzalez2@utsa.edu, no later than ten (10) days after the end of each quarter.

-
- I. **Executive Summary** – Managerial overview of actual accomplishments to proposed milestone goals for advising and training. In cases where milestones were not met, include reasons and plan of action for overcoming slippages. Provide summary information from the manager's perspective relating to actual financial expenditures and an explanation of any cost overruns.
- II. **Listing of all current employees and their titles** - Make sure to include any staff changes (vacancies, new hires).
- III. **Narrative - Report on significant activity that occurs for the remaining sections, if applicable, otherwise simply state, "Nothing to report on this topic for this quarter." Section 1500 is required (reference 14.s.9)**

100– Capital Formation: Briefly summarize semi-annual capital infusion client impact as it relates to goal attainment for the quarter/YTD.

200 – Innovation, Technology Transfer and Technology Assistance: Summarize any specialized training and/or client activities involving innovation and technology transfer (EPA, OSHA, SBIR, *etc.* This should include a listing of SBDC staff/advisors that have attained certification in cybersecurity at the intermediate (North Star) or advanced (various) levels. Include employee name, level and date of certification

300 – International Trade: Summarize specialized training and/or client activities involving international trade (import and export). This should include a listing of SBDC staff/advisors that have attained certification for export assistance at intermediate (various) or advanced level (Certified Global Business Professional (CGBP)). Include employee name, level and date of certification. Please distinctly identify the staff with certification in both intermediate or CGBP or any other export certifications obtained.

400 – Procurement: Summarize specialized training and/or client activities involving federal, state, or local procurement activities.

500 - Manufacturing: Highlight any special initiatives and/or success stories involving manufacturing clients.

600 - Special Emphasis Groups: Summarize specialized training and/or client activities related to other target markets and special emphasis groups such as young entrepreneurs, targeted industries, disabled entrepreneurs, and etc.

700 – Minority Small Business Development: Summarize specialized training events promoting ethnic minority business development (Native American/Alaskan Indian, Asian, Native Hawaiian/Pacific Island, Black/African American, Hispanic).

800 – Women-Owned Businesses: Summarize specialized training and/or client activities targeting women entrepreneurs, including collaboration with women's economic development organizations.

900 – Veterans, Reservists, Service-Disabled, Veteran-Owned Businesses, and all other members of the U.S. Military: Summarize specialized training and/or client activities targeting veterans, service connected-disabled veterans, reservists on active duty, and base closings.

1000 – Rural Assistance: Describe any special projects, outreach efforts or specific results of working in rural businesses and/or communities.

1100 – Economic Development, Faith Based and Community Initiatives: Include general activities that are not specific to an individual client, do not fit in other categories, and are aimed at supporting and strengthening the local economy, such as agribusiness, convention/tourism, incubators, faith-based and community initiatives.

1200 – Research: Research efforts aimed toward assisting small business and economic development, including chamber surveys, economic development studies, etc.

1300 – Online Activity: Must provide URL link and snapshot representation of current SBDC homepage.

1400 – Other Activity: Activities that do not fit in any other categories.
Do not include summary of training seminars.

1500 – Success Stories: Provide two (2) success story write-ups for each quarterly report. Of the eight submissions per year, two success stories must include a high-resolution color photograph attachment and Client Growth Assessment indicating client release of information for publicity purposes.

1600 – Advocacy: Highlight up to three significant advocacy activities, such as interaction with state/federal legislators, economic development activities, etc.

1700 – Resource Development: List any activities which promoted or developed other funding partners to assist the SBDC in its mission.

1800 – Collaboration and Leveraging: Address key partnerships and collaborations and the type of interaction, focusing on those with SBA partners or initiatives.

1900 – Unplanned Travel: Provide a description of any *unplanned and out-of-state travel not forecasted/budgeted* in the cooperative agreement.

2000 – Key Personnel Changes: Provide a list of any personnel not specified in the proposal, including name, title, and date of hire.

2100 – Problems: Describe any significant issues impacting the program, such as staff turnover, SBDC relocation, emergency closures, etc.

2200 – Budget to Actual Comparison: Explain any significant variances.

2300 – Economic Impact: Provide a table showing comparison of performance goals to actual accomplishments achievements during the reporting period and include a short management analysis of results.

Monthly Documentation: Monthly reports must be submitted electronically in one file to michael.gonzalez2@utsa.edu no later than **ten (10) days** after the end of each month. Each Monthly report must include its Cover Sheet, all training packets and all Client Growth Assessments (CGAs) forms of the previous month. Each monthly report must also include summary reports (training & milestone) for the previous month and these reports should precede the following:

- 1) **Client Growth Assessments (CGAs) forms** – Complete and signed copies corresponding to all Investments, Milestones, and Awards entered into the MIS must be submitted for the previous month.
- 2) **Training (SBA Form 888) packets** – Each training packet must include its signed SBA Form 888 cover sheet, its financial reconciliation worksheet, promotional material (agenda, flyer or brochure), and training agreement or MOU if applicable.

v. Advising Advance Understandings

Use of Outreach Systems' Neoserra MIS with consistent entry of all performance and production metrics. All client impact must have corresponding Client Growth Assessment notations. The Center Director must verify the accuracy and monthly reconciliation of MIS entries to client-attributed impact, as well as training activity along with submission of such documentation to the Network office, ten (10) days after the end of the previous month.

Average advising hours per case goal is 7 hours with a minimum acceptable average of 5.0 hours per case. This reflects the focus on long-term, impact-potential advising cases.

w. Training Advance Understandings

Centers should hold at least one "large" seminar per year. This term is defined as 50 or more attendees for Centers that primarily service rural communities, and 100 or more attendees for Centers that service primarily urban communities.

