

Minutes of Regular Board Meeting

The Board of Trustees Kilgore College



A Regular Board Meeting of the Board of Trustees of Kilgore College was held on June 10, 2024, beginning at 6:30 PM on the 2nd floor of the McLaurin Administration Building, 895 Ross Ave., Kilgore, TX 75662, with the following members present:

Lon Ford, President
Jon Rowe, Vice President
Josh Edmonson, Secretary
David Castles
Gina DeHoyos
Jon Keller
Travis Martin

Absent: Kelvin Darden, Janice Bagley

1. CALL TO ORDER

A. Invocation and Pledge of Allegiance

Mr. Lon Ford called the meeting to order at 6:30 pm. Dr. Mike Jenkins said the Invocation and Mr. Lon Ford led the Pledge of Allegiance.

2. PUBLIC COMMENTS

The following citizens made public comments;

Sherry Wilkins (Music)
Keith Hooks (Music)
Mike Geddie (Music)
Tracy Wells (Music)
Kattie Simons Perry (Surg. Tech)
Sandra Siler (Music)
Annette Morgan (Music)
Toni Hale (Music)
Rance Hawthorne (Music)
Chris Murray (Music)
Danny Vinson (Music)
Jacovia Cartwright (Surg. Tech)
Tisha Grotemat (Surg. Tech)

3. PRESENTATIONS

A. Student Success Data Spotlight: KC to UT Tyler Success Data for Transfer Students –
Appendix A

Presenter: Dr. Tracy Skopek

4. CONSENT AGENDA

Presenter: Mr. Lon Ford

- A. To consider approving the minutes of the:
 - February Regular Board Meeting
- B. To consider approval of personnel items submitted as follows: *Appendix B*
 - Employee Resignations
 - Employee Retirements
 - Employee Terminations
 - Proposed Change of Employment
 - Offers of Employment
- C. To consider payment of legal fees for:
 - April 2024
 - May 2024

Jon Rowe moved to accept the Consent Agenda as presented. Travis Martin seconded the motion. The motion passed unanimously.

5. BOARD COMMITTEE REPORTS & ACTION ITEMS

- A. Student Success Committee – David Castles, Committee Member
 - 1. INFORMATION ITEM: Status update on active and archived music-related materials
- Presenter:** Ms. Gina DeHoyos, Dr. Brenda Kays

Dr. Brenda Kays apologized for the way the music-related material disposal was handled by the college and stated in detail the steps that will be taken to document and properly store valueable and historically-significant items in the future. Dr. Kays also reiterated details about the KC Band program. The Board has allocated an additional \$100,000 for band scholarships, in addition to the funds that were already in the fine arts department budget. Additional information was given regarding the future of the KC band and applied music lessons for students. Trustee, Gina DeHoyos, reiterated the importance of the Fine Arts programs at KC. Ms. DeHoyos also apologized for the distress caused by KC's actions regarding the music-related materials and vowed to do better in the future.

- 2. INFORMATION ITEM: Status update on the Surgical Technology Program
- Presenter:** Dr. Brenda Kays/Dr. Tracy Skopek

Dr. Tracy Skopek gave a synopsis of the Surg. Tech program re-opening and accreditation process. Dr. Skopek gave a detailed timeline regarding the accreditation process and how it has impacted the students. Dean Jennifer Bray and Program Director Odessa McLean have reached out to all of the students and their employers. We are committed to our students' success and their future livelihood. Trustee DeHoyos posed several questions to Dr. Skopek regarding how we can do better for these students and what we should do to assist them in keeping their jobs.

- 3. INFORMATION ITEM: Spring 2024 Snapshot – *Appendix C*
- Presenter:** Dr. Richard Plott/Dr. Tracy Skopek

B. Property & Facilities Committee - Travis Martin, Chair

1. ACTION ITEM: To consider approval to (1) allow the College President to enter into contract negotiations with Barr G, Inc. to demolish the Quads Residence Halls and Mechanical Room, (2) delegate to the College President the authority to negotiate and finalize any remaining terms related to this same project, and (3) authorize the College President to sign the contract and any other necessary paperwork related to the same project. - *Appendix D*

Presenter: Dr. Mike Jenkins

Mr. Travis Martin moved for approval to (1) allow the College President to enter into contract negotiations with Barr G, Inc. to demolish the Quads Residence Halls and Mechanical Room, (2) delegate to the College President the authority to negotiate and finalize any remaining terms related to this same project, and (3) authorize the College President to sign the contract and any other necessary paperwork related to the same project. The motion came from Committee and did not require a second. The motion passed unanimously.

2. ACTION ITEM: To consider approval to (1) allow the College President to enter into contract negotiations with Barr G, Inc. to demolish the Student Support Building, (2) delegate to the College President the authority to negotiate and finalize any remaining terms related to this same project, and (3) authorize the College President to sign the contract and any other necessary paperwork related to the same project. - *Appendix E*

Presenter: Dr. Mike Jenkins

Mr. Travis Martin moved for approval to (1) allow the College President to enter into contract negotiations with Barr G, Inc. to demolish the Student Support Building, (2) delegate to the College President the authority to negotiate and finalize any remaining terms related to this same project, and (3) authorize the College President to sign the contract and any other necessary paperwork related to the same project. The motion came from Committee and did not require a second. The motion passed unanimously.

3. ACTION ITEM: To consider approval to (1) allow the College President to enter into contract negotiations with C. E. Marler & Associates for construction of a student parking lot and renovations to existing parking at the Health Science Education Center, (2) delegate to the College President the authority to negotiate and finalize any remaining terms related to this same project, and (3) authorize the College President to sign the contract and any other necessary paperwork related to the same project. *Appendix F*

Presenter: Dr. Mike Jenkins

Mr. Travis Martin moved for approval to (1) allow the College President to enter into contract negotiations with C. E. Marler & Associates for construction of a student parking lot and renovations to existing parking at the Health Science Education Center, (2) delegate to the College President the authority to negotiate and finalize any remaining terms related to this same project, and (3) authorize the College President to sign the contract and any other necessary paperwork related to the same project. The motion came from Committee and did not require a second. The motion passed unanimously.

4. INFORMATION ITEM: Update on fieldhouse and football coaches' offices renovation funded by a gift from Lane Johnson. - *Appendix G*

Presenter: Dr. Mike Jenkins

C. Policy & Personnel Committee - Josh Edmonson, Chair

1. ACTION ITEM: To consider an update to the KC Mission Statement to further align the college's mission with the Board's Direction for Kilgore College to become a *Community College 3.0*. - *Appendix H*

Presenter: Dr. Brenda Kays

Mr. Josh Edmonson moved that the Board approve the update to the KC Mission Statement to further align the college's mission with the Board's Direction for Kilgore College to become a *Community College 3.0*. This motion came from Committee and did not require a second. The motion passed unanimously.

2. ACTION ITEM: To consider approval of the Department of Labor (DOL) FLSA Recommendation for exempt employees effective July 1, 2024, absent any injunction in response to federal lawsuits filed. - *Appendix I*

Presenter: Mr. Terry Hanson

Mr. Josh Edmonson moved that the Board approve the Department of Labor (DOL) FLSA Recommendation for exempt employees effective July 1, 2024, absent any injunction in response to federal lawsuits filed. This motion came from Committee and did not require a second. The motion passed unanimously.

3. ACTION ITEM: To consider approval for a Committee of the Board to study and review the current Institutional Effectiveness Survey Instrument to gauge if the survey meets the current needs of the College and Board, and if not, to review and pursue other options including, but not limited to, contracting with a third party to administer a survey.

Presenter: Mr. Josh Edmonson

There was some discussion regarding this proposal and a special committee was chosen. Josh Edmonson will lead the committee with Gina DeHoyos and David Castles serving as committee members.

Mr. Josh Edmonson moved that the Board approve for a Committee of the Board to study and review the current Institutional Effectiveness Survey Instrument to gauge if the survey meets the current needs of the College and Board, and if not, to review and pursue other options including, but not limited to, contracting with a third party to administer a survey. This motion did not come from Committee and did require a second. The motion was seconded by David Castles. The motion passed unanimously.

4. Senate Bill 17: Relating to Diversity, Equity and Inclusion

Presenter: Dr. Brenda Kays

a. ACTION ITEM: To consider approval and notification of the following TASB Policy Updates with reference to SB17:

1) BG (LEGAL, LOCAL) Administrative Organization - *Appendix J*

2) BI (LEGAL) Reports (Notification only) - *Appendix K*

- 3) CFE (LEGAL, LOCAL, Administrative Rule) Purchasing and Acquisition - *Appendix L*
- 4) DAA (LEGAL, LOCAL) Employment Objectives: Equal Employment Opportunity - *Appendix M*
- 5) DH (LEGAL, Administrative Rule) Employee Standards of Conduct (Notification only) - *Appendix N*
- 6) FA (LEGAL, LOCAL) Equal Educational Opportunity - *Appendix O*

Mr. Josh Edmonson moved to approve the above TASB Policy updates with reference to SB17. This motion came from Committee and did not require a second. The motion passed unanimously.

5. Executive Order No. GA-44: Relating to Addressing Acts of Antisemitism in Institutions of Higher Education - *Appendix P*

Presenter: Dr. Brenda Kays

a. ACTION ITEM: To consider approval and notification of the following TASB policy updates with reference to GA-44:

- 1) FLA (LEGAL, LOCAL) Student Expression and Use of College Facilities - *Appendix Q*
- 2) FLB (LEGAL, LOCAL) Student Conduct - *Appendix R*
- 3) DGC (LEGAL, LOCAL, Administrative Rule) Employee Expression and use of College Facilities - *Appendix S*
- 4) GD (LEGAL, LOCAL) Community Expression and Use of College Facilities - *Appendix T*

Mr. Josh Edmonson moved to approve the above TASB Policy updates with reference to GA-44. This motion came from Committee and did not require a second. The motion passed unanimously.

6. ACTION ITEM: To consider approval of the following updated TASB policies:

Presenter: Mr. Josh Edmonson

- a. AB (LEGAL, LOCAL) College District Name and Definitions - *Appendix U*
- b. CGC (LEGAL, LOCAL) Emergency Plans and Alerts - *Appendix V*
- c. DBD (LEGAL, LOCAL, EXHIBIT, ADMINISTRATIVE RULE) Employment Requirements and Restrictions: Conflict of Interest - *Appendix W*
- d. FFAC (LEGAL, LOCAL) Communicable Diseases - *Appendix X*
- e. GE (LEGAL, LOCAL) Advertising and Fundraising - *Appendix Y*

Mr. Josh Edmonson moved to approve the above TASB Policy updates as presented. This motion came from Committee and did not require a second. The motion passed unanimously.

7. INFORMATION ITEM: To review TASB Policies for Information Only

Presenter: Mr. Josh Edmonson

- a. AF (LEGAL) Institutional Effectiveness - *Appendix Z*
- b. BAA (LEGAL) Powers, Duties, Responsibilities - *Appendix AA*
- c. BBBA (LEGAL) Conducting an Election - *Appendix AB*
- d. BBBB (LEGAL) Post-Election Procedures - *Appendix AC*
- e. BBBC (LEGAL) Reporting Campaign Funds - *Appendix AD*
- f. BBC (LEGAL) Vacancies and Removal from Office - *Appendix AE*

- g. BD (LEGAL) Board Meetings - *Appendix AF*
- h. CAAA (LEGAL) State and Federal Revenue Sources – State - *Appendix AG*
- i. CAI (LEGAL) Ad Valorem Taxes - *Appendix AH*
- j. CF (LEGAL) Purchasing and Acquisitions -- *Appendix AI*
- k. CGE (LEGAL) Medical Treatment -- *Appendix AJ*
- l. CRA (LEGAL) Website Postings - *Appendix AK*
- m. DIAA (LEGAL) Sex and Sexual Violence - *Appendix AL*

D. Investment/Finance/Audit Committee - Jon Rowe, Chair

1. ACTION ITEM: To consider adoption of the (1) "State maximum tuition rate" for Dual Credit at public and charter schools, with an initial rate of \$56.87 per semester credit hour (SCH), the rate will automatically adjust in accordance with any future changes set by the State; and (2) the dual credit rates for non-public and non-charter schools to reflect a 20% discount from the standard tuition rates.- *Appendix AM*

Presenter: Mr. Terry Hanson

Mr. Jon Rowe moved for adoption of the (1) "State maximum tuition rate" for Dual Credit at public and charter schools, with an initial rate of \$56.87 per semester credit hour (SCH), the rate will automatically adjust in accordance with any future changes set by the State; and (2) the dual credit rates for non-public and non-charter schools to reflect a 20% discount from the standard tuition rates. This motion came from Committee and did not require a second. The motion passed unanimously.

2. ACTION ITEM: To consider approval of a waiver for the penalty and interest on the delinquent property tax for 355 E. Pacific Ave, Gladewater, TX due to an error by an employee/agent of the appraisal district.- *Appendix AN*

Presenter: Mr. Terry Hanson

Mr. Jon Rowe moved for approval of a waiver for the penalty and interest on the delinquent property tax for 355 E. Pacific Ave, Gladewater, TX due to an error by an employee/agent of the appraisal district. This motion came from Committee and did not require a second. The motion passed unanimously.

3. ACTION ITEM: To consider funding the Department of Labor (DOL) FLSA recommendation for exempt employees effective July 1, 2024, absent any injunction in response to federal lawsuits filed. - *Appendix AO*

Presenter: Mr. Terry Hanson

Mr. Jon Rowe moved for approval of funding the Department of Labor (DOL) FLSA recommendation for exempt employees effective July 1, 2024, absent any injunction in response to federal lawsuits filed. This motion did not come from Committee and did require a second. The motion was seconded by Gina DeHoyos. The motion passed unanimously.

4. Entrepreneurial Community College Spotlight: Campus Store - *Appendix AP*

Presenter: Mr. Jason Rutherford

5. INFORMATION ITEM: Financial Update

Presenter: Mr. Terry Hanson

- a. March 2024 Financial Snapshot - *Appendix AQ*
- b. April 2024 Financial Snapshot - *Appendix AR*
- c. April 2024 Capital Update - *Appendix AS*

6. KILGORE COLLEGE FOUNDATION UPDATE REPORT – *Appendix AT*

Presenter: Ms. Merlyn Holmes

7. BOARD PRESIDENT'S REPORT

Presenter: Mr. Lon Ford

A. INFORMATION ITEM: Upcoming Events:

- Ribbon Cutting: KC Health Science Education Center/Christus Good Shepherd Healthpark, Thursday, July 11, 10:00-11:00am
- Budget Workshop: Monday, July 29, 6:00pm
- Regular August Board Meeting, Monday, August 12, 6:30pm

8. EXECUTIVE SESSION

The Board did not go into Executive Session.

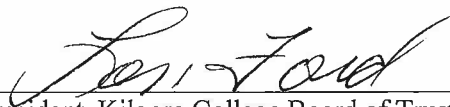
If during the course of the meeting covered by this notice, the Board should determine that a closed or executive meeting or session of the Board should be held or is required in relation to any item included in this notice, then such closed or executive meeting or session as authorized by Section 551.001 et. seq. of the Texas Government Code (the Open Meetings Act) will be held by the Board concerning any subjects and for any and all purposes permitted by Sections 551.01-551.089 of the Open Meetings Act.

9. ADJOURNMENT – A motion to adjourn was made by Jon Rowe and was seconded by Travis Martin. The meeting was adjourned at 9:23 pm

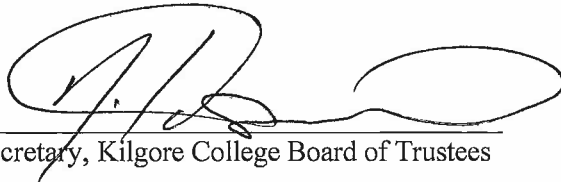
Respectfully submitted,



Karen Scibona, Recording Secretary
Kilgore College Board of Trustees



President, Kilgore College Board of Trustees



Secretary, Kilgore College Board of Trustees

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KC TO UT TYLER TRANSFER

Tracy Skopek, VPI & CAO



Our Common Commitment

- Advance the educational attainment of East Texans
- Advance the economy of East Texas
- Kilgore College and UT Tyler collaboratively work together for these goals. It is a great partnership!
- New opportunities for co-enrollment of OUR students.
- Mutually beneficial relationship where we support each other and the health of each institution
 - New Co-Enrollment Partnership

Transfer Data from Kilgore College to UT Tyler

- From 2016 to 2022, 704 Kilgore students joined the UT Tyler family.
- For the Fall 2022 cohort, 83 KC students were admitted to UT Tyler with a 62.7% 1st-year retention rate. The historic retention rate of KC transfer cohorts ranges from 55% - 65%. For Fall 2022, UT Tyler's 1year retention rate for all incoming transfer students was 61.4%.

Fall 2022 Cohort: KC Transfer Data

- Retention Rate by Earned SCH from KC

Credits from KC	Count of Transfer Students	1-Year Retention Rate
30 – 60	29	58.6%
61 – 90	44	75.0%
91+ hours	6	16.7%

- Retention Rate by First-Generation Student Status

First –Gen Status	Count of Transfer Students	1-Year Retention Rate
Yes	46	56.5%
No	28	75.0%
Unknown	9	55.6%

Transfer Data from KC to UT Tyler

- Retention Information based on Transfer GPA from KC

Transfer GPA from Kilgore	Count of Transfer Students	1-Year Retention Rate
2.0 – 2.5	1	0.0%
2.5 – 2.9	17	52.9%
3.0 - 3.24	15	46.7%
3.25 – 3.49	27	63.0%
3.5 or higher	23	82.6%

**Kilgore Junior College District
Personnel Agenda
June 10, 2024**

1. Recommendation to accept employee resignations as follows:

- a. Cecil, Eva, Administrative Assistant I, Health Sciences, effective 3/21/2024 after 6 months of service. *(seeking other opportunities)*
- b. Smith, Amber, Administrative Assistant I, Foundation, effective 3/22/2021 after 8 months of service. *(staying home for family)*
- c. Hamlet, Taylor, Specialist Financial Aid, effective 4/5/2024 after 1 year of service. *(staying home for family)*
- d. Morris, Hannah, Administrative Assistant I, Dean Health Sciences, effective 5/3/2024 after 1 year and 4 months of service. *(moving out of state for family)*
- e. Foote, M. Chris, Accountant I, effective 4/19/2024 after 4 years and 8 months of service. *(opportunity for career advancement at university)*
- f. Sullivan, Michelle, Instructor – English, effective 8/31/2024 after 10 years of service. *(family moving out of state)*
- g. Smith, Sara, Counselor Mental Health, effective 5/10/2024 after 9 months of service. *(needs more clinical hours for LPC credential)*
- h. Sather, Kyla, Advisor – Career Coach, effective 5/10/2024 after 4 years and 7 months of service. *(career advancement, position at a University)*
- i. Luz, Cervantes, HR Business Partner I, effective 5/10/2024 after 3 years and 4 months of service. *(staying home with newborn)*
- j. Rachel Hurt, Advisor – Arts & Sciences, effective 5/24/2024 after 1 year and 10 months of service. *(accepted FT Dance Instructor position)*
- k. Johnson, Mark, Police Officer, effective 5/31/2024 after 6 months of service. *(Personal reasons)*
- l. McGaughey, Jasmine, Specialist Student Records & Reports Registrar, effective 5/31/2024 after 1 year and 3 months of service. *(staying home with children)*
- m. Childers, Charles, Instructor – Diesel Technology, effective 6/7/2024 after 10 years of service. *(Accepted Coordinator position at TSTC)*
- n. Henry, Michael, Advisor – Business and Computer Science, effective 6/7/2024 after 2 years and 5 months of service. *(seeking other opportunities)*
- o. Connor, Kelley, Advisor – Public Services & Industrial Technology effective 6/7/2024 after 3 years and 7 months of service. *(found remote position to be able to help with family)*
- p. Kristi Simpson, Assistant Director Fire Academy, effective 9/17/2024 after 7 years of service. *(staying home with children)*

Other

- q. Spencer, Delinda, Specialist – Student Accounts, effective 4/24/2024 after 6 years and 9 months of service.
- r. Knox, Alex, Advisor Arts & Sciences, effective 3/21/2024 after 9 years and 11 months of service.
- s. Kimble, Kory, Specialist - Disability Services, effective 4/5/2024 after 9 years and 8 months of service.
- t. Tabu, Whitende, Instructor Computer Science, effective 5/31/2024 after 5 years of service.

2. Recommendation to accept employee retirement as follows:

- a. Gore, Chris, Dean of Students, effective 5/31/2024 after 10 years and 5 months of service.
- b. Smith, Michael, Director & Instructor EMS, effective 6/15/2024 after 22 years and 8 months of service.