The local District Office may jointly sponsor or stage an activity, event, or initiative with the SBDC. Where such an activity, event, or initiative is contemplated in the recipient's accepted proposal and Notice of Award, no separate co-sponsorship agreement is necessary. Conversely, where such an activity, event or initiative falls outside the activities contemplated in recipient's accepted proposal and Notice of Award, a separate co-sponsorship agreement is required. If, however, a third entity will also participate as a sponsor (as opposed to simply a donor) in the activity, event, or initiative, a separate co-sponsorship agreement is required.

x. Financial Conflict of Interest

The Subrecipient is encouraged to follow their own Conflict of Interest (COI) policy and, if so, must certify that its policy is consistent with PHS requirements or any applicable federal agency with COI regulations. Subrecipient must designate herein whether the financial conflicts of

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interest policy of _____ The University of Texas at San Antonio, or X Subrecipient Institution (*check one*) will apply.

If applying its own financial COI policy, by execution of this Subaward Agreement, Subrecipient Institution certifies that its policy complies with 42 C.F.R. Part 50 Subpart F. If Subrecipient designates it will follow the COI policy of UTSA, Subrecipient will be provided with a copy of UTSA's policy and contact information for completing the FCOI disclosure and training requirements. Under these circumstances the subaward agreement will not be fully executed by UTSA until the UTSA FCOI requirements are completed and approved.

Regardless of which policy is applied, all financial conflicts of interest identified by the Subrecipient must be reported to UTSA within thirty (30) days of their identification.

APPENDIX A**Texas South-West SBDC Network (TXSW)****Program Requirements**

In accordance with the main terms of this Cooperative Agreement, specifically Article 14 (b), in the event the Subcontractor, [El Paso Community College], establishes a consulting contract with a third party, the Subcontractor must ensure compliance with the terms and conditions of this Agreement.

This Appendix is provided as a reference document for Subcontractor regarding the requirements that any consultant or contractor funded through this Cooperative Agreement must abide by. The following are the minimum flow down requirements for consultant(s) hired by the Subcontractor under this Cooperative Agreement.

1. **DELINEATION OF PROGRAM CONTROL AND SUBCONTRACTOR INVOLVEMENT**
 - a. Subcontractor shall monitor and oversee ongoing operations of the Consultant to ensure effective and efficient operations. This includes reviewing records, files, and procedures relating to performance, as well as interviewing the Consultant clients to determine effectiveness.
 - b. Subcontractor shall provide orientation, direction, and clarification for the Consultant in matters relating to the proper execution and implementation of activities.
2. **DELINEATION OF TEXAS SOUTH-WEST SBDC NETWORK (TXSW) INVOLVEMENT**
 - a. The TXSW SBDC Network and Subcontractor shall ensure that SBDC activities conform to the requirements of the law, the Program Announcement, and the Cooperative Agreement.
 - b. The TXSW SBDC Network and Subcontractor shall monitor and oversee the Agreement and ongoing operations to ensure effective and efficient operations. This includes reviewing records, files, and procedures relating to performance under this agreement, as well as interviewing program clients to determine effectiveness.
 - c. The TXSW SBDC Network and Subcontractor shall indicate acceptability of program activities submitted as part of accountability requirements.
 - d. The TXSW SBDC Network and Subcontractor personnel shall participate in the evaluation and dissemination of project results and in the resolution of policy issues.
 - e. The TXSW SBDC Network and Subcontractor shall ensure that the Consultant adheres to the procedures of HOST regarding the tracking of program income, if applicable.
3. **PROGRAM ACTIVITIES**
 - a. Advising - All advising services are regulated by the current TXSW SBDC Advising Standard Operating Procedures, including but not limited to:
 - i. MIS: The Consultant are responsible for reporting all advising activity via SBA's Client Intake Form (SBA Form 641 Parts I, II, and III or its approved equivalent)

- and recording accurate data in the Neoserra Management Information System (MIS).
- ii. Initial Client Session Minimum: At least one-half hour of substantive face-to-face or electronic contact time must have occurred to count an initial client session.
 - iii. Only SBA-eligible advising cases performed 10/01/24 through 9/30/25 are to be applied to the fiscal year milestone accomplishments. Each SBDC will maintain individual files on each advising case, including documentation necessary to provide a clear audit trail.
- b. Training - All training is regulated by the current TXSW SBDC Training Standard Operating Procedures. The minimum standard of two (2) hours was reduced effective 4/1/21 until further notice to a minimum of one (1) hour to address the pivot from classroom to online activity.
- i. SBA Form 888 shall be used to report and document SBDC training activity. The Consultant shall report the number of SBA approved training programs, the number of attendees, fees collected and the attendee demographic data as specified on the SBA Form 888.
 - ii. Advising services must be cross-marketed to training attendees during the event to promote the availability of a traditional SBDC client relationship, especially when providing more substantive, longer-term and/or multi-session training. SBA products and services, along with the local District Office, must also be promoted.
 - iii. All training activity by Consultant must be done in coordination with the Training Coordinator of Subcontractor and is subject to the current TXSW SBDC Standard Operating Procedures.
- c. Other Activity Records - Records and supporting documentation are to be maintained on all other SBDC services proposed by the Consultant. Quarterly Narrative Reports describing other activities and client success stories will be submitted by Consultant to Subcontractor as per the TXSW SBDC Network guidelines.

4. PUBLICATION REQUIREMENTS

- a. The TXSW SBDC Network will have an unlimited license to use data and written materials generated through these activities, whether or not the materials are copyrighted.
- b. Any Consultant publication resulting from this project, whether copyrighted or not, must include an acknowledgment of support by the TXSW SBDC Network and the Small Business Administration as per TXSW Standard Operating Procedures. Materials must also contain the following disclaimer:
 - i. "Any opinions, findings and conclusions or recommendations expressed in this publication are those of the author(s) and do not necessarily reflect the views of the Texas South-West Small Business Development Center Network, (HOST NAME), or the U.S. Small Business Administration."
- c. Consultant is reminded that it is their responsibility, in addition to complying with these and the provisions of Subpart D, 200.316, 2 C.F.R. Part 200, to take all necessary and prudent steps required to protect the Government's license when conveying rights to publishers.

5. BRAND ADHERENCE AND PROMINENT DISPLAY OF SBA/SBDC PARTNERSHIP LOGO

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- a. SBA/TXSW SBDC Network partnership logo must be prominently displayed at the front of each office where activities will occur.
 - b. The SBA logo must also appear prominently on all SBDC websites that are related to these activities. The following disclaimer must be in legible, easily readable print (within 2 inches of the SBA logo):
 - i. "Funded in part through the State of Texas and a Cooperative Agreement with the U.S. Small Business Administration. Reasonable accommodations for persons with disabilities or limited English proficiency will be made if requested at least two weeks in advance. Contact (insert name and phone number of contact person)."
 - c. Consultant must display TXSW SBDC name, logo, and the words "a partnership program with the U.S. Small Business Administration" on the "front page" of all SBDC websites. Consultant must provide links on these websites to the TXSW SBDC Network office's web site (<http://www.txsbdc.org>) and SBA's web site (<http://www.sba.gov>).
 - d. All publications, promotional pieces, websites, information, and training materials must expressly acknowledge that the SBDC program is "partially funded by the U.S. Small Business Administration." This acknowledgement may include the TXSW SBDC Network's other major funding partners.
 - e. Full compliance with the current TXSW SBDC Master Operating Procedures (MOP), Standard Operating Procedures (SOPs), and the HOST Center Operating Procedures (COPs).
6. BRAND COMPLIANCE
- a. All SBDC materials and online presence must follow the current TXSW Brand Guide including but not limited to logo usage, business cards, indoor and outdoor signage, banners, tablecloths, event flyers, newsletters, and logo shirts.
7. FINANCIAL CONFLICT OF INTEREST (COI)
- a. Consultant must follow the COI policy of Subcontractor and must follow all COI policies of the TXSW SBDC Network. Consultant must furnish copies of signed COI form(s) to Subcontractor.
 - b. Regardless of which policy is applied, all financial conflicts of interest identified by the Consultant must be reported to Subcontractor within thirty (30) days of their identification.
8. PARTICIPATION IN TXSW SBDC NETWORK SURVEYS AND STUDIES
- a. Consultant may participate in the following surveys, documenting the Analysis, Learning, and Actions Taken of the results:
 - i. SBDC National Impact annual study
 - ii. Federal Reserve Bank Dallas Small Business Credit Survey (direct promotion and also indirect promotion by engaging community partners to make the survey available to their constituents)
 - iii. DISC staff work behavioral individual and team studies
 - iv. Employee Satisfaction Survey (Annual VBL Engagement, SurveyMonkey system-based)
 - v. Instant Client Satisfaction survey (Wufoo system-based)
 - vi. Client Satisfaction Survey (Semi-Annual, MIS-based)
 - vii. Stakeholder Satisfaction (Annual Needs Assessment Survey, MIS-based) - Center Director must update contacts in the MIS for the annual activity.

9. PROFESSIONAL DEVELOPMENT AND NEW EMPLOYEE ORIENTATION

- a. Consultant must attend the TXSW SBDC Network Orientation, and Consultant Agreement with Subcontractor must address professional development of Consultant staff.

10. CERTIFICATION

- a. Consultant staff participating in SBDC activities must participate in the TXSW SBDC Network Certification Program, specifically Advisors, Administrative Staff, and Training Professionals. All advisors must advance within the Certified Business Advisor (CBA) program. Administrative Staff is required to participate in the Certified Administrative Professional (CAP) program. Training Coordinators are required to participate in the Certified Training Professional (CTP) program.

11. SBA COLLABORATION

- a. All SBDC training events or those associated with SBDC activities must include a slide promoting the local SBA District Office and the TXSW SBDC Network.

12. SUCCESS STORIES

- a. Consultant is strongly encouraged to participate in the submission of SBDC success stories via quarterly report and wherever possible include a high-resolution color photograph suitable for publication and client release of information for publicity purposes.

13. SPECIAL INITIATIVES

- a. Consultant must actively engage with Subcontractor in TXSW SBDC efforts to address additional strategic efforts.

14. ADVISING ADVANCE UNDERSTANDINGS

- a. Use of Outreach Systems' NeoSerra MIS with consistent entry of all performance and production metrics: All client impact must have corresponding Client Growth Assessment notations. The Center Director of Subcontractor must verify the accuracy and monthly reconciliation of MIS entries to client-attributed impact, as well as training activity along with submission of such documentation to the Network office, ten (10) days after the end of the previous month.
- b. Average advising hours per case goal is 7 hours with a minimum acceptable average of 5.0 hours per case. This reflects the focus on long-term, impact-potential advising cases.

ANNUAL BUDGET
El Paso Community College SBDC
FY 2025-2026

For the Period: **CY25 Federal Funds: January 1, 2025 - December 31, 2026**
FY24 State Funds: September 1, 2024 - August 31, 2025

6. COST CATEGORY & SUB ITEMS	FUND CATEGORIES					BUDGETED TOTAL AMOUNT
	SBA SHARE	UTSA SHARE	MATCH			
			CASH	IN-KIND	INDIRECT	
(a) Personnel Services	\$178,117	\$34,286	\$237,169	\$0	\$0	\$449,572
(b) Fringe Benefits	60,560	11,657	80,637	0	0	152,854
(c) Travel	9,222	275	0	0	0	9,497
(d) Equipment	-	7,032	0	0	0	7,032
(e) Supplies	-	1,500	0	0	0	1,500
(f) Contractual	-	0	0	0	0	0
(g) Consultants	-	0	0	0	0	0
(h) Other	-	10,250	0	0	0	10,250
(i) Total Direct	\$247,899	\$65,000	\$317,806	\$0	\$0	\$630,705
(j) Total Indirect Costs SBA 24% Match 17% (difference of 41%)	\$59,496	\$0		\$42,143	\$0	\$101,639
TOTALS	\$307,395	\$65,000	\$317,806	\$42,143	\$0	\$732,344
7. Program Income						\$ 20,000.00