3. Recommendation to change employment as follows:

NAME	PREVIOUS POSITION	NEW POSITION	NEW SALARY/ RATE OF PAY	EFFECTIVE DATE
Ford, Glenda	Director & Instructor Cosmetology	Director & Instructor Aesthetics & Nail Tech	<i>no change</i>	4/1/2024
Ponder, Quinn	Instructor Cosmetology	Director & Instructor Cosmetology & Barbering	<i>no change</i>	4/1/2024
Gumm, Judy	Admin Asst I – Health Sciences	Specialist – Health Sciences	\$36,725	5/1/2024
Simmons, Shanetra	Admin Asst III – Accounting	Specialist – Student Accounts	\$38,000	5/16/2024
Wallace, Stephanie	Admin Asst I – Cashier	Admin Asst III – Accounting	\$36,725	5/16/2024
Seals, Donald	Dept Chair & Instructor – History	Instructional Dean – Liberal & Fine Arts	\$93,500	5/16/2024
Kinsey, Amber	Liaison – Scholarships	Course Coordinator - Fire Academy	No change	6/3/2024

4. Recommendation of employment as follows:

NAME	POSITION	LOCATION	SALARY/BASE RATE OF PAY	HIRE DATE
Lokey, Corey	Manager - IT Help Desk	Kilgore	\$48,483	4/1/2024
Hunt, Bria	Admin Assistant I – Receiving	Kilgore	\$30,160	4/8/2024
Hale, Clydea	Instructor – Nursing	Kilgore	\$66,467	4/8/2024
Cooper, Angela	Learning Specialist – TRIO	Kilgore	\$41,000	4/9/2024
Foster, Destiny	Administrative Assistant I – Athletics	Kilgore	\$30,160	4/15/2024
Jackson, Ginger	Administrative Assistant I – CE Workforce	Kilgore	\$30,160	5/13/2024

Field, Laura	Accountant III	Kilgore	\$57,000	5/28/2024
Barron, Alicia	Administrative Assistant I – Cashier	Kilgore	\$30,160	5/28/2024
Santiago, Sarah	Instructor & Skills Lab Coordinator – Nursing	Kilgore	\$68,000	6/3/2024
Jacks, Johnathan	Maintenance Foreman	Kilgore	\$46,920	6/3/2024
Carter, Lacey	Compliance Officer - Title IX Coordinator	Kilgore	\$59,586	6/3/2024
Santiago, Sarah	Clinical/Skills Lab Coordinator & Instructor – Nursing	Kilgore	\$68,000	6/3/2024
Reinert, Scott	Police Officer	Kilgore	\$61,500	6/3/2024
Morey, April	Administrative Assistant I – Health Sciences	Kilgore	\$30,160	6/3/2024

Final Publish Date: 5/22/2024

Turnover – Kilgore College

2022/2023 compared to 2023/2024 as of 5/31/2024

2023-2024 (all known resignations as of 5/31)		
Resignations (voluntary turnover)	30*	*includes 7 occurring between 6/1-8/31
Active Employee Count	315	
Turnover	9.52%	No retirees (5)/no terms

2022-2023		
Resignations	46	
Avg Employee Count	311	
Turnover	14.9%	No retirees(8)/no terms

2023-2024 (all known resignations as of 5/31)		
Resignations	30	
Terminations	4	
Active Employee Count	315	
Turnover	10.79%	No retirees (5)

2022-2023		
Resignations	46	
Terminations	4	
Avg Employee Count	311	
Turnover	16.08%	No retirees (8)

Texas Statewide Turnover

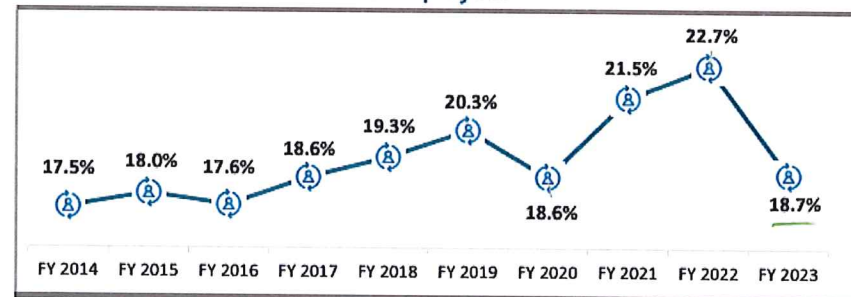
- Statewide turnover for FY2023, 18.7%

National Turnover

- Involuntary and voluntary turnover rates in the US (Mercer 2023 Turnover Survey)
 - The average turnover rate among US businesses between 2022 and 2023 was 17.3%, (down from 24.7% reported in the 2022 survey.)

Figure 1

Statewide Turnover Rates for Classified, Regular Full- and Part-time Employees



Sources: The State Auditor's Office's Electronic Classification Analysis System and State Auditor's Office's turnover reports from fiscal years 2014 to 2023.



Spring 2024 Snapshot

	Spring 2024		Spring 2023		Difference between Spring 2024 and Spring 2023	
Total Headcount	6,722		6,471		251	4%
Credit Students	5,552		4,683		869	19%
Continuing Education Students	1,170		1,788		-618	-35%
CE Headcount by Program*						
Certified Nurse Aide	49		19		30	158%
East Texas Police Academy	275		254		21	8%
Fire Academy	219		307		-88	-29%
Electric Power Technology	37		76		-39	-51%
Other	590		1,132		-542	-48%
Total CE Headcount	1,170		1,788		-618	-35%
Credit Students	5,552		4,683		869	19%
Credit Hours	45,894		41,146		4,748	12%
Contact Hours	970,496		890,064		80,432	9%
Gender						
Female	3,362	61%	2,847	61%	515	18%
Male	2,190	39%	1,836	39%	354	19%
Race/Ethnicity						
Two or More Race	204	4%	145	3%	59	41%
White	2,347	42%	2,171	46%	176	8%
Black or African American	925	17%	827	18%	98	12%
Hispanics of any race	1,607	29%	1,277	27%	330	26%
Asian	73	1%	50	1%	23	46%
American Indian/Alaskan Native	25	0%	29	1%	-4	-14%
U.S. Nonresident	57	1%	67	1%	-10	-15%
Hawaiian/Pacific Islander	6	0%	4	0%	2	50%
Race and Ethnicity unknown	308	6%	113	2%	195	173%
Age						
Traditional (24 & under)	4,653	84%	3,703	79%	950	26%
Non-Traditional (25 & older)	899	16%	980	21%	-81	-8%
Average Age	21		22			
Enrollment Status						
Part-Time	3,805	69%	2,978	64%	827	28%
Full-Time	1,747	31%	1,705	36%	42	2%
Major						
Workforce Majors	1,019	18%	993	21%	26	3%
Transfer Majors	4,533	82%	3,690	79%	843	23%
First-Time Students						
First-Time-in-College	153	3%	123	3%	30	24%
First-Time Transfer	136	2%	130	3%	6	5%
Dual Credit/HS Students ^Δ	2,801	50%	1,878	40%	923	49%
Returning Students	2,462	44%	2,552	54%	-90	-4%
Tuition Status						
In-District	1,186	21%	1,175	25%	11	1%
Out-of-District	4,273	77%	3,401	73%	872	26%
Out-of-State/Country	93	2%	107	2%	-14	-13%
Area Counties						
Gregg	2,812	51%	2,363	50%	449	19%
Rusk	772	14%	680	15%	92	14%
Upshur	339	6%	322	7%	17	5%
Harrison	548	10%	435	9%	113	26%
Smith	180	3%	188	4%	-8	-4%
Economically Disadvantaged	1,661	30%	1,619	35%	42	3%
Enrollment by Location[†]						
Kilgore Campus	1,649	23%	1,737	28%	-88	-5%
Longview Campus	273	4%	275	4%	-2	-1%
UT Tyler Longview Univ. Center	79	1%	108	2%	-29	-27%
Distance Learning	2,807	39%	2,568	41%	239	9%
High Schools	2,305	32%	1,559	25%	746	48%
Students Taking Courses at Multiple Locations	1,437	26%	1,518	32%	-81	-5%
FTE						
SACSCOC[#]	3,527		3,144			
IPEDS⁹	3,024		2,704			

* Estimated distinct students enrolled Q2 or Q3 as of 4/16/2024

Δ Does not include Continuing Education students

† Some students are enrolled at more than one location. Category totals will sum to more than the total number of unduplicated students enrolled. Percentages are based on duplicated totals.

Total Spring FT Students plus Spring PT Students' credit hours divided by 12

9 Total Spring FT Students plus Spring PT Students Multiplied by 0.335737

2024 Data Source for Credit Students: Snapshot taken from Jenzabar on 4/16/2024 (does not match THECB reporting periods)

2023 Data Source for Credit Students: Snapshot taken from Jenzabar on 4/14/2023 (does not match THECB reporting periods)



Dr. Mike Jenkins
Executive Vice President,
Internal Collaboration & Strategic Initiatives
903.983.8188
mjenkins@kilgore.edu

DATE: May 24, 2024

TO: Dr. Brenda S. Kays, President

FROM: Dr. Mike Jenkins

SUBJECT: Abatement and Demolition of Quads Residence

Kilgore College sought quotes for abatement and demolition of the Quads earlier this year. The initial contractor provided an estimate in excess of \$1.3 million. We contacted two additional Region 7 vendors – Barr G, Inc. and K-K Mobbs construction. Nate Mobbs declined to submit a quote indicating that he would subcontract a lot of the work to Barr G.

Barr G, Inc. is a commercial demolition company in Longview. They are the company that actually completed the demolition of the old Kilgore Heights Elementary School as a subcontractor for K-K Mobbs. They also completed several large demolition projects for Hallsville ISD when Ben Avedikian was there. As a result, I am recommending that Kilgore College contract with Barr G, Inc. for the demolition of the Quads at the cost of \$264,520.

Upon completion of the demolition work, the contractor will import top soil, sow a contractors mix seed of native grass, and apply fertilizer.

In addition, the College will need to contract with ERI for the abatement of asbestos at a cost of \$49,783.

Please let me know if you have any questions or need any additional information.

KILGORE CAMPUS
1100 Broadway • Kilgore, Texas 75662 • 903.983.8209

KC-LONGVIEW
300 South High Street • Longview, Texas 75601 • 903.753.2642



Dr. Mike Jenkins
Executive Vice President,
Internal Collaboration & Strategic Initiatives
903.983.8188
mjenkins@kilgore.edu

DATE: May 24, 2024

TO: Dr. Brenda S. Kays, President

FROM: Dr. Mike Jenkins

SUBJECT: Demolition of the Student Support Building

While the College was closed for Spring Break, the Student Support Building suffered a catastrophic systems failure. The damage to the facility was extensive and included a ruptured hot water loop pipe, buckled floors throughout the first floor, and significant humidity related issues ranging from damaged ceilings, walls, and woodwork.

Johnson and Pace, the College's architectural and engineering partner, was asked to estimate the costs of renovating and restoring the facility. Based upon the age and square footage, they estimated anywhere from \$2 to \$4 million, depending on finishes and functions decided upon. Given the age of the facility, the condition it is in, and the fact that we have successfully relocated all personnel and functions to other areas of campus, I do not recommend restoring this facility. Instead, I recommend the demolition of the Student Support Building and, in its place, the addition of a green space that connects the southern parking lots to the heart of campus.

ERI conducted a sampling of the Student Support building and found no abatement is necessary. Barr G, Inc., the recommended contractor for demolishing the Quads, provided a bid of \$108, 270 for demolition of the Student Support building. Given that they will be already be mobilized, they have been the lowest, best bidder on other projects, and that they are a Region 7 vendor, I am recommending that Kilgore College contract with Barr G, Inc. for the demolition of the Student Support building at the cost of \$108,270.

Upon completion of the demo work, the contractor will import top soil, grade, seed and fertilize the space. We will use existing operating budget funds to install an irrigation system to the new green space.

Please let me know if you have any questions or need any additional information.

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Dr. Mike Jenkins
Executive Vice President,
Internal Collaboration & Strategic Initiatives
903.983.8188
mjenkins@kilgore.edu

DATE: May 24, 2024

TO: Dr. Brenda S. Kays, President

FROM: Dr. Mike Jenkins

SUBJECT: Recommendation for new parking lot and repair work

Kilgore College conducted an invitation for bids process for the construction of a new parking lot at the Health Science Education Center. In addition, we included several alternates to include construction using asphalt in lieu of concrete, replacement of a badly worn/damaged faculty lot, and cleaning/restriping the existing student parking lots. Three bids were received from the following contractors: C.E. Marler & Associates, K-K Mobbs Construction, and McKinnon Construction. These were reviewed using the published criteria of cost, qualifications and reputation, past relationship with the college or engineer, and experience in the scope of the project. Below are scores assigned by the review team.

Bidder	Reviewer #1	Reviewer #2	Reviewer #3	Average
C.E. Marler & Associates, Inc.	90	90	95	91.67
K-K Mobbs Construction	90	76	92.5	86.17
McKinnon Construction	35	35	85	51.67

In addition, C.E. Marler & Associates had the lowest cost for the base construction project as well as the lowest cost for construction plus all of the alternates. As a result, it is my recommendation that the College contract with C.E. Marler & Associates for:

1. Construction of a new concrete parking lot	\$429,577
2. Replacement of the existing faculty parking with a new concrete lot	\$ 95,577
3. Cleaning/restriping the existing student lots	<u>\$ 4,770</u>
Total contract	\$529,924

Please let me know if you have any questions or need any additional information.

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From: Mike Jenkins <mjenkins@kilgore.edu>
Date: Wednesday, May 29, 2024 at 8:56 AM
To: Brenda Kays <BKays@kilgore.edu>
Subject: Projects at the Fieldhouse and Football Offices

Dr. Kays,

Per our discussion yesterday afternoon, I wanted to provide this summary of projects being completed at the fieldhouse and in the football offices in Masters Gym. Based upon the donor agreement with Lane Johnson and the record company that produced the album, the College was given \$200,000 to be spent as follows:

Fieldhouse Upgrades and Renovations:	\$150,000
Football Offices Upgrades and Renovations:	\$ 30,000
\$5,000 to each sport for equip, furniture, etc.:	\$ 20,000

Currently, the following projects have been approved:

Field House

- Repairing damaged walls and repainting the entire interior of the facility
- Refinishing the lockers
- Replacing the carpet and VCT tile with LVT tile
- Replacing the rubber flooring in the locker room
- Purchasing new technology – iPads and laptops
- Upgrading interior lighting to LED
- Installing locker wraps

Offices in Masters Gym

- Replacing the carpeting
- Installing rubber treads on the stairs
- New office furniture

After completion of these projects, we project there will be a balance remaining for second phase of improvements.

Mike

Dr. Michael W. Jenkins

Executive Vice President of
Internal Collaboration and Strategic Initiatives
McLaurin Administration Building 20
Office: (903) 983-8188
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Mission Statement

Kilgore College provides a learner-centered environment that focuses on student access, success ~~and~~, completion, and post-completion success, via collaborative partnerships.

- Kilgore College promotes access through its open-door admission, distance learning opportunities, dual credit courses, developmental education, continuing education, and comprehensive scholarship and financial aid programs.
- Kilgore College promotes success through high quality innovative instruction and holistic student support services and activities.
- Kilgore College promotes completion **and post-completion success** by providing a foundation for students to ~~flourish~~ **seamlessly transition** either through university transfer or entry into the workforce as highly skilled and technologically advanced employees.
- Kilgore College leads and promotes partnerships through outreach to area schools and universities, small business/entrepreneurial expansion, adult education and literacy, responsiveness to economic development needs, and promotion of social and cultural advancement.

The mission statement of Kilgore College is consistent with the Texas Education Code 130.0011, which states that the mission of public junior colleges shall be two-year institutions primarily serving their local taxing districts and service areas in Texas and offering vocational, technical, and academic courses for certification or associate degrees, as well as continuing education, remedial and compensatory education consistent with open-admissions policies

This change reflects further alignment of the KC Mission Statement with the Board of Trustees Institute (BOTI) “Community College 3.0” model. This “Action Plan” was presented by Board President, Lon Ford, and Board member, Jon Keller at the April 8, 2024 Kilgore College Board Meeting.



FLSA Changes Proposal

Final Ruling:

- Effective July 1, 2024, the salary threshold will increase to annual salary of \$43,888 (*pending litigation*)
- Effective January 1, 2025 it will increase to \$58,656 (*pending litigation*)

Scope:

Kilgore College must take action on employees who are Exempt and currently making less than the new threshold, \$43,888 by either:

1. Reclassifying employees to Non-Exempt (Hourly) employees, making them eligible for overtime
2. Increase employees to the new threshold, \$43,888

Costs:

1. Increase employees to the new threshold

- 28 total positions
- Cost \$141,115
 - Grant cost \$29,226 – Covered by the grant
 - **KC Cost \$111,889 (*for implementation and moving forward, annual*)**
 - Fringe ~\$5,000 (life fringe is dependent upon age and difficult to calculate)

2. Overtime Predictions

Potential overtime for 24 new hourly employees

- Assuming 8 hours of OT for 6 weeks of the year est. OT cost: \$35,048 (48 hrs)
- **Assuming 8 hours of OT for 8 weeks of the year est. OT cost: \$64,255 (88 hrs)**
- Assuming 8 hours of OT for 23 weeks of the year est. OT cost: \$139,226 (184 hrs)

3. Anticipated Net Impact

- \$60,942 + ~\$5,000 fringe = \$66,000
- Current year costs covered by salary savings and potential OT offset
- Future annualized costs will be built into future budgets

Kilgore College would like to move the identified employees to the new threshold of \$43,888. This ensures:

- no variable of unknown overtime costs
- increased or stable moral within employee group that will be affected
- keeping professional level positions classified as Exempt
- maintains integrity and fits within existing salary schedule
 - brings employees near midpoint of pay grade

OVERVIEW OF SENATE BILL 17

Relating to Diversity, Equity, and Inclusion Programs

BOARD'S RESPONSIBILITIES

Texas Education Code Section 51.3525(b)(1) - The college's governing board must "ensure" that the institution does not do any of the following **unless required by federal law**:

- Establish or maintain a DEI office or hire an employee or contractor to perform such duties.
- Compel or solicit a DEI "statement" from any person or give preferential treatment based on a DEI statement.
- Give preference on the basis of race, sex, color, ethnicity, or national origin to any employee, applicant, or "participant" in any college "function."
- Mandate DEI training as a condition of "enrolling" or "performing any institution function." However, the law permits training and programs "developed by an attorney" and approved by the college's lawyer and Coordinating Board "for the sole purpose" of complying with a court order or state or federal law.

Section 51.3525(b)(2) - The college's governing board shall "ensure" that the institution adopts policies and procedures for **disciplining and terminating** an employee or contractor who violates the prohibitions in Section 51.3525(b)(1).

EFFECTIVE DATE

- Sent to the governor for signature.
- **Most provisions will be effective Jan. 1, 2024.**
- Under Section 51.3525(e), the institution's board may not spend state money until it certifies to the state that it complied with the law during the preceding state fiscal year. These provisions apply beginning **September 1, 2024**, with money appropriated for the state fiscal year.

EXCLUSIONS

The restrictions in Section 51.3525(b)(1) do not apply to "academic course instruction" or scholarly research or creative works by students, faculty, and research personnel; activities by registered/recognized student organizations; guest speakers or performers on short-term engagements; data collection; student "recruitment or admissions"; and policies and programs to enhance student academic achievement or postgraduate outcomes without regard to race, sex, color, or ethnicity.

The restrictions in Section 51.3525(b)(1) do not prohibit the institution from applying for a grant or complying with accreditation standards by (i) highlighting the institution's support of first-generation students, low-income students, or underserved student populations or (ii) certifying compliance with state and federal anti-discrimination laws.

DEFINITIONS

A DEI office is an office, division, or unit established to:

- Influence hiring or "employment practices" with respect to race, sex, color, or ethnicity "other than through" neutral processes in accordance federal and state anti-discrimination laws.
- Promote/provide differential treatment or special benefits on the basis of race, color, or ethnicity.
- Promote policies and procedures "designed or implemented" in reference to race, color, or ethnicity other than those "approved by" the institution's attorney and Coordinating Board solely to ensure compliance with court orders or state or federal law.
- Require "trainings, programs, or activities" "designed or implemented" in reference to race, color, ethnicity, gender identity, or sexual orientation, other than those "developed by an attorney" and approved by the institution's counsel and Coordinating Board solely to ensure compliance with court orders or state or federal law.

COMPLIANCE AND REMEDIES

- Students and employees who are required to participate in prohibited training may sue for injunctive and declaratory relief.
- State auditor must conduct a compliance audit at least once every four years to determine if state money was spent in violation of Section 51.3525. If the audit reveals a violation, the institution must "cure" the violation within 180 days of the auditor's decision.
- Coordinating Board must conduct a study to evaluate the impact of this legislation.

KILGORE COLLEGE TASB POLICY CONVERSION

Summary of Policy for Proposed Adoption by the Kilgore College Board of Trustees

LEGAL policies summarize the law on a topic. LEGAL policies are compiled by TASB to provide the legal framework for key areas of college operations and are provided to the Board for foundational and background information only. These are not adopted by the Board.

LOCAL policies outline local Board mandates regarding governance issues. LOCAL policies are developed based on existing TASB model policies and may be customized to meet local needs. LOCAL policies are proposed for adoption by the board.

Procedures will be developed for implementation of policies, as appropriate, and do not require Board adoption. These will be provided for information only.

IN CONSIDERATION OF ADOPTION OF TASB LOCAL POLICY

Kilgore College Board Policy and Personnel Committee Meeting Date:

May 29, 2024

Kilgore College Board of Trustees Meeting Date:

June 10, 2024

Proposed LOCAL Policy for Adoption:

Section: B LOCAL GOVERNANCE

Policy: BG ADMINISTRATIVE ORGANIZATION

Summary of LOCAL Policy:

New local policy addresses SB17, which prohibits a Diversity, Equity, and Inclusion office at a college beginning January 1, 2024. KC eliminated all DEI activity and references at the start of the Fall 2023 semester out of an abundance of caution and in preparation for the launch of this policy. There are limited exceptions and they are clearly stated in this local policy.

Procedures:

Note: The legal policy also states that the college must submit to the legislature, and the Coordinating Board a report certifying compliance with this policy each fiscal year. These provisions apply beginning September 1, 2024.

Kilgore College is in compliance.

ADMINISTRATIVE ORGANIZATION

BG
(LOCAL)

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

**Diversity, Equity,
and Inclusion Office**

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

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

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

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

Exceptions

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

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

ADMINISTRATIVE ORGANIZATION

BG
(LOCAL)

2. Certifies compliance with state and federal antidiscrimination laws.

The prohibitions do not apply to:

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

ADMINISTRATIVE ORGANIZATION

BG
(LEGAL)

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

**Diversity, Equity,
and Inclusion Office**

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

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

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

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

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

Exceptions

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

ADMINISTRATIVE ORGANIZATION

BG
(LEGAL)

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

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

This section may not be construed to apply to:

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

Education Code 51.3525(c)-(d)

Compliance
Report

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

Testimony

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

Audit

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

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

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

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

Education Code 51.3525(g)-(h)

KILGORE COLLEGE TASB POLICY CONVERSION

Summary of Policy for Proposed Adoption by the Kilgore College Board of Trustees

LEGAL policies summarize the law on a topic. LEGAL policies are compiled by TASB to provide the legal framework for key areas of college operations and are provided to the Board for foundational and background information only. These are not adopted by the Board.

LOCAL policies outline local Board mandates regarding governance issues. LOCAL policies are developed based on existing TASB model policies and may be customized to meet local needs. LOCAL policies are proposed for adoption by the board.

Procedures will be developed for implementation of policies, as appropriate, and do not require Board adoption. These will be provided for information only.

IN CONSIDERATION OF ADOPTION OF TASB *LEGAL* POLICY

Kilgore College Board Policy and Personnel Committee Meeting Date:

Original - November 13, 2023

Update 46 – May 29, 2024

Kilgore College Board of Trustees Meeting Date:

Original - December 11, 2023

Update 46 – June 10, 2024

Proposed *LEGAL* Policy for *INFORMATION ONLY*:

Section: B LOCAL GOVERNANCE

Policy: BI Reports

Summary of *LEGAL* Policy:

NOTE: BI is a LEGAL policy only. It does not require Board approval. Trustees are being provided with this document for information purposes only.

Original: 12/11/2023 The policy lists reports that the college is required to publish and/or distribute. It includes reports that must be posted on the college website, available to students, or sent to various state governmental agencies. All reports are published, posted, or issued according to the policy.

Rev. 1 - 6/10/2024: This LEGAL policy, previously approved on 12/11/2023, now includes SB17 Language. The policy requires the college to submit a report certifying the Board's compliance regarding Diversity, Equity, and Inclusion initiatives during the preceding state fiscal year.

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 re-

garding diversity, equity, and inclusion initiatives during the preceding state fiscal year, under Education Code 51.3525. [See BG]

9. 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. 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. 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. 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. 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. 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. 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. The board shall be responsible for the preparation of an annual financial statement, under Local Government Code 140.005. [See CDA]
17. The college district shall annually compile and report information regarding debt obligations, under Local Government Code 140.008. [See CDA]
18. Annually, a college district that enters into a qualifying purchasing contract shall present a written report on any con-

tract-related fee as an agenda item in an open meeting of the board of trustees, under Education Code 44.0331. [See CF]

19. 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]
20. Not later than March 1 of each year, each college district police department shall submit a report containing information about traffic stops during the previous calendar year to the Texas Commission on Law Enforcement Officers and Standards and the governing body of each county or municipality served by the department, under Code of Criminal Procedure 2.134. [See CHA]
21. 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. 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. 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. 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. 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]

REPORTS

BI
(LEGAL)

26. 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. 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. 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. 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. 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. 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. 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. 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 provi-

sions of 19 Administrative Code Chapter 13, Subchapter F, under 19 Administrative Code 13.109. [See FD]

34. 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. 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. 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. 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. 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. The college district must report statistics for the three most recent calendar years concerning the occurrence on campus, in or on noncampus buildings or property and on public property, of certain crimes that are reported to local police agencies or to a campus security authority, under 34 C.F.R. 668.46. [See GCC]
40. 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. 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]

KILGORE COLLEGE TASB POLICY CONVERSION

Summary of Policy for Proposed Adoption by the Kilgore College Board of Trustees

LEGAL policies summarize the law on a topic. LEGAL policies are compiled by TASB to provide the legal framework for key areas of college operations and are provided to the Board for foundational and background information only. These are not adopted by the Board.

LOCAL policies outline local Board mandates regarding governance issues. LOCAL policies are developed based on existing TASB model policies and may be customized to meet local needs. LOCAL policies are proposed for adoption by the board.

Procedures will be developed for implementation of policies, as appropriate, and do not require Board adoption. These will be provided for information only.

IN CONSIDERATION OF ADOPTION OF TASB LOCAL POLICY

Kilgore College Board Policy and Personnel Committee Meeting Date:

May 29, 2024

Kilgore College Board of Trustees Meeting Date:

June 10, 2024

Proposed LOCAL Policy for Adoption:

Section: C BUSINESS & SUPPORT SERVICES

Policy: CFE Vendor Relations

Summary of LOCAL Policy:

The policy establishes a procedures to address contractors who violate education codes surrounding Diversity, Equity, and Inclusion Initiatives.

Procedures: Administrative Rule

- Complaints against a contractor who violated CFE (LOCAL) are submitted to the Vice President of Administrative Services & Chief Financial Officer.
- Complaints will be investigated and a summary of the investigation will be provided.
- If a violation occurred, the contract with the contractor may be terminated or the contractor may be placed on a prohibited vendor list up to two years.
- Notification of the DEI provision will be provided in all vendor packets.
- Language regarding this policy and termination clauses will be added to contracts.

PURCHASING AND ACQUISITION
VENDOR RELATIONS

CFE
(LEGAL)

**Required Vendor
Disclosure**

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

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

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

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

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

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

PURCHASING AND ACQUISITION
VENDOR RELATIONS

CFE
(LEGAL)

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

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

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

Definitions

Vendor

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

Agent

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

*Business
Relationship*

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

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

Local Gov't Code 176.001(1-a)

PURCHASING AND ACQUISITION
VENDOR RELATIONS

CFE
(LEGAL)

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

PURCHASING AND ACQUISITION
VENDOR RELATIONS

CFE
(LEGAL)

Updates	A vendor shall file an updated completed questionnaire with the appropriate records administrator not later than the seventh business day after the date on which the vendor becomes aware of an event that would make a statement in the questionnaire incomplete or inaccurate. <i>Local Gov't Code 176.006(d)</i>
List of Local Government Officers	The records administrator for a local governmental entity shall maintain a list of local government officers of the entity and shall make that list available to the public and any person who may be required to file a conflict of interest questionnaire. [See BBFA] <i>Local Gov't Code 176.0065</i>
Internet Posting	A local governmental entity that maintains an internet website shall provide access to the conflict of interest questionnaires required to be filed under this policy on that website. <i>Local Gov't Code 176.009</i>
Contract Declared Void	The governing body of a local governmental entity may, at its discretion, declare a contract void if the governing body determines that a vendor failed to file a conflict of interest questionnaire required by Local Government Code 176.006. <i>Local Gov't Code 176.013(e)</i>
Violations	<p>A vendor commits an offense under Local Government Code Chapter 176 if the vendor:</p> <ol style="list-style-type: none">1. Is required to file a conflict of interest questionnaire under Local Government Code 176.006; and2. Either:<ol style="list-style-type: none">a. Knowingly fails to file the required questionnaire with the appropriate records administrator not later than 5:00 p.m. on the seventh business day after the date on which the vendor becomes aware of the facts that require the filing of the questionnaire; orb. Knowingly fails to file an updated questionnaire with the appropriate records administrator not later than 5:00 p.m. on the seventh business day after the date on which the vendor becomes aware of an event that would make a statement in a questionnaire previously filed by the vendor incomplete or inaccurate. <p>It is an exception to the application of the offense that the vendor filed the required questionnaire not later than the seventh business day after the date the vendor received notice from the local governmental entity of the alleged violation.</p> <p><i>Local Gov't Code 176.013(b), (g)</i></p>

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

**Diversity, Equity,
and Inclusion
Initiatives**

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

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

PURCHASING AND ACQUISITION
VENDOR RELATIONS

CFE
(LOCAL)

**Diversity, Equity,
and Inclusion
Initiatives**

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

Administrative Rule

Rule: Purchasing and Acquisition
TASB Policy: CFE – Vendor Relations
Effective Date: June 10, 2024



I. Purpose and Scope

Compliance with State Laws governing contractors who engages in conduct in violation with Education Code 51.3525(b)(1).

II. Procedures

1. **Reporting:** Any contractor violations of Education Code 5133525(b)(1) are to be reported to the Vice President of Administrative Services and Chief Financial Officer.

Protection from Retaliation: There's a strict no-retaliation policy against anyone reporting violations in good faith.

2. **Investigation and Response:** Reports of violations are to be swiftly investigated by relevant and appropriate authorities at the College. Summaries of the investigations will be reviewed by appropriate college leadership. In validated cases, disciplinary action will be taken against the contractor, up to termination of contracts or placed on prohibited list of vendors for a 2-year period.
3. **Notification:** The college will provide information regarding Education Code 51.3525(b)(1) in the vendor packet and will add provisions in contracts.

KILGORE COLLEGE TASB POLICY CONVERSION

Summary of Policy for Proposed Adoption by the Kilgore College Board of Trustees

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Procedures will be developed for implementation of policies, as appropriate, and do not require Board adoption. These will be provided for information only.

IN CONSIDERATION OF ADOPTION OF TASB LOCAL POLICY

Kilgore College Board Policy and Personnel Committee Meeting Date:

LEGAL - November 10, 2022

NEW LOCAL/REVISED LEGAL - May 29, 2024

Kilgore College Board of Trustees Meeting Date:

LEGAL – December 12, 2022

NEW LOCAL/REVISED LEGAL - June 10, 2024

Proposed LOCAL Policy for Adoption:

Section: D PERSONNEL

Policy: DAA Employment Objectives: Equal Employment Opportunity

Summary of LOCAL Policy:

This LOCAL policy was created to reflect the language in Senate Bill 17 which prohibits Diversity, Equity, and Inclusion Initiatives for employees of a college, with limited exceptions.

The LEGAL policy, previously approved on 12-22-2022, now includes SB17 language.

EMPLOYMENT OBJECTIVES
EQUAL EMPLOYMENT OPPORTUNITY

DAA
(LOCAL)

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

**Diversity, Equity,
and Inclusion
Initiatives**

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

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

Exceptions

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

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

The prohibitions do not apply to:

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

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

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

EMPLOYMENT OBJECTIVES
EQUAL EMPLOYMENT OPPORTUNITY

DAA
(LEGAL)

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

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

Generally

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

It shall be an unlawful employment practice for an employer to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to the individual's compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin or to limit, segregate, or classify the individual's employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect the individual's status as an employee, because of such individual's race, color, religion, sex, or national origin. 42 *U.S.C. 2000e-2(a)*

Terminating an employee on the basis of the employee's homosexuality or transgender status violates Title VII's prohibition against sex discrimination in employment. *Bostock v. Clayton County, Georgia*, 140 S. Ct. 1731 (2020)

Title VII proscribes not only overt discrimination (disparate treatment) but also employment practices that are fair in form but discriminatory in operation (disparate impact). *Wards Cove Packing Co. v. Atonio*, 490 U.S. 642 (1989)

*Disparate
Treatment*

Disparate treatment occurs where members of a race, sex, or ethnic group have been denied the same employment, promotion, membership, or other employment opportunities as have been available to other employees or applicants. 29 C.F.R. 1607.11

Disparate Impact

An unlawful employment practice based on disparate impact is established only if a complaining party demonstrates that a respondent uses a particular employment practice that causes a disparate impact on the basis of race, color, religion, sex, or national origin, and the respondent fails to demonstrate that the challenged practice is job-related and consistent with business necessity. 42 *U.S.C. 2000e-2(k)(1)(A)*

Training

It shall be an unlawful employment practice for any employer controlling apprenticeship or other training or retraining, including on-the-job training programs, to discriminate against any individual because of his race, color, religion, sex, or national origin in

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

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

*Religious
Discrimination*

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

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

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

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

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

The Equal Employment Opportunity Commission (EEOC) has consistently held that harassment on the basis of national origin is a violation of Title VII. An employer has an affirmative duty to maintain a working environment free of harassment on the basis of national origin.

42 U.S.C. 2000e-2; 29 C.F.R. 1606.8(a), 1604.11(a)

Title VII does not prohibit all verbal and physical harassment in the workplace. For example, harassment between men and women is not automatically unlawful sexual harassment merely because the words used have sexual content or connotations. Oncale v. Sun-downer Offshore Services, Inc., 523 U.S. 75 (1998)

Hostile Environment

Verbal or physical conduct based on a person's sex, race, color, religion, or national origin constitutes unlawful harassment when the conduct:

1. Has the purpose or effect of creating an intimidating, hostile, or offensive working environment;
2. Has the purpose or effect of unreasonably interfering with an individual's work performance; or

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	<p>3. Otherwise adversely affects an individual's employment opportunities.</p> <p><u>Pennsylvania State Police v. Suders</u>, 542 U.S. 129 (2004); <u>Nat'l Railroad Passenger Corp. v. Morgan</u>, 536 U.S. 101 (2002); <u>Meritor Savings Bank v. Vinson</u>, 477 U.S. 57 (1986); 29 C.F.R. 1604.11, 1606.8</p>
Quid Pro Quo	<p>Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes sexual harassment when:</p> <ol style="list-style-type: none">1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual. <p>29 C.F.R. 1604.11(a)</p>
Same-Sex Sexual Harassment	<p>Same-sex sexual harassment constitutes sexual harassment. <u>Oncale v. Sundowner Offshore Services, Inc.</u>, 523 U.S. 75 (1998)</p>
Sexual Harassment Policy	<p>An employer should take all steps necessary to prevent sexual harassment from occurring, such as affirmatively raising the subject, expressing strong disapproval, developing appropriate sanctions, informing employees of their right to raise and how to raise the issue of harassment under Title VII, and developing methods to sensitize all concerned. 29 C.F.R. 1604.11(f)</p>
Corrective Action	<p>With respect to conduct between fellow employees, an employer is responsible for acts of sexual harassment or harassment in the workplace on the basis of national origin in the workplace where the employer (or its agents or supervisory employees) knows or should have known of the conduct, unless it can show that it took immediate and appropriate corrective action.</p> <p>An employer may also be responsible for the acts of non-employees, with respect to sexual harassment of employees in the workplace or harassment of employees in the workplace on the basis of national origin, where the employer (or its agents or supervisory employees) knows or should have known of the conduct and fails to take immediate and appropriate corrective action. In reviewing these cases, the EEOC will consider the extent of the employer's control and any other legal responsibility that the employer may have with respect to the conduct of such non-employees.</p> <p>29 C.F.R. 1604.11(d)–(e), 1606.8(d)–(e)</p>

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

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

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

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

**ADEA—Age
Discrimination**

It shall be unlawful for an employer:

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

29 U.S.C. 623(a)

It shall not be unlawful for an employer:

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

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

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

29 U.S.C. 623(f)

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

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

**ADA and Section 504
—Disability
Discrimination**

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

Discrimination
Based on Lack of
Disability

Nothing in the Americans with Disabilities Act (ADA), 42 U.S.C. Chapter 126, shall provide the basis for a claim by an individual without a disability that the individual was subject to discrimination because of the individual's lack of disability. *42 U.S.C. 12201(g); 29 C.F.R. 1630.4(b)*

Definition of
Disability

“Disability” means, with respect to an individual:

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

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	<p>An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability. An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.</p> <p><i>42 U.S.C. 12102(1), (4)(C)–(D); 29 C.F.R. 1630.2(g), (j)(1), .3</i></p>
<p><i>Regarded as Having Such an Impairment</i></p>	<p>An individual meets the requirement of being “regarded as having such an impairment” if the individual establishes that he or she has been subjected to an action prohibited under the ADA because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity.</p> <p><i>42 U.S.C. 12102(3)(A); 29 C.F.R. 1630.2(g), (l)</i></p>
<p>Transitory and Minor</p>	<p>Item 3 in the definition of “disability,” above, (“regarded as having such an impairment”) shall not apply to impairments that are transitory or minor. A transitory impairment is an impairment with an actual or expected duration of six months or less. <i>42 U.S.C. 12102(3)(B); 29 C.F.R. 1630.2(j)(1)(ix)</i></p>
<p><i>Mitigating Measures</i></p>	<p>The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as medication, medical supplies, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy or supplies; use of assistive technology; reasonable accommodations or auxiliary aids or services; or learned behavioral or adaptive neurological modifications.</p> <p>The ameliorative effects of mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity.</p> <p>“Ordinary eyeglasses and contact lenses” are lenses that are intended to fully correct visual acuity or to eliminate refractive error.</p> <p>“Low-vision devices” means devices that magnify, enhance, or otherwise augment a visual image.</p> <p><i>42 U.S.C. 12102(4)(E)</i></p>
<p>Other Definitions</p>	<p>“Major life activities” include, but are not limited to:</p>
<p><i>Major Life Activities</i></p>	<ol style="list-style-type: none">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

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

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

*Physical or
Mental
Impairment*

“Physical or mental impairment” means:

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

29 C.F.R. 1630.2(h)

*Qualified
Individual*

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

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

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

*Reasonable
Accommodation*

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

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

“Reasonable accommodation” may include:

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

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

Undue Hardship

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

Discrimination
Based on
Relationship

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

Illegal Drugs and
Alcohol

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

Drug Testing

Nothing in 42 U.S.C. Chapter 126, Subchapter I shall be construed to encourage, prohibit, or authorize the conducting of drug testing for the illegal use of drugs by job applicants or employees or making employment decisions based on the results of such tests. [See DHA] 42 U.S.C. 12114(d)(2); 29 C.F.R. 1630.3(c), .16(c)

Alcohol Use

The term “individual with a disability” does not include any individual who is an alcoholic whose current use of alcohol prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol abuse,

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	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)
<i>Vision Standards and Tests</i>	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)
<i>Communicable Diseases</i>	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]

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

28 C.F.R. 35.140

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

**Accommodations
Based on Pregnancy**

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

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

42 U.S.C. 2000gg-1

**Retaliation
Prohibited**

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

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

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Definitions

Known Limitation

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

Qualified Employee

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

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

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

Reasonable Accommodation and Undue Hardship

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

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

Military Service

A person who is a member of, applies to be a member of, performs, has performed, applies to perform, or has an obligation to perform service in a uniformed service shall not be denied initial employment, reemployment, retention in employment, promotion, or any benefit of employment on the basis of that membership, application for membership, performance of service, application for service, or obligation.

An employer, including a college district, may not discriminate in employment against or take any adverse employment action against any person because such person has taken action to en-

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force protections afforded any person under the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), 38 U.S.C. Chapter 43, has testified or otherwise made a statement in or in connection with any proceeding under USERRA, has assisted or otherwise participated in an investigation under USERRA, or has exercised a right provided for in USERRA.

38 U.S.C. 4311 [See DECB]

Bankruptcy

A governmental unit, including a college district, may not deny, revoke, suspend, or refuse to renew a license, permit, charter, franchise, or other similar grant to, condition such a grant to, discriminate with respect to such a grant against, deny employment to, terminate the employment of, or discriminate with respect to employment against, a person that is or has been a debtor under U.S.C. Title 11 or a bankrupt or a debtor under the Bankruptcy Act, or another person with whom such bankrupt or debtor has been associated, solely because such bankrupt or debtor is or has been a debtor under Title 11 or a bankrupt or debtor under the Bankruptcy Act, has been insolvent before the commencement of the case under Title 11, or during the case but before the debtor is granted or denied a discharge, or has not paid a debt that is dischargeable in the case under Title 11 or that was discharged under the Bankruptcy Act. *11 U.S.C. 525(a)*

Retaliation

An employer, including a college district, may not discriminate against any employee or applicant for employment because the employee or applicant has opposed any unlawful, discriminatory employment practices or participated in the investigation of any complaint related to an unlawful, discriminatory employment practice. *29 U.S.C. 623(d) (ADEA); 42 U.S.C. 2000e-3(a) (Title VII); 34 C.F.R. 100.7(e) (Title VI); 34 C.F.R. 110.34 (Age Act); 42 U.S.C. 12203 (ADA); Jackson v. Birmingham Bd. of Educ., 544 U.S. 167 (2005) (Title IX)*

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.

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

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

Disparate Impact

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

Exception

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

Job Training
Programs

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

Selection Criterion

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

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*Bona Fide
Occupational
Qualification*

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

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

Labor Code 21.119

Job Advertisement

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

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

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

Labor Code 21.059; 40 TAC 819.12(i)

Bona Fide
Employee Benefit
Plan

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

Exception

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

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

Labor Code 21.102(b)–(c)

Diversity, Equity,
and Inclusion
Initiatives

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

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

Education Code 51.3525(b)(1)

Exceptions

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

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

This section may not be construed to apply to:

1. Academic course instruction;

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

Education Code 51.3525(c)-(d)

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:

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

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

*Pregnancy
Discrimination*

A provision in Labor Code Chapter 21 referring to discrimination because of sex or on the basis of sex includes discrimination because of or on the basis of pregnancy, childbirth, or a related medical condition. A woman affected by pregnancy, childbirth, or a related medical condition shall be treated for all purposes related to employment, including receipt of a benefit under a fringe benefit program, in the same manner as another individual not affected but similar in the individual's ability or inability to work. *Labor Code 21.106*

*Hair Texture or
Style*

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

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

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

Labor Code 21.1095 [See DH]

*Religious
Discrimination*

A provision in Chapter 21 referring to discrimination because of religion or on the basis of religion applies to discrimination because of or on the basis of any aspect of religious observance, practice, or belief, unless an employer demonstrates that the employer is unable reasonably to accommodate the religious observance or practice of an employee or applicant without undue hardship to the conduct of the employer's business. *Labor Code 21.108*

A government agency, including a college district, may not substantially burden a person's free exercise of religion. The prohibition does not apply if the government agency demonstrates that the application of the burden to the person is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that interest. *Civ. Prac. and Rem. Code 110.003(a)–(b)*

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*Association with
a Religious
Organization*

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

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

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

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

*Access for
Religious
Organizations
During Disasters*

A governmental entity may not:

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

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

*Age
Discrimination*

The provisions of Labor Code Chapter 21 referring to discrimination because of age or on the basis of age apply only to discrimination against an individual 40 years of age or older. *Labor Code 21.101*

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<i>Discrimination Based on Lack of Disability</i>	Nothing in Chapter 21 may be construed as the basis for a claim by an individual without a disability that the individual was subject to discrimination because of the individual's lack of a disability. <i>Labor Code 21.005(c)</i>
<i>Reasonable Accommodation</i>	It is an unlawful employment practice for a respondent covered under this chapter to fail or refuse to make a reasonable workplace accommodation to a known physical or mental limitation of an otherwise qualified individual with a disability who is an employee or applicant for employment, unless the respondent demonstrates that the accommodation would impose an undue hardship on the operation of the business of the respondent. A showing of undue hardship by the respondent is a defense to a complaint of discrimination made by an otherwise qualified individual with a disability. <i>Labor Code 21.128(a)–(b)</i>
Official Oppression	<p>A public servant acting under color of the public servant's office or employment commits an offense if the public servant intentionally subjects another to sexual harassment.</p> <p>"Sexual harassment" means unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, submission to which is made a term or condition of a person's exercise or enjoyment of any right, privilege, power, or immunity, either explicitly or implicitly. An offense under this section is a Class A misdemeanor.</p> <p><i>Penal Code 39.03(a), (c)–(d)</i></p>
Sexual Harassment of Unpaid Interns	<p>An employer commits an unlawful employment practice if sexual harassment of an unpaid intern occurs and the employer or the employer's agents or supervisors:</p> <ol style="list-style-type: none">1. Know or should have known that the conduct constituting sexual harassment was occurring; and2. Fail to take immediate and appropriate corrective action. <p>An individual is considered to be an unpaid intern of an employer if:</p> <ol style="list-style-type: none">1. The individual's internship, even though it includes engagement in the employer's operations or the performance of productive work for the employer, is similar to training that would be given in an educational environment;2. The individual's internship experience is for the individual's benefit;3. The individual does not displace the employer's regular employees but works under close supervision of the employer's existing staff;

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

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

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

Labor Code 21.1065

Retaliation

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

Notices

Title VII

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

ADEA

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

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EEOC setting forth information as the EEOC deems appropriate to effectuate the purposes of the ADEA. 29 U.S.C. 627

Section 504 Notice

A recipient of federal funds that employs 15 or more persons shall take appropriate steps to notify applicants and employees, including those with impaired vision or hearing, that it does not discriminate on the basis of disability in violation of Section 504 of the Rehabilitation Act or 34 C.F.R. Part 104.