BUDGET

EPCC SBDC - Annual Budget 25-26 Apprvd Copy

**El Paso Community College SBDC
BUDGET JUSTIFICATION
Federal CY 2025-2026; State FY 2024-2025**

DESCRIPTION	SBA SHARE	UTSA SHARE	MATCH			TOTAL
			CASH	IN-KIND	INDIRECT	
(a) Personnel Services See Key Personnel	178,117	34,286	237,169	0	0	449,572
Sub-Total Personnel Services	178,117	34,286	237,169	0	0	449,572
(b) Fringe Benefits	60,560	11,657	80,637	0	0	152,854
(c) Travel Out-State ASBDC National Conference	4,611	0	0	0	0	4,611
In-State TXSW SBDC Network Meetings	4,611		0	0	0	4,611
		0	0	0	0	0
			0	0	0	0
Circuit Riding 594 miles @ \$.505 per mile		275	0	0	0	275
Sub-Total Travel	9,222	275	0	0	0	9,497
(d) Equipment	0	7,032	0	0	0	7,032
(e) Supplies General Office supplies		1,500		0	0	1,500
(f) Contractual	0	0	0	0	0	0
(g) Consultants			0	0	0	0
(h) Other Ghostlight Creative	0	3,600	0			3,600
IBIS World	0	6,650	0			6,650
Sub-Total Other	0	10,250	0	0	0	10,250
(i) Total Direct	247,899	65,000	317,806	0	0	546,484
(j) Total Indirect Costs SBA 24% / Match 17% (difference of 41%)	59,496	0	0	42,143	0	101,639
TOTAL BUDGET	\$307,395	\$65,000	\$317,806	\$42,143	\$0	\$648,123

JUSTIFICATION

EPCC SBDC - Annual Budget 25-26 Apprvd Copy

SBDC Key Personnel
El Paso Community College
Federal CY 2025-2026; State FY 2024-2025

Name and Position Title	Federal Share	UTSA Share	Match	Program Income	Annual Salary Rate	No. Mos. Budg.	% Time	Total Amount Required
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Audrey Marrufo Director			\$ 67,608		\$67,608	12	100%	\$67,608
Vacant Training Coordinator			\$40,909		\$40,909	12	100%	\$40,909
Hector Espino Business Development	\$60,932				\$60,932	12	100%	\$60,932
Maribel Flores Business Development	\$62,262				\$62,262	12	100%	\$62,262
Armando Limon Business Development			\$62,807		\$62,807	12	100%	\$62,807
Vacant Business Development		\$34,286			\$34,286	12	100%	\$34,286
Vacant Business Development	\$54,923		-		\$54,932	12	100%	\$54,923
Alejandra Velazco Administrative Associate			\$32,125		\$32,125	12	100%	\$32,125
Norma Curiel Administrative Assistant			\$33,720		\$33,720	12	100%	\$33,720
								-

DATE: 10/28/2024

SUBAWARD #: 25-603001-Z-0049-38-EPCC

SUBRECIPIENT INFORMATION

Subrecipient: **El Paso Community College**

Subrecipient PI: **Audrey Marrufo**

Prime Sponsor: **UTSA**

Prime Award #: **SBAOEDSB230050**

Period of Performance: Start: **09/01/2024**

End: **08/31/2025**

DUNS (if available): **UEI# S8LXMMGHNMG9**

DUNS+4 (if available):

SAM.gov Registration: ☒ Yes ☐ No

SAM.gov Expiration **09/30/2025**

Subrecipient "AWARD" Address:

P.O. Box 20500	El Paso	TX	79998-0500
<small>Congressional District</small> Street Address	City	State	Zip+4

Is Subrecipient "PLACE OF PERFORMANCE" Address same as "AWARD" Address?

☐ Yes ☐ No

If **NO**, please complete below.

9050 Viscount Blvd., B-520	El Paso	TX	79925-6511
<small>Congressional District</small> Street Address	City	State	Zip+4

In the previous fiscal year, did Subrecipient receive eighty percent (80%) or more of its annual gross revenues in federal awards and receive twenty-five million dollars (\$25,000,000) or more in annual gross revenues from federal awards?

☐ Yes ☒ No

If **Yes**, does the public have access to information about executive compensation through reports filed under Section 13(a) or 15(d) of the Securities Exchange Act of 1934 or section 6104 of the Internal Revenue Code of 1986?

☐ Yes ☐ No

If **No**, Subrecipient is required to list the names and total compensation of its five most highly compensated officers of its organization:

1. Name/Title _____	Total Compensation \$ _____
2. Name/Title _____	Total Compensation \$ _____
3. Name/Title _____	Total Compensation \$ _____
4. Name/Title _____	Total Compensation \$ _____
5. Name/Title _____	Total Compensation \$ _____

AUDIT STATUS

2 CFR Part 200 (Uniform Guidance) Certification: Recipients of federal awards are subject to the provisions of 2 CFR Part 200 (Uniform Guidance) and must comply with the audit requirements as stated in 2 CFR Part 200. As a subrecipient of federal funds, you are required to certify that your institution is in compliance with 2 CFR Part 200 Subpart F audit requirements. Accordingly, please check the appropriate box below and provide any required documentation.

☒ Our 2 CFR Part 200 (Uniform Guidance) audit for the most recent fiscal year, 2023, is complete. There were no material weaknesses, no material instances of noncompliance and no findings related to any sub-award(s).

☐ Our 2 CFR Part 200 (Uniform Guidance) audit for the most recent fiscal year, _____, is complete. Material weaknesses, material instances of noncompliance and/or findings related to any sub-award(s) were noted. Enclosed is a copy of the audit report and our corrective action plan; alternatively, it may be found at the following website:

☐ Our 2 CFR Part 200 (Uniform Guidance) audit for the most recent fiscal year, _____, is not yet complete. We anticipate the audit will be completed by _____. Upon completion we will provide you with a written certification, and, should material weaknesses, material instances and/or findings be noted, will send a copy of the audit report and corrective action plan or the website where it may be found.