The notification shall state, where appropriate, that the recipient does not discriminate in employment in its program or activity. The notification shall also include an identification of the responsible employee designated pursuant to 34 C.F.R. 104.7(a) (Section 504 coordinator).

Methods of initial and continuing notification may include:

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

If a recipient publishes or uses recruitment materials or publications containing general information that it makes available to applicants or employees, it shall include in those materials or publications a statement of its nondiscrimination policy.

34 C.F.R. 104.8

KILGORE COLLEGE TASB POLICY CONVERSION

Summary of Policy for Proposed Adoption by the Kilgore College Board of Trustees

LEGAL policies summarize the law on a topic. LEGAL policies are compiled by TASB to provide the legal framework for key areas of college operations and are provided to the Board for foundational and background information only. These are not adopted by the Board.

LOCAL policies outline local Board mandates regarding governance issues. LOCAL policies are developed based on existing TASB model policies and may be customized to meet local needs. LOCAL policies are proposed for adoption by the board.

Procedures will be developed for implementation of policies, as appropriate, and do not require Board adoption. These will be provided for information only.

IN CONSIDERATION OF ADOPTION OF TASB *LEGAL* POLICY

Kilgore College Board Policy and Personnel Committee Meeting Date:

Original – August 3, 2023

Update 46 – May 29, 2024

Kilgore College Board of Trustees Meeting Date:

Original – August 14, 2023

Update 46 – June 10, 2024

Proposed *LEGAL* Policy for *INFORMATION ONLY*:

Section: D Employees

Policy: DH Employee Standards of Conduct

Summary of *LEGAL* Policy:

NOTE: DH is a LEGAL policy only. It does not require Board approval. Trustees are being provided with this document for information purposes only.

The LEGAL policy, previously approved on 8-14-2023, now includes SB17 Language.

An Administrative Rule is attached to this Legal Policy that addresses how an employee who violates this policy will be disciplined up to and including termination.

EMPLOYEE STANDARDS OF CONDUCT

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

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

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

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

**Sex Offender
Registration**

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

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

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

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

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

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

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

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

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

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

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

The policy adopted under this section must:

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

EMPLOYEE STANDARDS OF CONDUCT

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report on the investigation, including the disposition of the investigation and any informational findings, in a format prescribed by TCOLE, in a timely manner but not later than the 30th day after the date of the license holder's separation from the agency, if applicable;

- e. Include documentation of the completed investigation in the personnel file, as described by Occupations Code 1701.4535, of the license holder maintained by the agency [see DBA]; and
 - f. Submit to TCOLE each report of a completed investigation.
- 2. Provide that an investigation into the alleged misconduct of a license holder may not be terminated by the resignation, retirement, termination, death, or separation from employment of the license holder; and
 - 3. Specify that a license holder under investigation for misconduct is entitled to any internal due process procedures provided by the investigating agency to contest the investigation or completed report.

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

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

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

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

Disqualification from Retirement Annuity for Conviction of Certain Felonies

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

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

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

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

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

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

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

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

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

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

**Diversity, Equity,
and Inclusion
Initiatives**

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

Administrative Rule

Rule: Employee Standards of Conduct
TASB Policy: DH
Effective Date: June 10, 2024



I. Purpose and Scope

Compliance with State Laws governing contractors who engages in conduct in violation with Education Code 51.3525(b)(1).

II. Procedures

1. **Reporting:** Any KC employee violations of Education Code 5133525(b)(1) are to be reported to the Director of Human Resources.

Protection from Retaliation: There's a strict no-retaliation policy against anyone reporting violations in good faith.

2. **Investigation and Response:** Reports of violations are to be swiftly investigated by relevant and appropriate authorities at the College. Summaries of the investigations will be reviewed by appropriate college leadership. In validated cases, disciplinary action will be taken against the employee, up to and including termination.
3. **Notification:** The college will provide information regarding Education Code 51.3525 to all employees through the orientation process and additional professional development.

KILGORE COLLEGE TASB POLICY CONVERSION

Summary of Policy for Proposed Adoption by the Kilgore College Board of Trustees

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Procedures will be developed for implementation of policies, as appropriate, and do not require Board adoption. These will be provided for information only.

IN CONSIDERATION OF ADOPTION OF TASB *LOCAL* POLICY

Kilgore College Board Policy and Personnel Committee Meeting Date:

Original LEGAL – November 13, 2023

Original LOCAL/Revised LEGAL – May 29, 2024

Kilgore College Board of Trustees Meeting Date:

Original LEGAL – December 11, 2023

Original LOCAL/Revised LEGAL - June 10, 2024

Proposed *LOCAL* Policy for Adoption:

Section: F STUDENTS

Policy: FA Equal Educational Opportunity

Summary of *Local* Policy:

- This new local policy addresses SB 17, which prohibits required Diversity, Equity, and Inclusion Initiatives for students of a college, with limited exceptions.
- The Legal Policy, previously approved on 12-11-2023, now includes SB17 Language.

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

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Section I: Generally

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

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

Section II: Religious Freedom

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

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

Association with a
Religious
Organization

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

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

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

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

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

Access for
Religious
Organizations
During Disasters

A governmental entity may not:

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

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

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

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

Educational programs and activities include:

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

Parental, Family,
and Marital Status

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

Sexual Harassment

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

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

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

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

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

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

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

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

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

34 C.F.R. 668.46(j)

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

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

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

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disciplinary proceeding, if such procedures are available;

(3) Any change to the result; and

(4) When such results become final.

34 C.F.R. 668.46(k)

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

Prompt, Fair,
and Impartial
Proceeding

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

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

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

Adviser

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

Proceeding

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

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

Definitions

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

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

34 C.F.R. 668.46(a)

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

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

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

34 C.F.R. 668.46(a)

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

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

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

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

34 C.F.R. 668.46(a)

Sexual Assault

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

Stalking

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

For the purposes of this definition:

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

34 C.F.R. 668.46(a)

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

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

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

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

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

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

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

Hair Texture or
Style

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

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

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

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

Education Code 51.3525(b)(1)

Exceptions

This section may not be construed to apply to:

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

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

Education Code 51.3525(c)-(d)

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

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

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

Exceptions

*Normal Operation
or Statutory
Objective*

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

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

34 C.F.R. 110.12

*Reasonable
Factors Other
Than Age*

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

	age only if the factor bears a direct and substantial relationship to the normal operation of the program or activity or to the achievement of a statutory objective. <i>34 C.F.R. 110.13</i>
<i>Special Benefits for Children and the Elderly</i>	If a recipient operating a program or activity provides special benefits to the elderly or to children, the use of age distinctions is presumed to be necessary to the normal operation of the program or activity, notwithstanding the provisions of 34 C.F.R. 110.12. <i>34 C.F.R. 110.16</i>
<i>Affirmative Action</i>	Even in the absence of a finding of discrimination, a recipient may take affirmative action to overcome the effects of conditions that resulted in limited participation in the recipient's program or activity on the basis of age. <i>34 C.F.R. 110.15</i>
Notice	A recipient shall notify its beneficiaries, in a continuing manner, of information regarding the provisions of the Age Discrimination Act of 1975 and the associated regulations. <i>34 C.F.R. 110.25(b)</i>
Section VII: Discrimination on the Basis of Disability ADA	Under the Americans with Disabilities Act (ADA), no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, including a college district, or be subjected to discrimination by any such entity. A public entity shall not exclude or otherwise deny equal services, programs, or activities to an individual or entity because of the known disability of an individual with whom the individual or entity is known to have a relationship or association. <i>42 U.S.C. 12132; 28 C.F.R. 35.130</i>
Section 504	Under Section 504 of the Rehabilitation Act, no otherwise qualified individual with a disability shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. <i>29 U.S.C. 794(a)</i>
Disability	<p>"Disability" means, with respect to an individual:</p> <ol style="list-style-type: none">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; or3. Being regarded as having such an impairment. <p>An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability. An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.</p> <p>The term "disability" does not include:</p>

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

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

*Regarded as
Having Such an
Impairment*

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

Transitory and
Minor

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

*Mitigating
Measures*

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

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

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

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

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

*Major Life
Activities*

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

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

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

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

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

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

*Physical or
Mental
Impairment*

“Physical or mental impairment” means:

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

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

Physical or mental impairment does not include homosexuality or bisexuality.

28 C.F.R. 35.108(b)

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

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

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

Communications

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

*Auxiliary Aids
and Services*

“Auxiliary aids and services” include:

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

28 C.F.R. 35.104

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*Limits of
Required
Modification*

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

Direct Threat

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

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

28 C.F.R. 35.104

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

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

28 C.F.R. 35.139

Services Inventory

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

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

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

Education Code 61.0663

**Section VIII:
Retaliation**

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

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

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

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

Business and Commerce Code 506.001

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

**Diversity, Equity,
and Inclusion
Initiatives**

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

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

Exceptions

The prohibitions do not apply to:

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

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




GOVERNOR GREG ABBOTT

March 27, 2024

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
10:15 AM O'CLOCK

The Honorable Jane Nelson
Secretary of State
State Capitol, Room 1E.8
Austin, Texas 78701

MAR 27 2024

Secretary of State

Dear Secretary Nelson:

Pursuant to his powers as Governor of the State of Texas, Greg Abbott has issued the following:

Executive Order No. GA-44 relating to addressing acts of antisemitism in
institutions of higher education.

The original executive order is attached to this letter of transmittal.

Respectfully submitted,


Gregory S. Davidson
Executive Clerk to the Governor

GSD:gsd

Attachment

Executive Order

BY THE
GOVERNOR OF THE STATE OF TEXAS

Executive Department
Austin, Texas
March 27, 2024

EXECUTIVE ORDER GA 44

Relating to addressing acts of antisemitism in institutions of higher education.

WHEREAS, on October 7th of last year, the terrorist group Hamas committed unspeakable and heinous acts when they launched a surprise attack on Israel; and

WHEREAS, this attack killed over 1,200 innocent civilians including women, children, and approximately 30 American citizens, and Hamas took over 250 individuals hostage, including at least 10 Americans; and

WHEREAS, immediately after the October 7th attack, Governor Abbott reiterated his longstanding support for Israel and the Texas Jewish community and took initial steps to address acts of antisemitism in Texas, including authorizing \$4 million in additional grant funds to protect synagogues and Jewish schools, prohibiting state agencies from purchasing goods from the Gaza Strip or entities that support Hamas, and directing the Texas Education Agency and the Texas Holocaust, Genocide, and Antisemitism Advisory Commission to educate Texans about the Israel–Hamas War and antisemitism; and

WHEREAS, Texas will continue to stand with Israel and support our Jewish neighbors in Texas; and

WHEREAS, incidents of antisemitism have increased since Hamas' attack, and the proliferation of antisemitism at public universities is particularly concerning; and

WHEREAS, while many Texas universities have acted quickly to condemn antisemitism and foster appropriate discourse on the terrorist attacks against Israel and the ensuing Israel–Hamas War, some radical organizations have engaged in unacceptable actions on university campuses; and

WHEREAS, protected free speech areas on Texas university campuses, as well as the buildings and parking lots of Jewish student organizations, have been covered in antisemitic graffiti; and

WHEREAS, multiple protests and walkouts have been staged by universities' student organizations, with students chanting antisemitic phrases such as "from the river to the sea, Palestine will be free," which has long been used by Hamas supporters to call for the violent dismantling of the State of Israel and the destruction of the Jewish people who live there; and

WHEREAS, Texas supports free speech, especially on university campuses, but that freedom comes with responsibilities for both students and the institutions themselves; and

WHEREAS, such speech can never incite violence, encourage people to violate the law,

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SECRETARY OF STATE
10:15AM O'CLOCK

harass other students or other Texans, or disrupt the core educational purpose of a university; and

WHEREAS, Section 51.9315(f) of the Texas Education Code requires all higher education institutions to adopt policies detailing students’ responsibilities regarding free expression on campus; and

WHEREAS, Section 51.9315(c)(2) of the Texas Education Code provides that students should not participate in, and higher education institutions should not allow, expression that is unlawful or disrupts the operations of the institution; and

WHEREAS, antisemitism and the harassment of Jewish students have no place on Texas university campuses and will not be tolerated by my administration;

NOW, THEREFORE, I, Greg Abbott, Governor of Texas, by virtue of the power and authority vested in me by the Constitution and laws of the State of Texas, hereby direct all Texas higher education institutions to do the following:

- 1. Review and update free speech policies to address the sharp rise in antisemitic speech and acts on university campuses and establish appropriate punishments, including expulsion from the institution.
- 2. Ensure that these policies are being enforced on campuses and that groups such as the Palestine Solidarity Committee and Students for Justice in Palestine are disciplined for violating these policies.
- 3. Include the definition of antisemitism, adopted by the State of Texas in Section 448.001 of the Texas Government Code, in university free speech policies to guide university personnel and students on what constitutes antisemitic speech.

Within 90 days of this executive order, the chair of the board of regents for each Texas public university system shall report to the Office of the Governor, Budget and Policy Division, that the above actions were taken by each institution of higher education overseen by that board of regents. The report shall include documentation verifying revisions made to free speech policies and evidence that those policies are being enforced.


This executive order shall remain in effect and in full force unless it is modified, amended, rescinded, or superseded by the governor. This executive order may also be amended by proclamation of the governor.



Given under my hand this the
27th day of March, 2024.


GREG ABBOTT
Governor

ATTESTED BY:


JANE NELSON
Secretary of State

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
10:15AM O'CLOCK
MAR 27 2024

KILGORE COLLEGE TASB POLICY CONVERSION

Summary of Policy for Proposed Adoption by the Kilgore College Board of Trustees

LEGAL policies summarize the law on a topic. LEGAL policies are compiled by TASB to provide the legal framework for key areas of college operations and are provided to the Board for foundational and background information only. These are not adopted by the Board.

LOCAL policies outline local Board mandates regarding governance issues. LOCAL policies are developed based on existing TASB model policies and may be customized to meet local needs. LOCAL policies are proposed for adoption by the board.

Procedures will be developed for implementation of policies, as appropriate, and do not require Board adoption. These will be provided for information only.

IN CONSIDERATION OF ADOPTION OF TASB LOCAL POLICY

Kilgore College Board Policy and Personnel Committee Meeting Date:

Rev. 1: May 29, 2024

Original: August 3, 2023

Kilgore College Board of Trustees Meeting Date:

Rev. 1: June 10, 2024

Original: August 14, 2023

Proposed LOCAL Policy for Adoption:

Section: F STUDENTS

Policy: FLA Student Rights and Responsibilities - Student Expression and Use of College Facilities

Summary of LOCAL Policy:

A governmental entity, including a college district, shall take no action respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the board for a redress of grievances. Each institution of higher education shall adopt a policy detailing students' rights and responsibilities regarding expressive activities at the institution. An institution of higher education may not take action against a student organization or deny the organization any benefit generally available to other student organizations at the institution on the basis of a political, religious, philosophical, ideological, or academic viewpoint expressed by the organization or of any expressive activities of the organization. The director of campus life will be responsible for approving any distribution of materials, posting of signs, or requests to host external speakers on campus.

Rev.1 (6/10/2024) Changes are due to Executive Order GA-44 relating to addressing acts of antisemitism in institutions of higher education passed 3/27/2024. This local policy was updated by Leigh Porter. Includes further definitions of:

- What and where certain student activities would constitute harassment/discrimination
- How and when the administration has the legal responsibility to address discrimination based on protected class, race, national origin, citizenship or ancestry.
- What constitutes a hostile environment
- Punishment due to violations of the policy may include suspension or expulsion

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Note: For additional legally referenced material relating to this subject matter, see FA(LEGAL). For information on employee expression on campus, see DGC. For information on community expression on campus, see GD. For use of the college district's mail system, see CHE.

First Amendment

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

Forum Analysis

Traditional Public Forum

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

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

Designated Public Forum

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

Limited Public Forum

A "limited public forum" is a forum that an institution opens to a particular group of speakers or for discussion regarding a particular topic. *Christian Legal Society v. Martinez*, 130 S.Ct. 2971 (2010); *Rosenberger v. Rector & Visitors of Univ. of Va.*, 515 U.S. 819 (1995). Within a limited public forum, limits on expression must be

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viewpoint-neutral and reasonable in light of the purpose of the forum. The government may impose reasonable time, place, and manner restrictions, as long as these restrictions do not relate to the content of the expression. Cornelius v. NAACP Legal Def. and Educ. Fund, Inc., 473 U.S. 788 (1985)

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

Nonpublic Forum

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

Time, Place, and
Manner Restrictions

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

**Protected
Expression on
Campus Under State
Law**

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

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

Education Code 51.9315(c)

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

Time, Place, and
Manner Restrictions

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

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

Education Code 51.9315(d)

Policy Required

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

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

Education Code 51.9315(f)

Discrimination
Prohibited

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

Approval of
Speaker or
Determination of
Fee

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

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

Education Code 51.9315(h)

Employee
Awareness

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

Publication

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

Report

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

Religious Services

This state or a political subdivision of this state, including a college district, may not enact, adopt, or issue a statute, order, proclamation, decision, or rule that prohibits or limits religious services, including religious services conducted in churches, congregations, and places of worship, in this state by a religious organization established to support and serve the propagation of a sincerely held religious belief. *Tex. Const. Art. I, Sec. 6-a*

Places of Worship

A government agency, including a college district, or public official may not issue an order that closes or has the effect of closing places of worship in this state or in a geographic area of this state.

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“Place of worship” means a building or grounds where religious activities are conducted. *Civ. Prac. & Rem. Code 110.001(a), .0031*

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	<p>Note: For expression and use of College District facilities and grounds by employees and employee organizations, see DGC. For expression and use of College District facilities and grounds by the community, including by nonstudents and organizations that are not registered student organizations, see GD.</p>
Distribution of Literature	<p>Written or printed materials, handbills, photographs, pictures, films, tapes, or other visual or auditory materials not sponsored by the College District shall not be sold, circulated, distributed, or posted on any College District premises by any College District student or registered student organization [see FKC], except in accordance with this policy.</p> <p>The College District shall not be responsible for, nor shall the College District endorse, the contents of any materials distributed by students or registered student organizations that is not sponsored by the College District.</p> <p>Materials distributed under the supervision of instructional personnel as a part of instruction or other authorized classroom activities shall not be governed by this policy.</p>
Limitations on Content	<p>Materials shall not be distributed by students or registered student organizations on College District property if:</p> <ol style="list-style-type: none">1. The materials are obscene.2. The materials contain defamatory statements about public figures or others.3. The materials advocate imminent lawless or disruptive action and are likely to incite or produce such action.4. The materials are considered prohibited harassment. [See Harassment/Discrimination section below and see also DIAA, DIAB, FFDA, and FFDB]5. The materials constitute nonpermissible solicitation. [See FI]6. The materials infringe upon intellectual property rights of the College District. [See CT]
Time, Place, and Manner Restrictions	<p>Distribution of the materials shall be conducted in a manner that:</p> <ol style="list-style-type: none">1. Is not disruptive; [See FLB]2. Does not impede reasonable access to College District facilities;3. Does not result in damage to College District property;

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4. Does not coerce, badger, or intimidate a person;
5. Does not interfere with the rights of others; and
6. Does not violate local, state, or federal laws or College District policies and procedures.
7. Does not constitute harassment/discrimination as defined herein.

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

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

Posting of Signs

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

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

Restrictions

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

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

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Removal	<p>A student or registered student organization shall remove each sign not later than 14 days after posting or, if it relates to an event, not longer than 24 hours after the event to which it relates has ended.</p> <p>A sign posted in accordance with this section shall not be removed without permission from the director of campus life, the student, or the registered student organization.</p>
Disclaimer	<p>Materials distributed by a registered student organization must include a disclaimer indicating that the materials are not sponsored by the College District and do not represent the views of the College District or College District officials, faculty, or staff.</p>
Use of Facilities and Grounds	<p>The facilities and grounds of the College District shall be made available to students or registered student organizations [see FKC] when such use does not conflict with use by, or any of the policies and procedures of, the College District. The requesting students or student organization shall pay all expenses incurred by their use of facilities in accordance with a fee schedule developed by the Board.</p>
Requests	<p>To request permission to meet or host a speaker in College District facilities, interested students or registered student organizations shall file a written request with the director of campus life in accordance with administrative procedures.</p> <p>The students or the registered student organization making the request shall indicate that they have read and understand the policies and rules governing use of College District facilities and that they will abide by those rules.</p>
Approval	<p>The director of campus life shall approve or reject the request in accordance with provisions and deadlines set out in this policy and administrative procedures, without regard to the religious, political, philosophical, ideological, academic viewpoint, or other content of the speech likely to be associated with the student's or registered student organization's use of the facility.</p> <p>Approval shall not be granted when the official has reasonable grounds to believe that:</p> <ol style="list-style-type: none">1. The College District facility requested is unavailable, inadequate, or inappropriate to accommodate the proposed use at the time requested;2. The applicant is under a disciplinary penalty or sanction prohibiting the use of the facility;

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

The director of campus life shall provide the applicant a written statement of the grounds for rejection if a request is denied.

*Common
Outdoor Area
Exception*

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

1. The person's conduct is unlawful;
2. The use would constitute an immediate and actual danger to the peace or security of the College District that available law enforcement officials could not control with reasonable efforts;
3. The use would materially or substantially disrupt or disturb the regular academic program; or
4. The use would result in damage to or defacement of property.
5. The use would violate the Time, Place, and Manner Restrictions set forth herein under the Distribution of Literature section.
6. The use would constitute harassment/discrimination as defined below.