☐ We are not subject to the requirements of 2 CFR Part 200 (Uniform Guidance) because (check one):

☐ we are a for-profit organization

☐ we expend less than \$750,000 in federal funds annually

☐ other (please explain below; attach additional sheets if necessary)

Please note: If subrecipient does not receive a 2 CFR Part 200 (Uniform Guidance) audit, a Domestic or Foreign Financial Status Questionnaire needs to be completed, including an audit certification prior to execution of the subaward.

CONFLICT OF INTEREST

☒ Subrecipient hereby certifies that it has an active and enforced conflict of interest policy consistent with the provision of 42 CFR Part 50, Subpart F "Responsibility of Applicants for Promoting Objectivity in Research." Subrecipient also certifies that, to the best of Institution's knowledge, (1) all financial disclosures have been made related to the activities that may be funded by or through a resulting agreement, and required by its conflict of interest policy; and, (2) all identified conflicts of interest have or will have been satisfactorily managed, reduced or eliminated in accordance with Subrecipient's conflict of interest policy prior to the expenditures of any funds under any resultant agreement.

☐ Subrecipient does not have an active and/or enforced conflict of interest policy and hereby agrees to abide by UTSA's policy, HOP 10.04 "Conflicts of Interest in Research & Intellectual Property," which is located at <https://www.utsa.edu/hop/chapter10/10-4.html>

SUBAWARD #: 25-603001-Z-0049-38-EPCC SUBRECIPIENT: El Paso Community College

REGULATORY APPROVALS

Human Subjects

- ☐ Yes If **YES**, all IRB approvals for the PI are on file, up to date, and in accordance with [DHHS Code of Federal Regulations 45 CFR 46](#). If the appropriate approvals have not been updated, they will be obtained on the following date: _____
- ☒ No

Animal Subjects

- ☐ Yes If **YES**, all IACUC approvals for the PI are on file, up to date, and in accordance with [PHS Policy on Humane Care and Use of Laboratory Animals](#). If the appropriate approvals have not been updated, they will be obtained on the following date: _____
- ☒ No

Export Control

Subrecipient is individually responsible for ascertaining its compliance with federal export laws.

- ☐ By checking this box, Subrecipient certifies that an export control officer, or other authorized person, has reviewed the Subrecipient's proposal for compliance with federal export control laws and procedures. Explain any potential problems below.

Responsible Conduct of Research

- ☐ By selecting this box, Subrecipient certifies, if applicable, that it maintains an Institutional Plan to meet the prime sponsor's requirements for RCR
- ☒ Not applicable because this project is not being funded by either NSF or NIH

Research Misconduct

- ☐ By selecting this box, Subrecipient certifies that it has completed and submitted PHS-6315 "Assurance of Compliance by Subrecipients" available at: <https://ori.hhs.gov/sites/default/files/PHS-6315.pdf>
- ☒ Not applicable because this project is not being funded by the U.S. Public Health Service (PHS)

I certify that the above accurately represents the institution for which I am a representative.

Signature:  Date: 11/12/24

Print Name and Title: William Serrata, Ph.D.

Address: P.O. Box 20500, El Paso, Texas, 79998-0500

Phone No.: (915)-831-6511

Email Address: wserrata@epcc.edu

Please complete and return this form to:

Office of Research Finance and Operations
ATTN: Cynthia Goins
University of Texas at San Antonio
One UTSA Circle
San Antonio, TX 78249
subawards@utsa.edu

STUDENT SERVICES ABSTRACT

Item(s) to be Considered:	Discussion and action on the approval to contract with Lamar Institute of Technology for the purchase of a cloud software solution and with Ellucian Company LLC for professional services related to the implementation of the software solution.	Amount (Not to Exceed): \$488,276 <i>for a multi-year contract</i>																																
Requestor:	Cassandra Lachica-Chavez	Area Responsible: Admissions & Registrar																																
Resource Persons:	Carlos Amaya, Cassandra Lachica-Chavez, Marco Fernandez																																	
Purpose:	To purchase Ellucian Recruit CRM (Constituent Relationship Management) software through the State of Texas, acting by and through Lamar Institute of Technology, (LIT); and professional implementation services from Ellucian Company LLC ("Ellucian") to support and improve the student experience, attract and enroll new students, and manage the recruitment lifecycle.																																	
Explanation:	Ellucian CRM Recruit will allow EPCC Student Services to empower data-driven decision-making through advanced tracking and analytics, elevate the prospective student experience, improve staff efficiency, and protect against revenue loss from laborious manual processes. The modern technology of CRM Recruit will improve the prospective student experience, increase the pool of dual credit and early college applicants, automate manual processes, and provide data insights for leadership to make informed decisions to help EPCC meet the enrollment goals and maintain fiscal strength and accountability outlined in EPCC's Strategic Plan. Contingencies are included to address potential annual and other increases (LIT) and potential additional implementation hours needed (Ellucian).																																	
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th colspan="2" style="text-align: left;">Lamar Institute of Technology ("LIT")</th> <th colspan="2" style="text-align: left;">Ellucian Company LLC ("Ellucian")</th> </tr> </thead> <tbody> <tr> <td>Prorated Cloud Software Fee (Partial initial Contract Year ending August 31, 2025)</td> <td style="text-align: right;">\$38,675</td> <td>Ellucian CRM Recruit Essentials implementation, Banner (fixed fee)</td> <td style="text-align: right;">\$61,480</td> </tr> <tr> <td>Year 1 (for Contract Year ending August 31, 2026)</td> <td style="text-align: right;">79,671</td> <td>Ellucian CRM Recruit consulting services (\$250 per hour)</td> <td style="text-align: right;">9,500</td> </tr> <tr> <td>Year 2 (for Contract Year ending August 31, 2027)</td> <td style="text-align: right;">82,061</td> <td>Ellucian Project management services (\$230 per hour)</td> <td style="text-align: right;">920</td> </tr> <tr> <td>Year 3 (for Contract Year ending August 31, 2028)</td> <td style="text-align: right;">84,522</td> <td></td> <td></td> </tr> <tr> <td>Year 4 (for Contract Year ending August 31, 2029)</td> <td style="text-align: right;">87,058</td> <td></td> <td></td> </tr> <tr> <td>10% Contingency</td> <td style="text-align: right;">37,199</td> <td>10% Contingency</td> <td style="text-align: right;">7,190</td> </tr> <tr> <td>Cloud Software Total Over 4 Years</td> <td style="text-align: right;">\$409,186</td> <td>Professional Services Total</td> <td style="text-align: right;">\$79,090</td> </tr> </tbody> </table> <p style="text-align: center;">Overall Total to include contingency not to exceed \$488,276</p>			Lamar Institute of Technology ("LIT")		Ellucian Company LLC ("Ellucian")		Prorated Cloud Software Fee (Partial initial Contract Year ending August 31, 2025)	\$38,675	Ellucian CRM Recruit Essentials implementation, Banner (fixed fee)	\$61,480	Year 1 (for Contract Year ending August 31, 2026)	79,671	Ellucian CRM Recruit consulting services (\$250 per hour)	9,500	Year 2 (for Contract Year ending August 31, 2027)	82,061	Ellucian Project management services (\$230 per hour)	920	Year 3 (for Contract Year ending August 31, 2028)	84,522			Year 4 (for Contract Year ending August 31, 2029)	87,058			10% Contingency	37,199	10% Contingency	7,190	Cloud Software Total Over 4 Years	\$409,186	Professional Services Total	\$79,090
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Funding is provided by the Student & Enrollment Services budget.																																		
Sole source letters follow this item.																																		
Recommendation:	Approval by the Board of Trustees.																																	
Vendor:	Lamar Institute Technology (LIT) 855 E Lavaca St Beaumont, TX 77705 Ellucian Company LLC 2003 Edmund Halley Drive, Suite 500 Reston, VA 20191																																	

Date:	<u>11/04/24</u>
Account:	<u>11000-12003</u>
Budget:	<u>\$578,582</u>
Expenditures to date:	<u>\$59,727</u>
Balance:	<u>\$518,855</u>

Memo

To: Ruben Gallardo, Director, Purchasing & Contract Mgmt.

From: Dr. Cassandra Lachica-Chavez, Executive Director of Admissions and Registrar *CL*

Through: Dr. Carlos Amaya, Vice President of Student and Enrollment Services *Carlos C. Amaya*

Date: November 15, 2024

Re: Ellucian as a Sole Source

The purpose of this memo is to affirm the reasons for recognizing Ellucian as a sole source.

Ellucian exclusively develops, enhances and maintains their proprietary software which in turn proves upgrades and enhancements that address local, state and federal requirements that are not available through other entities.

As a sole source, Ellucian provides a team that is focused on specific solutions under TCC (Texas Connection Consortium) in which a dedicated team of Ellucian developers focus on specific solutions and interfaces that support but are not limited to Texas reporting requirements, state mandates, Texas local institutional requirements. These solutions are supported and maintained by Ellucian exclusively for institutions under the Texas Consortium Colleges and Universities in order to maintain proprietary governance. In the state of Texas, only institutions that utilize Banner can obtain software solutions and services through Ellucian as part of the Texas master agreement. The Texas master agreement has centralized all support services to colleges and universities.

November 15, 2024

Carlos C. Amaya
Vice President of Student & Enrollment Services
El Paso Community College
9050 Viscount Blvd.
El Paso, TX 79925

Dear Mr. Amaya:

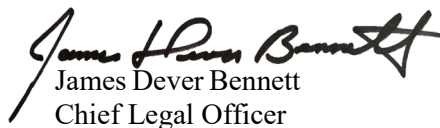
We at Ellucian appreciate the opportunity to serve the technology requirements of El Paso Community College and look forward to continuing and strengthening our technology relationship in the coming years.

Ellucian does not currently maintain a service provider certification program, and Ellucian is the only authorized vendor to provide maintenance and support services for which it is the exclusive licensor of numerous software products for the higher education marketplace. These products, collectively referred to as the "Ellucian Software," include the *Ellucian CRM Recruit* software product. The Ellucian Software is fully developed, is integrated, and is licensed and maintained exclusively by Ellucian. Ellucian protects its intellectual property interests by carefully safeguarding distribution of the Ellucian Software, in whole or in part. Licensees are required to execute a license agreement pursuant to which the users, at an institution level, agree to use Ellucian Software only for the purpose of conducting in-house, non-commercial computing operations and further agree to limit use of Ellucian Software to those employees with a need to know.

The Ellucian Software is protected under the copyright laws of the United States and the trade secret laws of the several states. Ellucian employs industry-standard measures, both legal and technical in nature, to protect the investment that licensees make in the Ellucian Software. Accordingly, Ellucian is also the only authorized provider of installation, customization, training and educational services for the Ellucian Software. We have no authorized services providers or distributors that provide the Ellucian-approved installation, customization, training and educational services in the United States.

We hope that this information assists El Paso Community College as it considers its procurement of Ellucian software. If I can be of further assistance, please do not hesitate to call. Many thanks for your consideration.

Sincerely,


James Dever Bennett
Chief Legal Officer

**TEXAS CONNECTION CONSORTIUM
ORDER FORM**

LIT Control Number:	
TCC Member Name	El Paso Community College
	("Client" or "the TCC Member")
Underlying Agreement:	This Order Form ("Order Form") is issued pursuant to the 2022 Master Software, License, Services and Maintenance Agreement (the "2022 Master Agreement"), as thereafter amended, between: The State of Texas, acting by and through Lamar Institute of Technology ("LIT"), as successor-in-interest to Texas A&M University - Corpus Christi and as an institution of higher education of the State of Texas, for and on behalf of the Texas Connection Consortium ("TCC"); and Ellucian Company LLC ("Ellucian"). All terms and conditions of the 2022 Master Agreement are applicable to this Order Form.

This Order Form is made by and between **ELLUCIAN COMPANY LLC** ("Ellucian") and the TCC Member identified above. This Order Form will constitute a separate and independent contract between the parties hereto. Capitalized terms in this Order Form shall have the same meaning given to such terms within the 2022 Master Agreement unless redefined herein.