Announcements
and Publicity

In accordance with administrative procedures, all students and registered student organizations shall be given access on the same

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	basis for making announcements and publicizing their meetings and activities.
Harassment/ Discrimination	<p>The College District has a legal responsibility to address discrimination based on protected class, race, national origin, citizenship or ancestry, including but in no way limited to antisemitism (as defined below). The First Amendment does not protect harassing speech that creates a hostile environment within an educational program or activity, as this can constitute discrimination. A hostile environment is created if unwelcome conduct based on protected class, race, color, national origin, or ancestry is (based on the totality of the circumstances) subjectively and objectively offensive and is so severe or pervasive it limits or denies a student/employee the ability to participate in or benefit from an educational program or activity of the College District.</p> <p>As used herein, “antisemitism” means the definition set forth in Tex. Gov’t. Code § 448.001(2).</p>
Identification	Students or registered student organizations distributing materials on campus or using College District facilities shall provide identification when requested to do so by a College District representative.
Violations of Policy	Failure to comply with this policy and associated procedures shall result in appropriate administrative action, including but not limited to, confiscation of nonconforming materials, suspension of a student’s or registered student organization’s use of College District facilities, suspension, expulsion, and/or other disciplinary action in accordance with the College District’s discipline policies and procedures [see FM and FMA].
Interference with Expression	Faculty members, students, or student organizations that interfere with the expressive activities permitted by this policy shall be subject to disciplinary action in accordance with the College District’s discipline policies and procedures [see DH, FM, and FMA].
Appeals	Decisions made by the administration in accordance with this policy may be appealed in accordance with DGBA(LOCAL) or FLD(LOCAL), as applicable.
Publication	This policy and associated procedures must be posted on the College District’s website and distributed in the student and employee handbooks and other appropriate publications. They must also be distributed to students at orientation.

KILGORE COLLEGE TASB POLICY CONVERSION

Summary of Policy for Proposed Adoption by the Kilgore College Board of Trustees

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LOCAL policies outline local Board mandates regarding governance issues. LOCAL policies are developed based on existing TASB model policies and may be customized to meet local needs. LOCAL policies are proposed for adoption by the board.

Procedures will be developed for implementation of policies, as appropriate, and do not require Board adoption. These will be provided for information only.

IN CONSIDERATION OF ADOPTION OF TASB LOCAL POLICY

Kilgore College Board Policy and Personnel Committee Meeting Date:

Original – June 1, 2022

Revision 1 – January 22, 2024

Revision 2 – May 29, 2024

Kilgore College Board of Trustees Meeting Date:

Original – June 27, 2022

Revision 1 – February 12, 2024

Revision 2 - June 10, 2024

Proposed LOCAL Policy for Adoption:

Section: F STUDENTS RIGHTS AND RESPONSIBILITIES

Policy: FLB Student Conduct

Summary of LOCAL Policy:

- **Revision 2:** Local Policy was changed to reflect language regarding GA-44, addressing acts of Antisemitism at institutions of higher education.
Legal Policy (Update 47) recommended a change in the wording of “emails and websites” to be broadened to say “electronic means” as to incorporate other forms of technology, such as mobile applications.
- **Revision 1:** This Local policy includes additions to the Scholastic Dishonesty Definition (pages 1-2) and a Scholastic Dishonesty Procedural Process (pages 2-4).
- **Original:** In addition to definitions, the policy defines student responsibilities, prohibited conduct, when/where students are subject to discipline, and publication requirements. A revision to the recommended LOCAL policy is requested (see narrative in red on page 4 of 5). The TASB LOCAL policy indicates that tobacco use is prohibited on campus. That section has been revised to reflect KC practice, which does not prohibit tobacco use on campus.

Procedures:

- **Revision 2:** There are no procedural changes.
- **Revision 1:** This Local policy now includes additions to “Scholastic Dishonesty” (including a new plagiarism statement with regard the use of AI). This Local policy also includes a procedural process for “Scholastic Dishonesty” violations. All student conduct information from the policy has been added to the 2023-2024 College Catalog & Student Handbook and will be included in all subsequent Catalogs and Handbooks, as dictated in the policy. Since this policy identifies student conduct expectations, no associated procedures are necessary.
- **Original:** All student conduct information from the policy has been added to the 2022-2023 College Catalog & Student Handbook, as dictated in the policy. Since this policy identifies student conduct expectations, no associated procedures are necessary.

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Definitions

Definitions of terms used in this policy shall be as follows.

Student	A "student" shall mean an individual who is currently enrolled in the College District and any prospective or former student who has been accepted for admission or readmission to any component institution while on the premises of any component institution.
Premises	The "premises" of the College District is defined as all real property over which the College District has possession and control.
Scholastic Dishonesty	<p>"Scholastic dishonesty" shall include, but not be limited to, cheating, plagiarism, and collusion.</p> <p>"Cheating" shall include, but not be limited to: -</p> <ol style="list-style-type: none">1. Copying from another student's test or class work;2. Using test materials not authorized by the person administering the test;3. Collaborating with or seeking aid from another student during a test without permission from the test administrator;4. Knowingly using, buying, selling, stealing, or soliciting, in whole or in part, the contents of an unadministered test, paper, or another assignment;5. The unauthorized transporting or removal, in whole or in part, of the contents of the unadministered test;6. Substituting for another student, or permitting another student to substitute for oneself, to take a test;7. Bribing another person to obtain an unadministered test or information about an unadministered test; or8. Manipulating a test, assignment, or final course grades. <p>"Plagiarism" shall be defined as the appropriating, buying, receiving as a gift, or obtaining by any means another's work and the unacknowledged submission or incorporation of it in one's own written work.</p> <p>"Collusion" shall be defined as the unauthorized collaboration with another person in preparing written work for fulfillment of course requirements.</p>
Disorderly Conduct	<p>"Disorderly conduct" shall include any of the following activities occurring on premises owned or controlled by the College District:</p> <ol style="list-style-type: none">1. Behavior of a boisterous and tumultuous character such that there is a clear and present danger of alarming persons where no legitimate reason for alarm exists.

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2. Interference with the peaceful and lawful conduct of persons under circumstances in which there is reason to believe that such conduct will cause or provoke a disturbance.
3. Violent and forceful behavior at any time such that there is a clear and present danger that free movement of other persons will be impaired.
4. Behavior involving personal abuse or assault when such behavior creates a clear and present danger of causing assaults or fights.
5. Violent, abusive, indecent, profane, boisterous, unreasonably loud, or otherwise disorderly conduct under circumstances in which there is reason to believe that such conduct will cause or provoke a disturbance.
6. Willful and malicious behavior that interrupts the speaker of any lawful assembly or impairs the lawful right of others to participate effectively in such assembly or meeting when there is reason to believe that such conduct will cause or provoke a disturbance.
7. Willful and malicious behavior that obstructs or causes the obstruction of any doorway, hall, or any other passageway in a College District building to such an extent that the employees, officers, and other persons, including visitors, having business with the College District are denied entrance into, exit from, or free passage in such building.

8. Violations of FLA (LOCAL)

Responsibility

Each student shall be charged with notice and knowledge of, and shall be required to comply with, the contents and provisions of the College District's rules and regulations concerning student conduct.

All students shall obey the law, show respect for properly constituted authority, and observe correct standards of conduct. Each student shall be expected to:

1. Demonstrate courtesy, even when others do not;
2. Behave in a responsible manner, always exercising self-discipline;
3. Attend all classes, regularly and on time;
4. Prepare for each class and take appropriate materials and assignments to class;
5. Obey all classroom rules;

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	<ol style="list-style-type: none">6. Respect the rights and privileges of students, faculty, and other College District staff and volunteers;7. Respect the property of others, including College District property and facilities; and8. Cooperate with and assist the College District staff in maintaining safety, order, and discipline.
Prohibited Conduct	Violations of federal, state, or local law or College District policies, procedures, or rules, including the student handbook shall be prohibited.
Federal, State, and Local Law	
Prohibited Weapons and Devices	Possession, distribution, sale, or use of firearms, location-restricted knives, clubs, knuckles, firearm silencers, or other prohibited weapons or devices in violation of law or College District policies and procedures shall be prohibited. [See CHF]
Drugs and Alcohol	Behaviors regarding drugs and alcohol and associated paraphernalia shall be prohibited as described in policy FLBE.
Debts	Owing a monetary debt to the College District that is considered delinquent or writing an "insufficient funds" check to the College District shall be prohibited.
Disruptions	"Disorderly conduct," as defined above, or disruptive behavior shall be prohibited.
Behavior Targeting Others	<p>The following behavior targeting others shall be prohibited:</p> <ol style="list-style-type: none">1. Threatening another person, including a student or employee;2. Intentionally, knowingly, or negligently causing physical harm to any person;3. Engaging in conduct that constitutes harassment, sexual assault, dating violence, stalking, or bullying directed toward another person, including a student or employee; [See DIA series, FFD series, and FFE as appropriate]4. Hazing with or without the consent of a student; [See FLBC]5. Initiations by organizations that include features that are dangerous, harmful, or degrading to the student, a violation of which also renders the organization subject to appropriate discipline; and6. Endangering the health or safety of members of the College District community or visitors to the premises.7. <u>Engaging in conduct that constitutes harassment as defined in Board Policies or otherwise is in violation of FLA (LOCAL)</u>

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Property	<p>The following behavior regarding property shall be prohibited:</p> <ol style="list-style-type: none">1. Intentionally, knowingly, or negligently defacing, damaging, misusing, or destroying College District property or property owned by others;2. Stealing from the College District or others; and3. Theft, sabotage, destruction, distribution, or other use of the intellectual property of the College District or third parties without permission.
Directives	<p>Failure to comply with directives given by College District personnel and failure to provide identification when requested to do so by College District personnel shall be prohibited.</p>
Tobacco and E-cigarettes	<p>Smoking/tobacco products, including electronic cigarettes, shall be allowed in designated outdoor areas only. Such products shall be prohibited in all other areas as well as inside all facilities and vehicles owned, leased, or operated by the College District. College District regulations and municipal ordinances shall apply equally to all College District faculty, staff, students, administration, and visitors. Everyone is expected to dispose of cigarettes properly. [See FLBD]</p>
Misuse of Technology	<p>The following behavior regarding misuse of technology shall be prohibited:</p> <ol style="list-style-type: none">1. Violating policies, rules, or agreements signed by the student regarding the use of technology resources;2. Attempting to access or circumvent passwords or other security-related information of the College District, students, or employees or uploading or creating computer viruses;3. Attempting to alter, destroy, disable, or restrict access to College District technology resources including but not limited to computers and related equipment, College District data, the data of others, or other networks connected to the College District's system without permission;4. Using the internet or other electronic communications to threaten College District students, employees, or volunteers;5. Sending, posting, or possessing electronic messages that are abusive, obscene, sexually oriented, threatening, harassing, damaging to another's reputation, or illegal;6. Using email or website electronic means to engage in or encourage illegal behavior or threaten the safety of the College District, students, employees, or visitors; and

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7. Possessing published or electronic material that is designed to promote or encourage illegal behavior or that could threaten the safety of the College District, students, employees, or visitors.

Dishonesty

The following behavior regarding dishonesty shall be prohibited:

1. Scholastic dishonesty, as defined above;
2. Making false accusations or perpetrating hoaxes regarding the safety of the College District, students, employees, or visitors;
3. Intentionally or knowingly providing false information to the College District; and
4. Intentionally or knowingly falsifying records, passes, or other College District-related documents.

Gambling and Other
Conduct

Gambling or engaging in any other conduct that College District officials might reasonably believe will substantially disrupt the College District program or incite violence shall be prohibited.

Discipline

A student shall be subject to discipline, including suspension and/or expulsion in accordance with FM and FMA if the student violates this policy:

1. While on College District premises;
2. While attending a College District activity; or
3. While elsewhere if the behavior adversely impacts the educational environment or otherwise interferes with the College District's operations or objectives.

Publication

The student conduct rules contained in this policy and any other conduct rules of the College District developed by the College President shall be published in the student handbook.

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**“Disruptive
Activities”**

A person commits an offense if the person, alone or in concert with others, intentionally engages in disruptive activity on the campus or property of an institution of higher education.

“Disruptive activities” are:

1. Obstructing or restraining the passage of persons in an exit, entrance, or hallway of a building without the authorization of the administration of the school;
2. Seizing control of a building or portion of a building to interfere with an administrative, educational, research, or other authorized activity;
3. Preventing or attempting to prevent by force or violence or the threat of force or violence a lawful assembly authorized by the school administration so that a person attempting to participate in the assembly is unable to participate due to the use of force or violence or due to a reasonable fear that force or violence is likely to occur;
4. Disrupting by force or violence or the threat of force or violence a lawful assembly in progress; or
5. Obstructing or restraining the passage of a person at an exit or entrance to the campus or property or preventing or attempting to prevent by force or violence or by threats of force or violence the ingress or egress of a person to or from the property or campus without the authorization of the administration of the school.

This section may not be construed to infringe on any right of free speech or expression guaranteed by the Constitution of the United States or of this state. [See FLA]

Education Code 37.123(b); 51.935(a)–(b), (e)

Note: For further information regarding conduct on college district property, see GDA. For information regarding weapons on campus, see CHF.

KILGORE COLLEGE TASB POLICY CONVERSION

Summary of Policy for Proposed Adoption by the Kilgore College Board of Trustees

LEGAL policies summarize the law on a topic. LEGAL policies are compiled by TASB to provide the legal framework for key areas of college operations and are provided to the Board for foundational and background information only. These are not adopted by the Board.

LOCAL policies outline local Board mandates regarding governance issues. LOCAL policies are developed based on existing TASB model policies and may be customized to meet local needs. LOCAL policies are proposed for adoption by the board.

Procedures will be developed for implementation of policies, as appropriate, and do not require Board adoption. These will be provided for information only.

IN CONSIDERATION OF ADOPTION OF TASB LOCAL POLICY

Kilgore College Board Policy and Personnel Committee Meeting Date:

Rev. 1: May 29, 2024

Original: November 13, 2023

Kilgore College Board of Trustees Meeting Date:

Rev. 1: June 10, 2024

Original: December 11, 2023

Proposed LOCAL Policy for Adoption:

Section: D EMPLOYEES

Policy: DGC Employee Rights and Responsibilities - Employee Expression and Use of College Facilities

Summary of LOCAL Policy:

- This policy outlines the usage of College facilities for employees and employee organizations. It also explains Academic Freedom in relation to Faculty in the conduct of research and teaching.
- The Local policy was reviewed by Administration to ascertain compliance. KC has a current policy in place, "Free Speech and Public Assembly", and is compliant with the regulations and expectations found therein. Therefore, the existing policy was incorporated into an Administrative Rule to outline the freedoms, limitations and college procedures associated for employees and employee organizations.

Procedures:

Administrative Rule:

1. Employee Expression and Use of College Facilities Procedures

Rev.1 (6/10/2024) Changes are due to Executive Order GA-44 relating to addressing acts of antisemitism in institutions of higher education passed 3/27/2024. This local policy was updated by Leigh Porter. Includes further definitions of:

- What and where certain employee activities would constitute harassment/discrimination
- How and when the administration has the legal responsibility to address discrimination based on protected class, race, national origin, citizenship or ancestry.
- What constitutes a hostile environment
- Punishment due to violations of the policy including suspension or termination

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Note: For additional legally referenced material relating to this subject matter, see DAA(LEGAL). For information on student expression on campus, see FLA. For information on community expression on campus, see GD.

First Amendment

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

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

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

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

Academic Freedom
Exception

Expression related to academic scholarship or classroom instruction implicates additional constitutional interests that are not fully accounted for by the U.S. Supreme Court's customary employee-speech jurisprudence. We need not, and for that reason do not, decide whether the analyses we conduct today would apply in the same manner to a case through speech related to scholarship or teaching. *Garcetti v. Ceballos*, 547 U.S. 410 (2006)

Academic Boycotts

An institution of higher education, including a college district, may not implement an academic boycott of a foreign country, as described by Education Code 51.987. [See EJC]

Education Code 51.987(b)–(c)

**Protected
Expression on
Campus Under State
Law**

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

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

Education Code 51.9315(c)

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

Time, Place, and
Manner Restrictions

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

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

Education Code 51.9315(d)

Policy Required

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

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

Education Code 51.9315(f)

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Approval of
Speaker or
Determination of
Fee

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

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

Education Code 51.9315(h)

Employee
Awareness

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

Publication

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

Report

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

Religious Services

This state or a political subdivision of this state, including a college district, may not enact, adopt, or issue a statute, order, proclamation, decision, or rule that prohibits or limits religious services, including religious services conducted in churches, congregations, and places of worship, in this state by a religious organization es-

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established to support and serve the propagation of a sincerely held religious belief. *Tex. Const. Art. I, Sec. 6-a*

Places of Worship

A government agency, including a college district, or public official may not issue an order that closes or has the effect of closing places of worship in this state or in a geographic area of this state. "Place of worship" means a building or grounds where religious activities are conducted. *Civ. Prac. & Rem. Code 110.001(a), .0031*

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

Academic Freedom

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

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

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

Distribution of Literature

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

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

Limitations on Content

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

1. The materials are obscene;
2. The materials contain defamatory statements about public figures or others;
3. The materials advocate imminent lawless or disruptive action and are likely to incite or produce such action;
4. The materials are considered prohibited harassment [see Harassment/Discrimination section below and see also DIA series and FFD series];
5. The materials constitute nonpermissible solicitation [see DHC]; or

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	<p>6. The materials infringe upon intellectual property rights of the College District [see CT].</p>
Time, Place, and Manner Restrictions	<p>Distribution of materials shall be conducted in a manner that:</p> <ol style="list-style-type: none">1. Is not disruptive to College District operations;2. Does not impede reasonable access to College District facilities;3. Does not result in damage to College District property;4. Does not interfere with the rights of others; and5. Does not violate local, state, or federal laws or College District policies and procedures.6. Does not constitute harassment/discrimination as defined herein. <p>The distributor shall clean the area around which the literature was distributed of any materials that were discarded or leftover.</p> <p>The director of human resources or designee shall designate times, locations, and means by which materials that are appropriate for distribution, as provided in this policy, may be made available or distributed by employees or employee organizations to employees or others in College District facilities and areas that are not considered common outdoor areas.</p>
Use of Facilities and Grounds	<p>The facilities and grounds of the College District shall be made available to employees or employee organizations when such use does not conflict with use by, or any of the policies and procedures of, the College District. The requesting employees or employee organization shall pay all expenses incurred by their use of the facilities in accordance with a fee schedule developed by the Board.</p> <p>An "employee organization" is an organization composed only of College District faculty and staff or an employee professional organization.</p>
Requests	<p>To request permission to meet or host a speaker in College District facilities, interested employees or employee organizations shall file a written request with the Facilities Rentals Office in accordance with administrative procedures.</p> <p>The employees or the employee organization making the request shall indicate that they have read and understand the policies and rules governing use of College District facilities and that they will abide by those rules.</p>

Approval

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The Facilities Rentals Office shall approve or reject the request in accordance with provisions and deadlines set out in this policy and administrative procedures, without regard to the religious, political, philosophical, ideological, academic viewpoint, or other content of the speech likely to be associated with the employees' or employee organization's use of the facility.

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

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

The Facilities Rentals Office shall provide the applicant a written statement of the grounds for rejection if a request is denied.

*Common
Outdoor Area
Exception*

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

1. The person's conduct is unlawful;

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2. The use would constitute an immediate and actual danger to the peace or security of the College District that available law enforcement officials could not control with reasonable efforts;
3. The use would materially or substantially disrupt or disturb the regular academic program; or
4. The use would result in damage to or defacement of property.
5. The use would violate the Time, Place, and Manner Restrictions set forth herein under the Distribution of Literature section.
6. The use would constitute harassment/discrimination as defined below.

Announcements
and Publicity

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

Harassment/
Discrimination

The College District has a legal responsibility to address discrimination based on protected class, race, national origin, citizenship or ancestry, including but in no way limited to antisemitism (as defined below). The First Amendment does not protect harassing speech that creates a hostile environment within an educational program or activity, as this can constitute discrimination. A hostile environment is created if unwelcome conduct based on protected class, race, color, national origin, or ancestry is (based on the totality of the circumstances) subjectively and objectively offensive and is so severe or pervasive it limits or denies a student/employee the ability to participate in or benefit from an educational program or activity of the College District.

As used herein, "antisemitism" means the definition set forth in Tex. Gov't. Code § 448.001(2).

Identification

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

Violations

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

Interference with
Expression

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

Appeals

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

Publication

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

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

Administrative Rule

Subject: Employee Expression and Use of College Facilities Procedures

TASB Policy: DGC

Effective Date: December 13, 2023



I. Purpose and Scope

Kilgore College (KC) fully supports lawful freedom of expression by all members of the academic community, including employees and employee groups. This policy informs, employees and employee groups the manner in which they may engage in constitutionally protected speech and expression at KC. It is intended to protect one's rights without interfering with the primary educational purpose of the College. The right to reasonably and without regard to content restrict the time, place, and manner of expression is specifically reserved for the College.

II. Definitions

Small Group – Less than 25 individuals.

Large Group – More than 25 individuals.

Business Day: Days where College District offices are open for business unless otherwise noted.

III. Procedures

Kilgore College encourages the right to freedom of speech granted by the First Amendment to the Constitution of the United States of America. Any acts that are disruptive to normal operations of the College, including but not limited to instruction or college business, or actions that interfere with the rights of others will not be tolerated. The use of Kilgore College's space for public assemblies or demonstrations is available to current employees and employee groups. Individuals who are not current faculty, staff, or representing an employee group may not use the College's property for demonstrations, but may apply for a demonstration permit through the city of Kilgore or Longview. Such demonstrations will be limited to city sidewalks immediately adjacent to city streets.

Separate and apart from public assemblies or demonstrations, the College does make specific areas of the campus available to any individual or group through its facility rental procedures.

Application for Assemblies/Demonstrations

Generally, the College allows for the spontaneous speech, expression, or assembly of small groups (less than 25 individuals) without pre-approval, subject to the "General

Assembly/Demonstrations/Expressive Activities Restrictions” and “Prohibitions of Disrupting College Activities” addressed herein.