Licenses granted pursuant to this Order Form (if any) are for Client's internal use only, on Equipment residing within the United States, and are subject to all use restrictions and limitations set forth in the 2022 Master Agreement and this Order Form, including referenced attachments. Ellucian's grant of license(s) to Software may include (as applicable based upon the products identified in the table below) a non-exclusive, non-transferable license to use Software licensed on a perpetual or Term License basis and/or a non-exclusive, non-transferable license to access and use Cloud Software. Ellucian may use a combination of remote services, centralized services, and onsite services, using personnel worldwide, in performing its obligations with respect to Software Support Services, Professional Services and/or Managed Cloud Services identified in this Order Form. Where a number of hours is specified within this Order Form for Ellucian's delivery of Professional Services on a time and materials basis, the associated fees shown herein represent a good faith estimate based on the information available to Ellucian as of the Execution Date; the total fees payable for Professional Services may vary based on the actual number of hours required to complete the services and the rate that is applicable during the period of Ellucian's delivery of the services.

Software Term (applicable only to Software Support Services, Cloud Software, Software licensed under a Term License, and Managed Cloud Services): The period commencing on March 1, 2025 (the "Beginning Date") and continuing until August 31, 2029 (the "Expiration Date") is the "Software Term." Following the Software Term specified herein, unless the parties have negotiated a new agreement or an extension or modification to the terms hereof, Ellucian shall have no obligation to deliver or perform Software Support Services, Cloud Software, Software licensed under a Term License, and Managed Cloud Services, and therefore, Client shall have no prospective (new) liability for payment for same beyond the Expiration Date.

CLOUD SOFTWARE •†	
Description	Fee ♦
15 - Ellucian CRM Lite Named User	Included
100 - Ellucian CRM Standard Named User	Included
10 - Ellucian CRM Premium Named User	Included
Ellucian CRM Recruit (Banner) - SaaS	Included
1 - Bulk Email for CRM Recruit (block of 250,000 email sends)	Included
PRORATED CLOUD SOFTWARE FEE (for partial initial Contract Year ending August 31, 2025)	\$38,675
TOTAL CLOUD SOFTWARE FEE (for Contract Year ending August 31, 2026)	\$79,671
TOTAL CLOUD SOFTWARE FEE (for Contract Year ending August 31, 2027)	\$82,061
TOTAL CLOUD SOFTWARE FEE (for Contract Year ending August 31, 2028)	\$84,522

CLOUD SOFTWARE •†	
TOTAL CLOUD SOFTWARE FEE (for Contract Year ending August 31, 2029)	\$87,058

PROFESSIONAL SERVICES •‡			
Description	Quantity	Rate	Fee
Ellucian CRM Recruit Essentials Implementation (Banner)	Fixed Fee	Fixed Fee	\$61,480
Ellucian CRM Recruit Consulting Services	38	\$250	\$9,500
Ellucian Project Management Services	4	\$230	\$920
TOTAL PROFESSIONAL SERVICES FEES:			\$71,900

Notes:

- For a description of the product details and applicable terms of service, see the Product Specifications at www.ellucian.com/contracts-and-documentation.

† The “Expiration Date” applicable to the Cloud Software licensed under this Order Form (as identified in the tables above) is August 31, 2029.

◇ Pursuant to the terms of the 2022 Master Agreement, the annual fees payable for the Cloud Software licensed under this Order Form will escalate by three percent (3%) per year through August 31, 2027 and thereafter will escalate in accordance with the then-current terms as negotiated between Ellucian and the TCC upon renewal of the 2022 Master Agreement beyond August 31, 2027.

‡ For a description of the terms and conditions applicable to Professional Services, see the Ellucian Professional Services Terms and Conditions at www.ellucian.com/contracts-and-documentation. If the parties have agreed to include a more detailed description of the Professional Services to be performed under this Order Form, a Statement of Work may be attached hereto and/or may be downloaded using the following URL: <https://ellucian.box.com/s/evnctgjhc2ox33ohlilxzfp3umcm3o2c>

Contract Year. The term “Contract Year” means each period of twelve (12) months commencing on September 1 during the Software Term.

Invoicing. As applicable based upon the specific products identified in this Order Form, Ellucian will invoice:

- on the Beginning Date for all Professional Services to be performed on a fixed fee basis;
- on an annual basis, in advance of each applicable Contract Year (consisting of twelve (12) consecutive months beginning September 1) during the Software Term for Cloud Software (fees for the partial initial Contract Year are prorated and will be invoiced on the Beginning Date); and
- monthly on an as-incurred basis in arrears for all Professional Services to be performed on a time and materials basis as well as for reimbursable travel expenses and other applicable charges in accordance with the terms of the 2022 Master Agreement if Ellucian’s performance of Professional Services involves onsite delivery (unless the service rate(s) identified in the Order Form indicate that travel expenses are included).

Payment Terms:

- **Cloud Software:** Ellucian will invoice LIT for the subscription fees and LIT will pay each invoice in accordance with the terms and conditions of the 2022 Master Agreement. The TCC Member will be invoiced by LIT and shall pay each invoice to LIT in accordance with the 2022 Master Agreement.
- **Fixed Fee Services:** As related to Professional Services, Ellucian will invoice the TCC Member upon delivery of the fixed fee services listed in the Fixed Fee Services Table (above). The TCC Member shall pay each invoice to Ellucian in accordance with the 2022 Master Agreement. These fixed fee services specifically exclude any responsibility on the part of Ellucian for providing any services other than those services specifically set forth above. Reimbursable expenses (as provided for in the 2022 Master Agreement) will be invoiced on a monthly, as provided/as incurred basis.

Publicity. From time to time, in the ordinary course of business, Ellucian issues press releases and announcements regarding the completion of transactions with its customers and partners. As partial consideration for the products and services provided by Ellucian, Client agrees to provide Ellucian with reasonable and timely approvals of such press releases and announcements, including (where appropriate), the approval of quotations and acknowledgements to be included in such materials.