Based upon federal law, the College can put reasonable, viewpoint neutral, time, place, and manner of expression restrictions on assemblies to ensure the ongoing safety of the campus community while protecting from any disruption of institutional activities. Therefore, should a large group (25 or more individuals) pre-plan an assembly or demonstration to take place on College property, pre-approval from the College is required. A Facilities Rental request must be completed through facilities rental at least 48 hours in advance and all rules and regulations pertaining to the application and this policy must be followed. The College will have the authority to decide if overtime police protection is required and, if so, the applicant will be charged such a fee. No fee will be charged based on the content of the speaker/assembly. Application approval will generally be determined on a first come, first served basis if competing applications for the same time or location are received by the College. An employee or employee group is ineligible to apply if they have been terminated, is on leave, or not in good standing with the College.

Facilities Rental request is designed to ensure that space utilization conflicts and violations of assembly/demonstration restrictions do not occur and that proper crowd control/safety measures are in place. The Facilities Rental is subject to viewpoint neutral review and may be denied for the following reasons:

- a) Applicant failed to sign the application, supply all necessary information, or included a misrepresentation
- b) Requested space is not available
- c) The date falls during final examinations
- d) Planned assembly would be disruptive or otherwise violate the rules set forth herein
- e) Applicant is ineligible
- f) Proposed use is not suitable for location
- g) Proposed activity is commercial in nature
- h) Off campus individual or group is actually a sponsor or co-sponsor
- i) Any other viewpoint neutral reason that applies to all groups/speakers and furthers the College's significant interest(s)
- j) All denial decisions will be reviewed and approved by the Vice President of Administrative Services prior to being communicated to the applicant.

General Assembly/Demonstration/Expressive Activities Restrictions

Expressive activities or conduct are subject to the following restrictions:

- a) Public assemblies or demonstrations may occur between the hours of 8:00 a.m. and 9:00 p.m. only.
- b) To protect the rights and freedoms of all campus community members, speakers will refrain from the use of obscenities, fighting words, words used to incite violence or lawless action, and defamatory speech. Any signs, literature or written materials may not be obscene, incite others, or be defamatory.
- c) The use of amplified sound must be pre-approved to ensure there is no disruption to college functions.
- d) Any literature, signs, pamphlets, etc. displayed or distributed at public assemblies must also comply with the restrictions listed herein. No litter is permitted.
- e) Assemblies and/or demonstrations that are materially disruptive to Kilgore College's educational environment or the College's activities, that are non-peaceful, and/or that

- involve substantial disorder or invasion of the rights of others on the property of Kilgore College are prohibited.
- f) The activity or conduct may not promote commercial products or services.
- g) The activity must not interfere with the free flow of vehicular or pedestrian traffic on sidewalks, on streets, at entrances/exits to buildings, or otherwise.
- h) The activity must not involve conduct that does, or is likely to, result in damage or destruction of property.
- i) No one may threaten or endanger the physical safety of any person on the College campus.
- j) The use of fire or fireworks is prohibited.

Appeal Procedure for Assembly Applications

Based upon federal law, the College can put reasonable, viewpoint neutral, time, place, and manner of expression restrictions on assemblies. While the college will work with assembly/demonstration organizers to meet their requests, the College may deny an application for assembly for the reasons set forth herein. Should the event organizers and College staff not be able to agree on mutually agreeable logistics or the Facilities Rental is denied, the following appeal process is available.

- a) Applicants aggrieved by the refusal of an application are entitled to appeal to the Director of Human Resources by giving written notice on or before the fifth business day after the decision is received by the applicant.
- b) The notice is informal, but will contain the applicant's name and College email address, a concise description of the decision complained of, reasons for disagreeing with the decision, and the date the decision was received.
- c) When appeal is received, according to the prescribed deadlines, the Director of Human Resources shall prepare a written statement of reason(s) for refusal and a copy of the application along with copies of any printed material submitted with the application. The Director of Human Resources may meet with the applicant to obtain more information, if desired. The Director of Human Resources will render a decision to uphold, modify, or overturn the decision as soon as practicable but no later than five business days after receiving the appeal.
- d) The decision of the Director of Human Resources is final.

Prohibition of Disrupting College Activities

It is unlawful for any person, on College property or on public property within five hundred feet of College property, alone or in concert with others, to willfully disrupt the conduct of classes or other College activities. In doing so, the person will be guilty of a misdemeanor and upon conviction may be punished by a fine or by confinement for not less than 10 days or more than six months or both, fine and confinement

Conduct that disrupts the educational activities of a College includes emission by any means of noise of an intensity which prevents or hinders classroom instruction and enticement or attempted enticement of students away from classes or other college activities which students are required to attend. (Texas House Bill # 186, 62 Legislature, Regular Session, 1971).

The State law prohibiting disruptive activities defines "disruptive activity" as meaning:

- a) Obstructing or restraining the passage of persons in an exit, entrance, or hallway of any building without the authorization of the administration of the college.
- b) Seizing control of any building or portion of a building for the purpose of interfering with any administrative, education, research, or other authorized activity.
- c) Preventing or attempting to prevent by force or violence or the threat of force or violence any lawful assembly authorized by the school administration.

- d) Disrupting by force or violence or the threat of force of violence any lawful assembly in progress; or
- e) Obstructing or restraining the passage of any person at an exit or entrance to said campus or property or preventing or attempting to prevent by force or violence or by threats thereof the ingress or egress of any person to or from said property or campus without the authorization of the administration of the school. The law further states that a "lawful assembly is disrupted when any person in attendance is rendered incapable of participating in the assembly due to the use of force or violence or due to a reasonable fear that force or violence is likely to occur."

College Response to Assemblies that Violate this Policy

In the event of any expressive activity that violates this policy or any non-peaceful or disruptive activities on the property of Kilgore College, the College may take action to stop or minimize same. When responding to such activity, the College administration and/or law enforcement will not consider the viewpoint of the individuals or group involved. The College will generally follow these procedures in such instances:

- a) The President of the College, or their designee, will determine whether or not negotiation will take place with those involved in the demonstration or disruption.
- b) The College officials will temporarily revoke any and all privileges related to assemblies and take steps to end disruptive or non-peaceful protests.
- c) The President, or their designee, will also determine the actions to be taken (if any) including, but not limited to, discipline, interim suspension, or arrest. The President of the College, or their designee, may place employees on interim suspension for violating this policy and will adjudicate complaints and make final decisions about alleged violations of conduct, apart from those decisions made by a court of law.
- d) All individuals who are engaged in disruptive or non-peaceful action may be notified that they are trespassing. Persons who continue to trespass after notification are subject to arrest.
- e) Kilgore College may bill employees or employee organizations or file civil suits to recover damages and costs resulting from non-peaceful or disruptive protests or other violations of this policy.
- f) Any violation of this policy that involves literature, signs, pamphlets or other written materials will generally involve a warning and, if not followed, the College official may confiscate the material and take any other necessary steps as outlined herein or otherwise.

KILGORE COLLEGE TASB POLICY CONVERSION

Summary of Policy for Proposed Adoption by the Kilgore College Board of Trustees

LEGAL policies summarize the law on a topic. LEGAL policies are compiled by TASB to provide the legal framework for key areas of college operations and are provided to the Board for foundational and background information only. These are not adopted by the Board.

LOCAL policies outline local Board mandates regarding governance issues. LOCAL policies are developed based on existing TASB model policies and may be customized to meet local needs. LOCAL policies are proposed for adoption by the board.

Procedures will be developed for implementation of policies, as appropriate, and do not require Board adoption. These will be provided for information only.

IN CONSIDERATION OF ADOPTION OF TASB LOCAL POLICY

Kilgore College Board Policy and Personnel Committee Meeting Date:

Rev. 1: May 29, 2024

Original: August 3, 2023

Kilgore College Board of Trustees Meeting Date:

Rev. 1: June 10, 2024

Original: August 14, 2023

Proposed LOCAL Policy for Adoption:

Section:	G	COMMUNITY AND GOVERNMENTAL RELATIONS
Policy:	GD	Community Expression and Use of College Facilities

Summary of LOCAL Policy:

The policy outlines the responsibility of the College develop and implement processes, procedures, and requirements to ensure protection of First Amendment rights with regards to access to College facilities and grounds for the purpose of community expression.

Procedures:

- The Facility Rentals office has procedures in place that allow community members and/or organizations access to and use of College facilities.
- The Office of Campus Life has procedures in place to review and approve requests for distribution of literature and display of posters on campus.

Rev.1 (6/10/2024) Changes are due to Executive Order GA-44 relating to addressing acts of antisemitism in institutions of higher education passed 3/27/2024. This local policy was updated by Leigh Porter. Includes further definitions of:

- What and where certain activities would constitute harassment/discrimination
- How and when the administration has the legal responsibility to address discrimination based on protected class, race, national origin, citizenship or ancestry.
- What constitutes a hostile environment
- Punishment due to violations of the policy, including removal from campus

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

**Use of College
District Facilities**

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

Requests

To request permission to meet in College District facilities, interested community members or organizations shall file a written request with the Facilities Rentals Office in accordance with administrative procedures.

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

Approval

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

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

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

1. The College District facility requested is unavailable, inadequate, or inappropriate to accommodate the proposed use at the time requested;
2. The applicant is subject to a sanction [see Violations of Policy, below] prohibiting the use of the facility;
3. The proposed use would constitute an immediate and actual danger to the peace or security of the College District that available law enforcement officials could not control with reasonable efforts;

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

*Common
Outdoor Area
Exception*

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

1. The person's conduct is unlawful;
2. The use would constitute an immediate and actual danger to the peace or security of the College District that available law enforcement officials could not control with reasonable efforts;
3. The use would materially or substantially disrupt or disturb the regular academic program; or
4. The use would result in damage to or defacement of property.
5. The use would violate the Time, Place, and Manner Restrictions set forth herein under the Distribution of Literature section.
6. The use would constitute harassment/discrimination as defined below.

*Harassment/
Discrimination*

The College District has a legal responsibility to address discrimination based on protected class, race, national origin, citizenship or ancestry, including but in no way limited to antisemitism (as defined below). The First Amendment does not protect harassing speech that creates a hostile environment within an educational program or activity, as this can constitute discrimination. A hostile environment is created if unwelcome conduct based on protected class, race, color, national origin, or ancestry is (based on the totality of the circumstances) subjectively and objectively offensive and is so severe or pervasive it limits or denies a student/employee the ability to participate in or benefit from an educational program or activity of the College District.

As used herein, "antisemitism" means the definition set forth in Tex. Gov't. Code § 448.001(2).

For-Profit Use

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	<p>The College District shall not permit individuals or for-profit organizations to use its facilities for financial gain; however, the College District shall permit private academic instruction, as well as public performances or presentations so long as no admission fee is charged, when these activities do not conflict with College District use or with this policy.</p>
<i>Nonprofit Use</i>	<p>The College District shall permit nonprofit organizations to conduct fundraising events on College District property when these activities do not conflict with College District use or with this policy.</p>
<i>Campaign-Related Use</i>	<p>Except to the extent a College District facility is used as an official polling place, College District facilities shall not be available for use by individuals or groups for political advertising, campaign communications, or electioneering, as those terms are used in state law.</p>
<i>No Approval Required</i>	<p>No approval shall be required for nonschool-related recreational use of the College District's unlocked, outdoor recreational facilities, such as the track, tennis courts, and the like, when the facilities are not in use by the College District or for another scheduled purpose.</p>
<i>Written Notice if Request Rejected</i>	<p>The Facilities Rentals Office shall provide the applicant a written statement of the grounds for rejection if a request is denied.</p>
<i>Emergency Use</i>	<p>In case of emergencies or disasters, the College President may authorize the use of College District facilities by civil defense, health, or emergency service authorities.</p>
<i>Repeated Use</i>	<p>The College District shall permit repeated use by any community member or organization in accordance with administrative procedures.</p>
<i>Exception</i>	<p>Any limitations on repeated use by a community member or organization shall not apply to any group or organization when the primary participants in the activities are College District students, faculty, or staff.</p>
<i>Scheduling</i>	<p>Academic and extracurricular activities sponsored by the College District shall always have priority when any use is scheduled. The Facilities Rentals Office shall have authority to cancel a scheduled use by a community member or organization if an unexpected conflict arises with a College District activity.</p>
<i>Use Agreement</i>	<p>Any community member or organization approved for a nonschool use of College District facilities shall be required to complete a written agreement indicating receipt and understanding of this policy and any applicable administrative regulations, and acknowledging that the College District is not liable for any personal injury or damages to personal property related to the nonschool use.</p>

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Fees for Use	<p>A community member or organization authorized to use College District facilities shall be charged a fee for the use of designated facilities.</p> <p>The Board shall establish and publish a schedule of fees based on the cost of the physical operation of the facilities, as well as any applicable personnel costs for supervision, custodial services, food services, security, and technology services.</p>
<i>Exception</i>	<p>Fees shall not be charged when College District buildings are used for public meetings sponsored by state or local governmental agencies.</p>
Required Conduct	<p>Community members and organizations using College District facilities shall:</p> <ol style="list-style-type: none">1. Conduct business in an orderly manner;2. Provide identification when requested to do so by a College District representative;3. Abide by all laws, policies, and procedures, including, but not limited to, those prohibiting the use, sale, or possession of alcoholic beverages, illegal drugs, and firearms, and the use of tobacco products or e-cigarettes on College District property, and those prohibiting harassment on campus; [See CHF and GDA]4. Make no alteration, temporary or permanent, to College District property without prior written consent from the College President; and5. Be responsible for the cost of repairing any damages incurred during use and shall be required to indemnify the College District for the cost of any such repairs.6. Abide by all requirements of this policy related to expressive conduct.
Distribution of Literature	<p>Written or printed materials, handbills, photographs, pictures, films, tapes, or other visual or auditory materials not sponsored by the College District shall not be sold, circulated, distributed, or posted on any College District premises by any community member or organization, including a College District support organization except in accordance with this policy.</p> <p>The College District shall not be responsible for, nor shall the College District endorse, the contents of any materials distributed by a community member or organization.</p>

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Limitations on
Content

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

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

Time, Place, and
Manner Restrictions

Distribution of materials shall be conducted in a manner that:

1. Is not disruptive [see FLB];
2. Does not impede reasonable access to College District facilities;
3. Does not result in damage to College District property;
4. Does not coerce, badger, or intimidate a person;
5. Does not interfere with the rights of others; and
6. Does not violate local, state, or federal laws or College District policies and procedures.
7. Does not constitute harassment/discrimination as defined herein.

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

The Campus Life Office shall designate times, locations, and means by which materials that are appropriate for distribution, as provided in this policy, may be made available or distributed by community members or organizations to others in College District facilities and in areas that are not considered common outdoor areas.

Posting of Signs

For the purposes of this policy, "sign" shall be defined as a billboard, decal, notice, placard, poster, banner, or any kind of hand-

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held sign; and “posting” shall be defined as any means used for displaying a sign.

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

Exception

A College District support organization may post a sign in College District facilities with prior approval of the Facilities Rentals Office in accordance with the procedures developed for that purpose.

Identification

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

Violations of Policy

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

Interference with
Expression

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

Appeals

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

Publication

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

Note: For additional legally referenced material relating to this subject matter, see GA(LEGAL). For information on employee expression on campus, see DGC. For information on student expression on campus, see FLA. For use of the college district's mail system, see CHE.

Prohibited Acts

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

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

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

First Amendment

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

Forum Analysis

*Traditional Public
Forum*

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

If an institution's property is deemed a traditional public forum, the entity may exclude particular content if that entity can assert a compelling governmental interest that is narrowly tailored to address that interest, a standard referred to as the "strict scrutiny" standard. The institution can also enforce viewpoint-neutral time, place, and manner restrictions to meet a compelling governmental

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interest if a sufficient number of alternative communication channels are available. Perry Educ. Ass'n v. Perry Local Educators' Ass'n, 460 U.S. 37 (1983)

*Designated
Public Forum*

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

*Limited Public
Forum*

A "limited public forum" is a forum that an institution opens to a particular group of speakers or for discussion regarding a particular topic. Christian Legal Society v. Martinez, 130 S.Ct. 2971 (2010); Rosenberger v. Rector & Visitors of Univ. of Va., 515 U.S. 819 (1995). Within a limited public forum, limits on expression must be viewpoint-neutral and reasonable in light of the purpose of the forum. The government may impose reasonable time, place, and manner restrictions, as long as these restrictions do not relate to the content of the expression. Cornelius v. NAACP Legal Def. and Educ. Fund, Inc., 473 U.S. 788 (1985)

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

Nonpublic Forum

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

*Time, Place, and
Manner Restrictions*

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

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**Protected
Expression on
Campus Under State
Law**

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

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

Education Code 51.9315(c)

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

**Time, Place, and
Manner Restrictions**

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

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

Education Code 51.9315(d)

Policy Required

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

1. Allow any person to, subject to reasonable restrictions adopted under Education Code 51.9315(d), engage in expressive activities on campus, including by responding to the expressive activities of others; and student organizations and faculty to, subject to Education Code 51.9315(h), invite speakers to speak on campus;
2. Establish disciplinary sanctions for students, student organizations, or faculty who unduly interfere with the expressive activities of others on campus;

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3. Include a grievance procedure for addressing complaints of a violation of this section;
4. Be approved by a majority vote of the institution's governing board before final adoption; and
5. Be posted on the institution's internet website.

Education Code 51.9315(f)

Discrimination
Prohibited

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

Approval of
Speaker or
Determination of
Fee

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

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

Education Code 51.9315(h)

Employee
Awareness

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

Publication

Each institution of higher education shall make the institution's policies adopted in accordance with this section available to students enrolled at and employees of the institution by including the policies in the institution's student handbook and personnel handbook,

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	providing a copy of each policy to students during the institution's freshman or transfer student orientation, and posting the policies on the institution's internet website. <i>Education Code 51.9315(i)</i>
Report	Not later than December 1, 2020, each institution of higher education shall prepare, post on the institution's internet website, and submit to the governor and the members of the legislature a report regarding the institution's implementation of the requirements under this section. <i>Education Code 51.9315(k)</i>
Fees for Use	The governing board of each junior college district shall be authorized to fix and collect rentals, rates, charges, and/or fees from students and others for the occupancy, use, or availability of all or any of its property, buildings, structures, activities, operations, or facilities, in such amounts and in such manner as may be determined by such board. <i>Education Code 130.123(c)</i>
Facilities as Polling Places	<p>The entity, including a college district, that owns or controls a public building shall make the building available for use as a polling place in any election that covers territory in which the building is located. If more than one authority requests the use of the building for the same day and simultaneous use is impractical, the entity that owns or controls the building shall determine which authority may use the building. <i>Election Code 43.031(c)</i></p> <p>No charge, including a charge for personnel, utilities, or other expenses incurred before or after regular business hours, may be made for the use of a public building for a polling place if the day of the election is a day on which the building is normally open for business. If the day of an election is a day on which the building is not normally open for business, a charge may be made only for reimbursement of the actual expenses resulting from use of the building in the election. <i>Election Code 43.033(a)</i></p>
Electioneering	"Electioneering" includes the posting, use, or distribution of political signs or literature. The term does not include the distribution of a notice of a party convention authorized under Election Code 172.1114. <i>Election Code 61.003(b)(1), 85.036(f)(2)</i>
<i>During the Regular Voting Period</i>	<p>A person commits an offense if, during the voting period and within 100 feet of an outside door through which a voter may enter the building in which a polling place is located, the person loiters or electioneers for or against any candidate, measure, or political party.</p> <p>The entity that owns or controls a public building being used as a polling place may not, at any time during the voting period, prohibit</p>

electioneering on the building's premises outside of the area described above, but may enact reasonable regulations concerning the time, place, and manner of electioneering.

Election Code 61.003(a)–(a-1)

*During Early
Voting*

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

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

Election Code 85.036(a)–(b), (d)

**Political Party
Conventions**

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

Religious Services

This state or a political subdivision of this state, including a college district, may not enact, adopt, or issue a statute, order, proclamation, decision, or rule that prohibits or limits religious services, including religious services conducted in churches, congregations, and places of worship, in this state by a religious organization established to support and serve the propagation of a sincerely held religious belief. *Tex. Const. Art. I, Sec. 6-a*

Places of Worship

A government agency, including a college district, or public official may not issue an order that closes or has the effect of closing places of worship in this state or in a geographic area of this state. "Place of worship" means a building or grounds where religious activities are conducted. *Civ. Prac. & Rem. Code 110.001(a), .0031*

**Search and Rescue
Dogs**

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

Public Facility	<p>The owner, manager, or operator of a public facility, or an employee or other agent of the owner, manager, or operator, may not deny a search and rescue dog admittance to the facility. The owner, manager, or operator of a public facility, or an employee or other agent of the owner, manager, or operator, may not deny a search and rescue dog's handler admittance to the facility because of the presence of the handler's search and rescue dog. The discrimination prohibited by this section includes:</p> <ol style="list-style-type: none">1. Refusing to allow a search and rescue dog or the dog's handler to use or be admitted to a public facility;2. A ruse or subterfuge calculated to prevent or discourage a search and rescue dog or the dog's handler from using or being admitted to a public facility; and3. Failing to make a reasonable accommodation in a policy, practice, or procedure to allow a search and rescue dog or the dog's handler to be admitted to a public facility. <p><i>Health and Safety Code 785.002(a)–(b), (d)</i></p>
Transportation	<p>The owner, manager, or operator of a common carrier, airplane, railroad train, motor bus, streetcar, boat, or other public conveyance or mode of transportation operating within this state, or an employee or other agent of the owner, manager, or operator, may not:</p> <ol style="list-style-type: none">1. Refuse to accept as a passenger a search and rescue dog or the dog's handler; or2. Require the dog's handler to pay an additional fare because of the search and rescue dog. <p><i>Health and Safety Code 785.002(c)</i></p>
Housing	<p>A search and rescue dog's handler is entitled to full and equal access, in the same manner as other members of the general public, to all housing accommodations offered for rent, lease, or compensation in this state, subject to any condition or limitation established by law that applies to all persons, except that the handler may not be required to pay an extra fee or charge or security deposit for the search and rescue dog. <i>Health and Safety Code 785.002(f)</i></p>
Handler	<p>"Handler" means a person who handles a search and rescue dog and who is certified by the National Association for Search and Rescue or another state or nationally recognized search and rescue agency. <i>Health and Safety Code 785.001(1)</i></p>
Credentials	<p>A person may ask a search and rescue dog handler to display proof that the handler is a person with a certification issued by the</p>

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	National Association for Search and Rescue or another state or nationally recognized search and rescue agency. <i>Health and Safety Code 785.005</i>
Responsibilities	A handler who accompanies a search and rescue dog shall keep the dog properly harnessed or leashed. A person may maintain a cause of action against a dog's handler for personal injury, property damage, or death resulting from the failure of the dog's handler to properly harness or leash the dog under the same law applicable to other causes brought for the redress of injuries caused by animals. The handler of a search and rescue dog is liable for any property damage caused by the search and rescue dog to a public facility or to housing accommodations. <i>Health and Safety Code 785.004(a)–(b)</i>
Policy	A policy relating to the use of a public facility by a designated class of persons from the general public may not prohibit the use of the particular public facility by a search and rescue dog or the dog's handler. <i>Health and Safety Code 785.002(e)</i>
Penalty	A person who violates Health and Safety Code 785.002 commits an offense. An offense under this subsection is a misdemeanor punishable by a fine of not less than \$300 or more than \$1,000. It is a defense to prosecution that the actor requested the search and rescue dog handler's credentials under Health and Safety Code 785.005 and the handler failed to provide the actor with the credentials. <i>Health and Safety Code 785.003</i>

KILGORE COLLEGE TASB POLICY CONVERSION

Summary of Policy for Proposed Adoption by the Kilgore College Board of Trustees

LEGAL policies summarize the law on a topic. LEGAL policies are compiled by TASB to provide the legal framework for key areas of college operations and are provided to the Board for foundational and background information only. These are not adopted by the Board.

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Procedures will be developed for implementation of policies, as appropriate, and do not require Board adoption. These will be provided for information only.

IN CONSIDERATION OF ADOPTION OF TASB LOCAL POLICY

Kilgore College Board Policy and Personnel Committee Meeting Date:

Original – January 30, 2023

LOCAL – May 29, 2024

Kilgore College Board of Trustees Meeting Date:

Original – February 27, 2023

LOCAL - June 10, 2024

Proposed LOCAL Policy for Adoption:

Section: A BASIC DISTRICT FOUNDATIONS

Policy: AB College District Name and Definitions

Summary of LOCAL Policy:

The local policy sets the precedent that whenever the term “The College District” is used in KC TASB policies, it is referring to Kilgore College. KC is in compliance as the official name is Kilgore College.

The documentation used to verify that Kilgore College is the official name of the College is as follows:

- SACSCOC records indicate the College was called Kilgore Junior College from 1935-1969 at which time the name was changed to Kilgore College.
- Records of reporting exist from the Texas Higher Education Coordinating Board (THECB) in 1986 listing Kilgore College as the official name of the college. Per Education code 130.0051 and 130.005 *the name of any junior college district name existing on September 1, 1997, shall remain the same until and unless it is changed under this chapter, and any change in the name of a junior college district made before that date is validated and is deemed to have been properly made.*

COLLEGE DISTRICT NAME AND DEFINITIONS

AB
(LEGAL)

The official name of a junior college district shall be the “_____ Junior College District” unless the board of trustees of the district elects to call the district a community college district, in which event the official name of the junior college district shall be the “_____ Community College District.” The board shall designate an appropriate and locally pertinent descriptive word or words to be filled in the appropriate blank (and may change such designation when deemed advisable) by resolution or order; provided that no two districts shall have the same or substantially similar names. A college district may change its name under Education Code 130.005 or 130.0051.

All resolutions or orders designating or changing names shall be filed immediately with the Coordinating Board and the first name filed shall have priority, and the district shall be advised of any previous filing of any identical or substantially similar name.

Education Code 130.082(c)

Change of Name

The governing board of any public community or junior college district may by a duly adopted resolution change the name of the district by substituting the word “community” for the word “junior” in the name, or by eliminating the word “community” or “junior” from the name, unless the change would cause the district to have the same name as an existing district. A copy of the resolution duly certified by the secretary of the governing board shall be filed with the Coordinating Board. The name change shall become effective upon the filing of the resolution with the Coordinating Board and thereafter all references to the district shall be by use of the new name. *Education Code 130.005(b), .0051; 19 TAC 9.30*

The corporate name of this college, as provided by law, is Kilgore College, herein referred to as "the College District."

Records of reporting exist from the Texas Higher Education Coordinating Board (THECB) in 1986, listing Kilgore College as the official name of the college. Per Education code 130.0051 and 130.005 the name of any junior college district name existing on Sept. 1, 1997, shall remain the same until and unless it is changed under this chapter, and any change in the name of the junior college district made before that date is validated and is deemed to have been properly made.

KILGORE COLLEGE TASB POLICY CONVERSION

Summary of Policy for Proposed Adoption by the Kilgore College Board of Trustees

LEGAL policies summarize the law on a topic. LEGAL policies are compiled by TASB to provide the legal framework for key areas of college operations and are provided to the Board for foundational and background information only. These are not adopted by the Board.

LOCAL policies outline local Board mandates regarding governance issues. LOCAL policies are developed based on existing TASB model policies and may be customized to meet local needs. LOCAL policies are proposed for adoption by the board.

Procedures will be developed for implementation of policies, as appropriate, and do not require Board adoption. These will be provided for information only.

IN CONSIDERATION OF ADOPTION OF TASB LOCAL POLICY

Kilgore College Board Policy and Personnel Committee Meeting Date:

Rev. 1: May 29, 2024

Original: June 1, 2021

Kilgore College Board of Trustees Meeting Date:

Rev. 1: June 10, 2024

Original: June 14, 2021

Proposed LOCAL Policy for Adoption:

Section: CG Safety Programs

Policy: CGC Emergency Plans and Alerts

Summary of LOCAL Policy:

Policy CGC lists the steps that each public junior college must adopt and implement with regard to the multi-hazard emergency operations plan for use in the College's facilities. The College's plan must address training, prevention, mitigation, response and recovery. This policy also addresses public disclosure and evacuation procedures.

Rev.1 (6/10/2024) Changes in response to HB3 which clarifies that a college's Emergency Operations Plan (EOP) must address any additional requirements established by TxSSC in consultation with TEA and relevant local law enforcement agencies. The bill also sets a deadline for a college to respond to a TxSSC request for the college's EOP and details provisions if the deadline is not met.

Executive Vice President of Internal Collaboration and Strategic Initiatives has reviewed this policy to determine that KC is in compliance.

SAFETY PROGRAM
EMERGENCY PLANS AND ALERTS

CGC
(LEGAL)

**Emergency
Operations Plan**

Each public junior college district shall adopt and implement a multihazard emergency operations plan for use in the district's facilities. The plan must address prevention, mitigation, preparedness, response, and recovery as defined by the Texas School Safety Center (TxSSC) in conjunction with the governor's office of homeland security, the commissioner of education, and the commissioner. The plan must provide for:

1. Training in responding to an emergency for district employees, including substitute teachers;
2. Measures to ensure district employees, including substitute teachers, have classroom access to a telephone, including a cellular telephone, or another electronic communication device allowing for immediate contact with district emergency services or emergency services agencies, law enforcement agencies, health departments, and fire departments;
3. Measures to ensure district communications technology and infrastructure are adequate to allow for communication during an emergency;
4. Measures to ensure coordination with the Department of State Health Services (DSHS) and local emergency management agencies, law enforcement, health departments, and fire departments in the event of an emergency;
5. The implementation of a required safety and security audit [see CG]; and
6. Any other requirements established by the TxSSC in consultation with the Texas Education Agency and relevant local law enforcement agencies.

Education Code 37.108(a)

Submission to
TxSSC

Regular Review

TxSSC shall establish a random or need-based cycle for TxSSC's review and verification of a public junior college district's multihazard emergency operations plan. The cycle must provide for each district's plan to be reviewed at regular intervals as determined by TxSSC. A public junior college district shall submit its multihazard emergency operations plan to TxSSC not later than the 30th day after the date TxSSC requests the submission and in accordance with TxSSC's review cycle.

TxSSC shall review each district's multihazard emergency operations plan submitted as described above and verify the plan meets the requirements of Education Code 37.108 or provide the district with written notice:

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1. Describing the plan's deficiencies;
2. Including specific recommendations to correct the deficiencies; and
3. Stating that the district must correct the deficiencies in its plan and resubmit the revised plan to TxSSC.

TxSSC may approve a district multihazard emergency operations plan that has deficiencies if the district submits a revised plan that TxSSC determines will correct the deficiencies.

Education Code 37.2071(a)–(c), (e)

Failure to
Submit the Plan

If a district fails to submit its multihazard emergency operations plan to TxSSC for review following a notification by TxSSC that the district has failed to submit the district's plan, TxSSC shall provide the district with written notice stating that the district must hold a public hearing under Education Code 37.1081. *Education Code 37.2071(d)*

Failure to
Respond to
Notice

If one month after the date of initial notification of a plan's deficiencies a district has not corrected the plan deficiencies, TxSSC shall provide written notice to the district and agency that the district has not complied with the requirements of Education Code 37.2071 and must comply immediately. *Education Code 37.2071(f)*

*Review Based on
Audit Results*

In addition to a review of a district's multihazard emergency operations plan, TxSSC may require a district to submit its plan for immediate review if the district's safety and security audit results indicate that the district is not complying with applicable standards. *Education Code 37.207(c)*

Public Disclosure

A document relating to a public junior college district's multihazard emergency operations plan 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 DSHS, 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 listed at Emergency Operations Plan;

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EMERGENCY PLANS AND ALERTS

CGC
(LEGAL)

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 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 [see CG]; and
7. Verify that the district has addressed any recommendations by the district's board of trustees for improvement of the plan and determine the district's progress within the last 12 months.

Education Code 37.108(c-2)

Any document or information collected, developed, or produced during the review and verification of multihazard emergency operations plans under Education Code 37.2071 is not subject to disclosure under Government Code Chapter 552 (Texas Public Information Act). *Education Code 37.2071(i)*

**Emergency
Response and
Evacuation
Procedures**

Campus policies regarding immediate emergency response and evacuation procedures, including the use of electronic and cellular communication, if appropriate, shall include procedures to:

1. Immediately notify the campus community upon the confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or staff occurring on the campus, as defined in 20 U.S.C. 1092(f)(6), unless issuing a notification will compromise efforts to contain the emergency;
2. Publicize emergency response and evacuation procedures on an annual basis in a manner designed to reach students and staff; and
3. Test emergency response and evacuation procedures on an annual basis

20 U.S.C. 1092(f)(1)(J)

**Emergency Alert
System**

Each institution of higher education, including each college district, shall establish an emergency alert system for the institution's students and staff, including faculty. The emergency alert system

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CGC
(LEGAL)

must use email or telephone notifications in addition to any other alert method the institution considers appropriate to provide timely notification of emergencies affecting the institution or its students and staff.

At the time a student initially enrolls or registers for courses or a staff member begins employment, the institution shall:

1. Obtain a personal telephone number or email address from the student or staff member to be used to notify the individual in the event of an emergency; and
2. Register the student or staff member in the institution's emergency alert system.

A student or staff member may elect not to participate in an emergency alert system. An election may be submitted electronically or in writing, as chosen by the institution, and must be renewed at the start of each academic year. The personal identifying information obtained from an individual for the purpose of the emergency alert system of an institution of higher education, including an email address or telephone number, is confidential and not subject to disclosure under Government Code 552.021.

Education Code 51.217(g), .218

Fire Escapes

The owner of a building shall equip the building with at least one fire escape and with additional fire escapes as required by Health and Safety Code Chapter 791, Subchapters C and D, if the building has at least:

1. Three stories and is used as a facility subject to Subchapter C, including a college, a dormitory, a theater or other public place of amusement, or any other facility used for public gatherings; or
2. Two stories and is used as a school.

A fire escape required by Chapter 791 must meet the specifications provided by Chapter 791 for an exterior stairway fire escape, an exterior chute fire escape, a combination of those exterior fire escapes, or an interior fire escape.

Chapter 791 does not apply to the construction of a structure in a municipality that has in effect a nationally recognized model building code governing the construction if the building code requires at least one one-hour fire-resistive means of escape with a total width equal to or greater than the total exit width required under Chapter 791 for a structure of three or more stories.

Health and Safety Code 791.002, .004(a), .021

[See GGE for response to requests from other governmental entities for mutual aid]

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EMERGENCY PLANS AND ALERTS

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(LOCAL)

**Emergency
Operations Plan**

In accordance with state requirements, the College District shall maintain a multihazard emergency operations plan that provides for appropriate employee training; adequate communications technology and infrastructure, including employee access to emergency communication devices; coordination with state and local entities; ~~and~~ implementation of a safety and security audit; and any other requirements established by the Texas School Safety Center (TxSSC).

**Emergency
Response and
Evacuation
Procedures**

In accordance with federal law, the College District shall maintain effective emergency response and evacuation procedures that can be implemented on short notice and that will ensure optimum safety for students and personnel.

**Emergency Alert
System**

In accordance with state requirements, the College District shall maintain an emergency alert system that provides for timely notification to students, faculty, and staff of emergencies affecting the College District or its students and employees.

KILGORE COLLEGE TASB POLICY CONVERSION

Summary of Policy for Proposed Adoption by the Kilgore College Board of Trustees

LEGAL policies summarize the law on a topic. LEGAL policies are compiled by TASB to provide the legal framework for key areas of college operations and are provided to the Board for foundational and background information only. These are not adopted by the Board.

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IN CONSIDERATION OF ADOPTION OF TASB LOCAL POLICY

Kilgore College Board Policy and Personnel Committee Meeting Date:

May 29, 2024

Kilgore College Board of Trustees Meeting Date:

June 10, 2024

Proposed LOCAL Policy for Adoption:

Section: D BASIC DISTRICT FOUNDATIONS

Policy: DBD Conflict of Interest

Summary of LOCAL Policy:

This policy was adopted by the KC Board of Trustees on August 14, 2023. This accompanying exhibit is the only TASB exhibit that requires BOT adoption.

Procedures:

No new procedures

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(LEGAL)

**Restrictions Upon
“Public Servants”—
Penal Code**

“Public servant” means a person elected, selected, appointed, employed, or otherwise designated as one of the following, even if he has not yet qualified for office or assumed his duties: an officer, employee, or agent of government; an arbitrator, referee, or other person who is authorized by law or private written agreement to hear or determine a cause or controversy; an attorney at law or notary public when participating in the performance of a governmental function; or a person who is performing a governmental function under a claim of right although he is not legally qualified to do so. [See also BBFA and DH] *Penal Code 1.07(a)(41)*

Bribery

A person commits an offense if he intentionally or knowingly offers, confers, or agrees to confer on another, or solicits, accepts, or agrees to accept from another:

1. Any benefit as consideration for the recipient’s decision, opinion, recommendation, vote, or other exercise of discretion as a public servant.
2. Any benefit as consideration for the recipient’s decision, vote, recommendation, or other exercise of official discretion in a judicial or administrative proceeding.
3. Any benefit as consideration for a violation of a duty imposed by law on a public servant.
4. Any benefit that is a political contribution as defined by Election Code Title 15 or that is an expenditure made and reported in accordance with Government Code Chapter 305 (lobbying expense), if the benefit was offered, conferred, solicited, accepted, or agreed to pursuant to an express agreement to take or withhold a specific exercise of official discretion if such exercise of official discretion would not have been taken or withheld but for the benefit.

“Benefit” means anything reasonably regarded as pecuniary gain or pecuniary advantage, including benefit to any other person in whose welfare the beneficiary has a direct and substantial interest.

Penal Code 36.01(3), .02

Illegal Gifts

A public servant who exercises discretion in connection with contracts, purchases, payments, claims, or other pecuniary transactions of government commits an offense if he solicits, accepts, or agrees to accept any benefit from a person the public servant knows is interested in or likely to become interested in any contract, purchase, payment, claim, or transaction involving the exercise of his discretion.

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A public servant who receives an unsolicited benefit that the public servant is prohibited from accepting under Penal Code 36.08 may donate the benefit to a governmental entity that has the authority to accept the gift or may donate the benefit to a recognized tax-exempt charitable organization formed for educational, religious, or scientific purposes.

Penal Code 36.08(d), (i)

Exceptions

Penal Code 36.08 does not apply to:

1. A fee prescribed by law to be received by a public servant or any other benefit to which the public servant is lawfully entitled or for which he gives legitimate consideration in a capacity other than as a public servant;
2. A gift or other benefit conferred on account of kinship or a personal, professional, or business relationship independent of the official status of the recipient;
3. A benefit to a public servant required to file a statement under Government Code Chapter 572, or a report under Election Code Title 15, that is derived from a function in honor or appreciation of the recipient if:
 - a. The benefit and the source of any benefit in excess of \$50 is reported in the statement; and
 - b. The benefit is used solely to defray the expenses that accrue in the performance of duties or activities in connection with the office which are nonreimbursable by the state or political subdivision;
4. A political contribution as defined by Election Code Title 15;
5. An item with a value of less than \$50, excluding cash or a negotiable instrument as described by Business and Commerce Code 3.104;
6. An item issued by a governmental entity that allows the use of property or facilities owned, leased, or operated by the governmental entity;
7. Transportation, lodging, and meals described by Penal Code 36.07(b) [see HONORARIA AND EXPENSES, below];
8. Food, lodging, transportation, or entertainment accepted as a guest and, if the donee is required by law to report those items, reported by the donee in accordance with that law; or
9. Complimentary legal advice or legal services relating to a will, power of attorney, advance directive, or other estate planning

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document rendered to a public servant who is a first responder and through a program or clinic that is operated by a local bar association or the State Bar of Texas and approved by the head of the agency employing the public servant, if the public servant is employed by an agency. "First responder" includes a peace officer whose duties include responding rapidly to an emergency and other individuals listed at Penal Code 36.10(e).

Penal Code 36.10(a)–(b), (e)

Honoraria and
Expenses

A public servant commits an offense if the public servant solicits, accepts, or agrees to accept an honorarium in consideration for services that the public servant would not have been requested to provide but for the public servant's official position or duties. Penal Code 36.07 does not prohibit a public servant from accepting transportation and lodging expenses in connection with a conference or similar event in which the public servant renders services, such as addressing an audience or engaging in a seminar, to the extent those services are more than merely perfunctory, or from accepting meals in connection with such an event. *Penal Code 36.07(a)–(b)*

Abuse of Public
Employment

A public servant commits an offense if, with intent to obtain a benefit or with intent to harm or defraud another, he intentionally or knowingly violates a law relating to the public servant's office or employment; or misuses government property, services, personnel, or any other thing of value belonging to the government that has come into the public servant's custody or possession by virtue of the public servant's office or employment. *Penal Code 39.02(a)*

"Law relating to a public servant's office or employment" means a law that specifically applies to a person acting in the capacity of a public servant and that directly or indirectly imposes a duty on the public servant or governs the conduct of the public servant. *Penal Code 39.01(1)*

"Misuse" means to deal with property contrary to:

1. An agreement under which the public servant holds the property;
2. A contract of employment or oath of office of a public servant;
3. A law, including provisions of the General Appropriations Act specifically relating to government property, that prescribes the manner of custody or disposition of the property; or

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4. A limited purpose for which the property is delivered or received.

Penal Code 39.01(2)

**Conflict Disclosure
Statement**

"Agent" means a third party who undertakes to transact some business or manage some affair for another person by the authority or on account of the other person. The term includes an employee.

Local Gov't Code 176.001(1)

"Local government officer" means an agent of a local governmental entity who exercises discretion in the planning, recommending, selecting, or contracting of a vendor. *Local Gov't Code 176.001(4)*

"Contract" means a written agreement for the sale or purchase of real property, goods, or services. *Local Gov't Code 176.001(1-d)*

Local Government Code Chapter 176 [see BBFA] applies to a person who is a local government officer of a local governmental entity. A person is not subject to the disclosure requirements in Chapter 176 if the person is an employee or agent of a political subdivision of a state acting in the employee's or agent's official capacity.

A local governmental entity may reprimand, suspend, or terminate the employment of an employee who knowingly fails to comply with a requirement adopted under Chapter 176.

A local governmental officer commits an offense under Chapter 176 if the officer is required to file a conflicts disclosure statement under Local Government Code 176.003 and knowingly fails to file the required conflicts disclosure statement with the appropriate records administrator not later than 5:00 p.m. on the seventh business day after the date on which the officer becomes aware of the facts that require the filing of the statement.

It is an exception to the application of Local Government Code 176.013(a) that the local government officer filed the required conflicts disclosure statement not later than the seventh business day after the person received notice from the local governmental entity of the violation.

Local Gov't Code 176.003(a)-(a-1), .013(a), (d), (f)

Holding Civil Office

No person shall hold or exercise at the same time, more than one civil office of emolument, except for offices listed in Texas Constitution Article XVI, Section 40(a), unless otherwise specifically provided. *Tex. Const. Art. XVI, Sec. 40(a); State v. Pirtle, 887 S.W.2d 921 (Tex. Ct. Crim. App. 1994); Atty. Gen. Op. DM-212 (1993)*

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
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State employees or individuals who receive all or part of their compensation either directly or indirectly from funds of the State of Texas and who are not state officers, shall not be barred from serving as members of the governing bodies of school districts, cities, towns, or other local governmental districts, including college districts (other than those in which they are employed). Such state employees or other individuals may not receive a salary for serving as members of such governing bodies, except that a faculty member or retired faculty member of a public institution of higher education may receive compensation for serving as a member of a governing body of a water district created under Texas Constitution Article XVI, Section 59 Texas Constitution Article III, Section 52. *Tex. Const. Art. XVI, Sec. 40(b); Atty. Gen. Op. JM-118 (1983), JM-203 (1984)*

Intellectual Property

It is not a violation of Government Code Chapter 572 or any other statute, rule, regulation, or the common law of the State of Texas for:

1. An employee of an institution of higher education, including a college district, who conceives, creates, discovers, invents, or develops intellectual property, to own or be awarded any amount of equity interest or participation in, or, if approved by the institutional governing board, to serve as a member of the board of directors or other governing board or as an officer or an employee of, a business entity that has an agreement with the state or a political subdivision of the state relating to the research, development, licensing, or exploitation of that intellectual property; or
2. An individual, at the request and on behalf of a university system or an institution of higher education, to serve as a member of the board of directors or other governing board of a business entity that has an agreement with the state or a political subdivision of the state relating to the research, development, licensing, or exploitation of intellectual property in which the university system or institution of higher education has an ownership interest.

The employee or individual must report to the appropriate person or persons at the institution at which the person is employed or on behalf of which the person is serving the name of such business entity in which the person has an interest or for which the person serves as a director, officer, or employee. The governing board of each institution shall include in the appropriate annual report required by Education Code 51.005 the information provided to it under this section during the preceding fiscal year.