By the execution below, each party represents and warrants that it is bound by the signature of its respective signatory for this non-cancelable Order Form. The terms of the 2022 Master Agreement remain unchanged and in full force and effect; in the event of any conflict between the terms of the 2022 Master Agreement and the terms of this Order Form, the terms of the 2022 Master Agreement will take precedence and control. Any fees due under the Order Form are in addition to and not in lieu of fees already due or scheduled to come due under the 2022 Master Agreement. Client has not relied on the availability of either any future version of any software or any future software product or service.

ELLUCIAN	LAMAR INSTITUTE OF TECHNOLOGY (fiscal agent for the Texas Connection Consortium)
By:	By:
<i>Authorized Signature</i>	<i>Authorized Signature</i>
Name:	Name:
<i>Printed</i>	<i>Printed</i>
Title:	Title:
Date:	Date:

The later date of signature above is the "Execution Date" of this Order Form.

The pricing contained in this Order Form is valid only if the Execution Date occurs on or before December 13, 2024.

CONFIRMATION OF ORDER FORM: By signing below, TCC Member hereby directs LIT to enter this order to Ellucian. TCC Member is responsible for making all payments as requested by LIT in a timely manner in accordance with this Order Form and to otherwise comply with the 2022 Master Agreement and the Interagency Agreement between LIT and TCC Member.

TCC MEMBER NAME OF INSTITUTION: El Paso Community College
For TCC Member Use: Purchase Order Reference Number (if applicable):

By:	_____
	<i>Authorized Signature</i>
Name:	_____
	<i>Printed</i>
Title:	_____
Date:	_____

Client's Billing Contact Information appears below.

<u>Client Accounts Payable Contact Information:</u>	<u>Client Cloud Software Provisioning Contact Information:</u>
Name:	Name:
Address:	Title:
City, State, Zip:	Email:
Email Address:	
PO# (if applicable)	

STUDENT SERVICES ABSTRACT

Item(s) to be Considered: Discussion and action on the approval to purchase from Rockdale Country Ford, two (2) 2025 Ford Police Interceptor Sport Utility vehicles for the El Paso Community College Police Department.	Amount (Not to Exceed): \$170,104
Requestor: Jose Ramirez	Area Responsible: Police Department
Resource Persons: Carlos Amaya, Jose Ramirez	
<p>Purpose: To request approval to purchase two (2) 2025 Ford Police Interceptor Sport Utility vehicles to be utilized by the El Paso Community College Police Department.</p> <p>Explanation: The requested vehicles will replace older marked units. This is part of the plan to replace vehicles so that the Police Department can operate safely and efficiently.</p> <p>The cost of the vehicles is \$154,640 plus a 10% contingency of \$15,464, bringing the total cost not to exceed \$170,104.</p> <p>This purchase will be conducted using the BuyBoard Purchasing Cooperative Contract #724-23, which complies with Texas Education Code 44.031; and the provisions of Texas Government Code, Chapter 791 – Interlocal Cooperation Contracts. Such contracts are competitively awarded.</p> <p>Funding is provided by the Vehicle Registration account.</p>	
Recommendation: Approval by the Board of Trustees.	<div style="border: 1px solid black; padding: 5px;"> <p>Date: <u>11/04/2024</u></p> <p>Account: <u>31001-L31001</u></p> <p>Budget: <u>\$170,104</u></p> <p>Expenditures to date: <u>-0-</u></p> <p>Balance: <u>\$170,104</u></p> </div>
<p>Vendor: Rockdale Country Ford PO Box 72 Rockdale, TX 76567</p>	

STUDENT SERVICES ABSTRACT

Item(s) to be Considered: Discussion and action on the approval of Continuing Education (CE) tuition rates for new courses.	
Requestor: Blayne Primozich	Area Responsible: Workforce and Continuing Education
Resource Persons: Steven Smith, Blayne Primozich	
Purpose: To approve tuition rates for new CE courses.	
Explanation: As new courses are brought into the inventory, the Workforce and Continuing Education Department requests the Board of Trustees approval for the associated tuition rates.	
Recommendation: Approval by the Board of Trustees.	

COURSE	TITLE	HOURS	TUITION
Personal Enrichment			
PIE 219	USA Regional Cuisine	21	\$158

STUDENT SERVICES ABSTRACT

Item(s) to be Considered: Discussion and action on the approval of Continuing Education (CE) tuition rates for revised courses.	
Requestor: Blayne Primozich	Area Responsible: Workforce and Continuing Education
Resource Persons: Steven Smith, Blayne Primozich	
Purpose: To approve tuition rates for revised CE courses.	
Explanation: The Workforce and Continuing Education Department is requesting approval for changes in tuition. The comments column provides an explanation for each revised rate.	
Recommendation: Approval by the Board of Trustees.	

COURSE	TITLE	OLD HOURS	OLD TUITION	NEW HOURS	NEW TUITION	COMMENTS
Business/Computers/Technical Education						
SDG 915	Sympathy Floral Techniques	9	\$119	15	\$180	The tuition increased due to increased contact hours and miscellaneous fee to cover the cost of new flowers.
Personal Enrichment						
PIA 484	Fundamentals of Digital Photography	16	\$105	16	\$130	Tuition was increased to align with the intermediate photography class and with our current pricing model.
PIA 511	Intermediate Professional Photography	12	\$68	16	\$130	Tuition increased due to increased contact hours and to align with our current pricing model.
PIA 791	Watercolor Painting Techniques Part II	18	\$140	15	\$125	Tuition decrease reflects reduced contact hours.
Center for College Access and Development						
WPL 174	Introduction to Computer Applications in Business	24	\$320.50	30	\$25	This course number is being reactivated for a new course that supports ESL students transitioning from the workforce to college courses.
WPL 341	Communication Improvement in the Workplace	40	\$248	36	\$50	This course number is being reactivated for a new course that supports ESL students transitioning from the workforce to college courses.