Education Code 51.912 [See CT]

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
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Educational Lending

In the case of an institution, including a college district, that participates in a loan program under U.S.C. Title 20, the institution will:

1. Develop a code with respect to such loans with which the institution's officers, employees, and agents shall comply, that:
 - a. Prohibits a conflict of interest with the responsibilities of an officer, employee, or agent of the institution with respect to such loans; and
 - b. At a minimum, includes the provisions described in 20 U.S.C. 1094(e);
2. Publish the code of conduct prominently on the institution's website; and
3. Administer and enforce such code by, at a minimum, requiring that all of the institution's officers, employees, and agents with responsibilities with respect to such loans be annually informed of the provisions of the code of conduct.

20 U.S.C. 1094(a)(25)

An institution of higher education's code of conduct shall include the following requirements:

1. Ban on revenue-sharing arrangements: The institution shall not enter into any revenue-sharing arrangement, as defined by 20 U.S.C. 1094(e)(1)(B), with any lender.
2. Gift ban: No officer or employee of the institution who is employed in the financial aid office of the institution or who otherwise has responsibilities with respect to education loans, or agent who has responsibilities with respect to education loans, shall solicit or accept any gift, as defined by 20 U.S.C. 1094(e)(2)(B), from a lender, guarantor, or servicer of education loans.
3. Contracting arrangements prohibited: Except as provided by 20 U.S.C. 1094(e)(3)(B), an officer or employee who is employed in the financial aid office of the institution or who otherwise has responsibilities with respect to education loans, or an agent who has responsibilities with respect to education loans, shall not accept from any lender or affiliate of any lender any fee, payment, or other financial benefit (including the opportunity to purchase stock) as compensation for any type of consulting arrangement or other contract to provide services to a lender or on behalf of a lender relating to education loans.

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
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4. Interaction with borrowers: The institution shall not for any first-time borrower, assign, through award packaging or other methods, the borrower's loan to a particular lender; or refuse to certify, or delay certification of, any loan based on the borrower's selection of a particular lender or guaranty agency.
5. Prohibition on offers of funds for private loans: The institution shall not request or accept from any lender any offer of funds to be used for private education loans, as defined in 15 U.S.C. 1650, including funds for an opportunity pool loan, as defined by 20 U.S.C. 1094(e)(5)(B), to students in exchange for the institution providing concessions or promises regarding providing the lender with specified number of loans made, insured, or guaranteed under 20 U.S.C. Chapter 28, Subchapter IV and 42 U.S.C. Chapter 34, Subchapter I, Part C; a specified loan volume of such loans; or a preferred lender arrangement for such loans.
6. Ban on staffing assistance: Except as provided by 20 U.S.C. 1094(e)(6)(B), the institution shall not request or accept from any lender any assistance with call center staffing or financial aid office staffing.
7. Advisory board compensation: Any employee who is employed in the financial aid office of the institution, or who otherwise has responsibilities with respect to education loans or other student financial aid of the institution, and who serves on an advisory board, commission, or group established by a lender, guarantor, or group of lenders or guarantors, shall be prohibited from receiving anything of value from the lender, guarantor, or group of lenders or guarantors, except that the employee may be reimbursed for reasonable expenses incurred in serving on such advisory board, commission, or group.

20 U.S.C. 1094(e)

Note: For conflicts of interest and gifts and gratuities related to federal grants and awards, see CAA and CAAB.

**Disclosure General
Standard**

An employee shall disclose to his or her immediate supervisor a personal financial interest, a business interest, or any other obligation or relationship that in any way creates a potential conflict of interest with the proper discharge of assigned duties and responsibilities or with the best interest of the College District.

Specific Disclosures

Substantial Interest

The College President shall file an affidavit with the Board President disclosing a substantial interest, as defined by Local Government Code 171.002, in any business or real property that the College President or any of his or her relatives in the first degree may have.

Any other employee who is in a position to affect a financial decision involving any business entity or real property in which the employee has a substantial interest as defined by Local Government Code 171.002 shall file an affidavit with the College President; however, the employee shall not be required to file an affidavit for the substantial interest of a relative.

Interest in Property

The College President shall be required to file an affidavit disclosing interest in property in accordance with Government Code 553.002.

[See BBFA]

Gifts

An employee shall not accept or solicit any gift, favor, service, or other benefit that could reasonably be construed to influence the employee's discharge of assigned duties and responsibilities. [See CAA, CAAB, and CDE]

Endorsements

An employee shall not recommend, endorse, or require students to purchase any product, material, or service in which the employee has a financial interest or that is sold by a company that employs or retains the employee during nonschool hours, unless the product, material, or service is recommended, endorsed, or required for a course the employee teaches and is reasonably related to the subject matter of the course and the course syllabus.

No employee shall require students to purchase a specific brand of supplies if other brands are equal and suitable for the intended instructional purpose.

Sales

An employee shall not use his or her position with the College District to attempt to sell products or services, unless the products or services are recommended, endorsed, or required for a course the

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
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DBD
(LOCAL)

employee teaches and are reasonably related to the subject matter
of the course and the course syllabus.

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[Exhibit A—Affidavit Disclosing Substantial Interest in a Business Entity or in Real Property](#)

[Exhibit B—Affidavit Disclosing Interest in Property](#)

Note: See the following pages for forms to be used by employees for disclosing potential conflicts of interest as defined in Local Government Code 171.002 and Government Code Chapter 553, Subchapter A.

ADDITIONAL DISCLOSURE: The conflicts disclosure statement required of the [G head of district/college/ESC, initial upper case] and, as applicable, a College District employee, as required by Local Government Code 176.003, is available on the [Texas Ethics Commission website](#).¹

¹ Texas Ethics Commission: <http://www.ethics.state.tx.us>

**Exhibit A—Affidavit Disclosing Substantial Interest in a
Business Entity or in Real Property**

STATE OF TEXAS

COUNTY OF _____

I, _____ (*name*), as an employee of the _____ College District, make this affidavit and hereby on oath state the following: I have a substantial interest in:

- ☐ a business entity, as those terms are defined in Local Government Code Sections 171.001–171.002, that would experience a special economic effect distinguishable from its effect on the public by an action of the Board or the College District. [See BBFA]
- or
- ☐ real property for which it is reasonably foreseeable that an action of the Board or College District will have a special economic effect on the value of the property distinguishable from its effect on the public.

The business entity or real property is (*name/address of business or description of property*):

_____.

I, _____, have a substantial interest in this business entity or real property as follows: (*check all that apply*)

- ☐ Ownership of ten percent or more of the voting stock or shares of the business entity.
- ☐ Ownership of ten percent or more of the fair market value of the business entity.
- ☐ Ownership of \$15,000 or more of the fair market value of the business entity.
- ☐ Funds received from the business entity exceed ten percent of my gross income for the previous year.
- ☐ Real property is involved and I have an equitable or legal ownership with a fair market value of at least \$2,500.

The statements contained herein are based on my personal knowledge and are true and correct.

Signed this _____ day of _____ (*month*), _____ (*year*).

Signature of employee

Title

Acknowledgment

STATE OF TEXAS

COUNTY OF _____

Sworn to and subscribed before me on this _____ day of _____ (*month*), _____ (*year*).

Notary Public in and for the state of Texas

Note: This affidavit should be filed with the [G head of district/college/ESC, initial upper case], Board President, or a designee before the Board takes action concerning the business entity or real property.

Exhibit B—Affidavit Disclosing Interest in Property

STATE OF TEXAS

COUNTY OF _____

I, _____ (*name*), as [G head of district/college/ESC, initial upper case] of the _____ College District, make this affidavit and hereby on oath state the following:

I have a legal or equitable interest in property to be acquired with public funds, either by purchase or condemnation.

The property is described as follows:

_____.

The nature, type, and amount of interest, including but not limited to, percentage of ownership, I have in the property is:

_____.

The interest was acquired on _____ (*date*).

I swear that the information in this affidavit is personally known by me to be correct and contains the information required by Section 553.002, Government Code.

Signed this _____ day of _____ (*month*), _____ (*year*).

Acknowledgment

STATE OF TEXAS
COUNTY OF _____

BEFORE ME, _____ (*here insert the name and character of the officer administering the oath*) on this day personally appeared
_____ (*affiant*) known to me (or proved to me on the oath of
_____ or through _____) (*description of identity card or other document*) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this _____ day of _____
(*month*), _____ (*year*).

Notary Public in and for the state of Texas

Note: This affidavit should be filed with the county clerk(s) within ten days before the date on which the property is to be acquired, as provided by Government Code 553.002.

Administrative Rule

Subject: Disclosure of Conflict of Interest

TASB Policy: BDB

Effective Date: August 14, 2023



I. Purpose and Scope

Employees must disclose any Conflicts of Interest as defined in TASB Policy DBD.

II. Definitions

Conflict of Interest: Any financial interest, business interest, or any other obligation or relationship that in any way creates a potential conflict of interest with the proper discharge of assigned duties and responsibilities or with the best interest of the College District.

III. Procedures

See the following pages for forms to be used by employees for disclosing potential conflicts of interest.

EXHIBIT A - AFFIDAVIT DISCLOSING SUBSTANTIAL INTEREST IN A BUSINESS ENTITY OR IN REAL PROPERTY

EXHIBIT B - AFFIDAVIT DISCLOSING INTEREST IN PROPERTY

ADDITIONAL DISCLOSURE: The conflicts disclosure statement required of the College President and, as applicable, a College District employee, as required by Local Government Code 176.003, is available on the Texas Ethics Commission website at <http://www.ethics.state.tx.us>.

EXHIBIT A

AFFIDAVIT DISCLOSING SUBSTANTIAL INTEREST IN A BUSINESS ENTITY OR IN REAL PROPERTY

STATE OF TEXAS

COUNTY OF _____

I, _____ (name), as an employee of the _____ College District, make this affidavit and hereby on oath state the following: I have a substantial interest in:

a business entity, as those terms are defined in Local Government Code Sections 171.001–171.002, that would experience a special economic effect distinguishable from its effect on the public by an action of the Board or the College District. [See BBFA]

or

real property for which it is reasonably foreseeable that an action of the Board or College District will have a special economic effect on the value of the property distinguishable from its effect on the public.

The business entity or real property is (name/address of business or description of property):

_____.

I, _____, have a substantial interest in this business entity or real property as follows: (check all that apply)

Ownership of ten percent or more of the voting stock or shares of the business entity.

Ownership of ten percent or more of the fair market value of the business entity.

Ownership of \$15,000 or more of the fair market value of the business entity.

Funds received from the business entity exceed ten percent of my gross income for the previous year.

Real property is involved and I have an equitable or legal ownership with a fair market value of at least \$2,500.

The statements contained herein are based on my personal knowledge and are true and correct.

Signed this _____ day of _____ (month), _____ (year).

_____. Signature of employee

_____. Title

ACKNOWLEDGMENT

STATE OF TEXAS

COUNTY OF _____

Sworn to and subscribed before me on this _____ day of _____ (month), _____ (year).

_____. Notary Public in and for the state of Texas

Note: This affidavit should be filed with the College President, Board President, or a designee before the Board takes action concerning the business entity or real property.

EXHIBIT B

AFFIDAVIT DISCLOSING INTEREST IN PROPERTY

STATE OF TEXAS

COUNTY OF _____

I, _____ (name), as College President of
the _____ College District, make this affidavit and hereby on oath state the following:

I have a legal or equitable interest in property to be acquired with public funds, either by purchase or
condemnation.

The property is described as follows:

_____.

The nature, type, and amount of interest, including but not limited to, percentage of ownership, I
have in the property is:

_____.

The interest was acquired on _____ (date).

I swear that the information in this affidavit is personally known by me to be correct and contains the
information required by Section 553.002, Government Code.

_____ Signature of employee

_____ Title

Signed this _____ day of _____ (month), _____ (year).

ACKNOWLEDGMENT

STATE OF TEXAS

COUNTY OF _____

BEFORE ME, _____ (here insert the name and character of the officer
administering the oath) on this day personally appeared
_____ (affiant) known to me (or proved to me on the oath of
_____ or through _____) (description of identity card or other
document) to be the person whose name is subscribed to the foregoing instrument and
acknowledged to me that he executed the same for the purposes and consideration therein
expressed.

Given under my hand and seal of office this _____ day of _____ (month),
_____ (year).

_____ Notary Public in and for the state of Texas

Note: This affidavit should be filed with the county clerk(s) within ten days before the date on which
the property is to be acquired, as provided by Government Code 553.002.

KILGORE COLLEGE TASB POLICY CONVERSION

Summary of Policy for Proposed Adoption by the Kilgore College Board of Trustees

LEGAL policies summarize the law on a topic. LEGAL policies are compiled by TASB to provide the legal framework for key areas of college operations and are provided to the Board for foundational and background information only. These are not adopted by the Board.

LOCAL policies outline local Board mandates regarding governance issues. LOCAL policies are developed based on existing TASB model policies and may be customized to meet local needs. LOCAL policies are proposed for adoption by the board.

Procedures will be developed for implementation of policies, as appropriate, and do not require Board adoption. These will be provided for information only.

IN CONSIDERATION OF ADOPTION OF TASB LOCAL POLICY

Kilgore College Board Policy and Personnel Committee Meeting Date:

Original - August 3, 2023

LOCAL – May 29, 2024

Kilgore College Board of Trustees Meeting Date:

Original - August 14, 2023

LOCAL – June 10, 2024

Proposed LOCAL Policy for Adoption:

Section: F STUDENTS

Policy: FFAC Wellness and Health Services: Communicable Diseases

Summary of LOCAL Policy:

June 10, 2024 – only the LOCAL policy is being reviewed for adoption.

The policy outlines that KC must not discriminate against an individual with a communicable disease. Furthermore, KC must also protect the privacy of persons within the college community who have a communicable disease. Finally, the policy requires KC to provide and publish an education program about HIV infection.

Procedures:

- KC has an HIV education program and publishes its policy on HIV infection in the Student Handbook.
- The KC website has a link to an HIV educational video from Stanford University Medical School.
- The Kilgore College Catalog and Student Handbook contains extensive information on KC's approach to HIV infection.

WELLNESS AND HEALTH SERVICES
COMMUNICABLE DISEASES

FFAC
(LEGAL)

AIDS/HIV

Policy

Each institution of higher education, including each college district, shall make available the institution's policy on HIV infection and AIDS to students by including the policy in the student handbook if practicable or by any other method. *Education Code 51.919(b)*

Educational
Pamphlet

Each institution of higher education shall make available to students, on request, the educational pamphlet on HIV infection developed by the Texas Department of State Health Services (DSHS) and shall include in the student handbook a statement that the pamphlet is available. *Education Code 51.919(c)*

Health Centers

The student health center of each institution of higher education shall provide clear, accurate information on how to prevent the transmission of HIV infection, including:

1. The value of abstinence and long-term mutual monogamy.
2. Information on the efficacy and use of condoms.
3. Offering of or referring students, faculty, or staff to anonymous HIV counseling and testing services.
4. State laws relating to the transmission of and to conduct that may result in transmission of HIV.

Education Code 51.919(d)

Bacterial Meningitis

The Coordinating Board shall prescribe procedures by which each institution of higher education, including each college district, shall provide information relating to bacterial meningitis to new students of the institution. The procedures must provide for the information to be provided in a brochure or other manner so that the information is reasonably likely to come to the attention of each student. The Coordinating Board shall prescribe the form and content of the information. The information must cover:

1. The symptoms of the disease, how it may be diagnosed, and its possible consequences if untreated;
2. How the disease is transmitted, how it may be prevented, and the relative risk of contracting the disease for students of institutions of higher education;
3. The availability and effectiveness of vaccination against and treatment for the disease, including how students of the institution may seek vaccination or treatment and whether a vaccination is available from the student health center, and a brief description of the risks and possible side effects of vaccination; and

WELLNESS AND HEALTH SERVICES
COMMUNICABLE DISEASES

FFAC
(LEGAL)

4. Sources of additional information regarding the disease and must include the telephone numbers of the student health center, if there is a student health center, and the appropriate office of the DSHS.

An institution of higher education, with the written consent of the Coordinating Board, may provide the information required by this section to new students of the institution by a method different from the method prescribed by the Coordinating Board if the Coordinating Board determines that method would be effective in bringing the information to the attention of all new students of the institution.

Each institution of higher education shall make reasonable efforts to obtain from each new student of the institution a confirmation signed or acknowledged by the student that the student has received the information required to be provided to the student and shall retain the confirmation for not less than two years after the student first enrolls at the institution.

“New student” means a first-time student of an institution of higher education and includes a student who transfers to the institution from another institution.

Education Code 51.9191(a)(2), (b), (d)–(e)

Reports

The persons described in Health and Safety Code 81.042 shall report to the local health authority or the DSHS a suspected case of a reportable disease, as defined by state law and the Health and Human Services Commission (HHSC) executive commissioner, and all information known concerning the person who has or is suspected of having the disease if a report is not made as required by Health and Safety Code 81.042(a)–(d):

1. A professional registered nurse;
2. An administrator or director of a public or private temporary or permanent child-care facility;
3. An administrator or health official of a public or private institution of higher education;
4. A health professional; or
5. A peace officer.

Health and Safety Code 81.041-.042; 25 TAC 97.2(d)

In addition to the reporting requirements for communicable diseases found in 25 Administrative Code 97.1, individuals listed at 25 Administrative Code 97.132, including the following, shall report cases and suspected cases of sexually transmitted diseases

(STDs), which includes HIV-exposed infants, in the manner described in 25 Administrative Code 97.133:

1. A health professional, and any other person mandated to report under Health and Safety Code 81.042; and
2. Any person in charge of a clinical laboratory, hospital laboratory, blood bank, mobile unit, or other facility (such as a contract research organization laboratory) in which a laboratory examination of a blood specimen, or any specimen derived from a human body, yields microscopic, cultural, serological, or any other evidence of a suspected STD.

The Health Insurance Portability and Accountability Act (HIPAA) allows covered entities to disclose otherwise protected health information, without either obtaining the written authorization of the individual whose information is at issue or giving that individual the opportunity to agree or object, for purposes of public health communicable disease reporting requirements [see 45 C.F.R. 164.512(a)–(b)].

25 TAC 97.132

If there is no local health authority appointed for the jurisdiction where the school is located, the report shall be made to the DSHS regional director. Public health emergencies shall be reported to DSHS's central office if the local health authority or DSHS's regional director is not immediately accessible. *25 TAC 97.5(a)*

Note: For a list of reportable diseases, visit DSHS [Infectious Disease Control Unit Notifiable Conditions](http://www.dshs.state.tx.us/idcu/investigation/conditions/)¹ website.

¹ Infectious Disease Control Unit Notifiable Conditions:
<http://www.dshs.state.tx.us/idcu/investigation/conditions/>

Communicable diseases include, but are not limited to, measles, influenza, viral hepatitis-A (infectious hepatitis), viral hepatitis-B (serum hepatitis), human immunodeficiency virus (HIV), AIDS, AIDS-Related Complex (ARC), leprosy, and tuberculosis.

For the purposes of this policy, the term "HIV infection" shall include AIDS, ARC, and a positive test for the antibody to HIV.

Basis for Action

The College District's decisions involving persons who have communicable diseases shall be based on current and well-informed medical judgments concerning the diseases, the risks of transmitting the illnesses to others, the symptoms and special circumstances of each individual who has a communicable disease, and a careful weighing of the identified risks and the available alternatives for responding to a student with a communicable disease.

Nondiscrimination

The College District shall not discriminate in enrollment against any student solely on the ground that the student has a communicable disease. A member of the student body of the College District shall not be denied access to a College District facility, program, function, or campus activity solely on the grounds that the student has a communicable disease. The College District reserves the right to exclude a person with a communicable disease from College District facilities, programs, functions, and campus activities if the College District makes a medically based determination that the restriction is necessary for the welfare of the person who has the communicable disease and/or the welfare of the other members of the College District community.

Privacy

The College District shall comply with all pertinent statutes and regulations that protect the privacy of persons in the College District community who have a communicable disease. The College District shall ensure that procedural safeguards sufficient to maintain the strictest confidence about persons who have HIV infection are in effect throughout the College District.

**Education Program
About HIV Infection**

The College District shall develop and maintain a comprehensive education program about HIV infection for members of the College District community. The program shall address current medical opinions about the nature of HIV infection and its symptoms, methods of transmission, types of behavior that increase the risk of transmission of the disease, and preventive measures for avoiding infection.

Publication

The College District's policy on HIV infection shall be made available to students by including it in the student handbook or other appropriate publications.

KILGORE COLLEGE TASB POLICY CONVERSION

Summary of Policy for Proposed Adoption by the Kilgore College Board of Trustees

LEGAL policies summarize the law on a topic. LEGAL policies are compiled by TASB to provide the legal framework for key areas of college operations and are provided to the Board for foundational and background information only. These are not adopted by the Board.

LOCAL policies outline local Board mandates regarding governance issues. LOCAL policies are developed based on existing TASB model policies and may be customized to meet local needs. LOCAL policies are proposed for adoption by the board.

Procedures will be developed for implementation of policies, as appropriate, and do not require Board adoption. These will be provided for information only.

IN CONSIDERATION OF ADOPTION OF TASB LOCAL POLICY

Kilgore College Board Policy and Personnel Committee Meeting Date:

Original - March 27, 2023

LOCAL – May 29, 2024

Kilgore College Board of Trustees Meeting Date:

Original - April 10, 2023

LOCAL – June 10, 2024

Proposed LOCAL Policy for Adoption:

Section: G COMMUNITY AND GOVERNMENTAL RELATIONS

Policy: GE Advertising and Fundraising

Summary of LOCAL Policy:

The policy outlines the responsibility of the College to restrict promotional activities conducted on College property to College-related purposes or for revenue generation.

Procedures:

- Non-College-related promotional activities must have prior approval of the College President.
- The College may sell advertising as a means to generate revenue, but retains final editorial authority to accept or reject submitted advertisements.
- The College may acknowledge donors through promotional activities, but retains full editorial control over the acknowledgement, display, or promotion.

Commercial Signs	<p>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 391.003, .0031, .061, .067, 392.032, 393.005, 394.021; 43 TAC Chapter 21</i></p>
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 391.001(11-a), 392.001, 393.001, 394.001, 395.002; 19 TAC 21.142(28)</i></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 391.001(1-a); 43 TAC 21.142(1)</i></p> <p>“Electronic sign” means a commercial sign that changes its message or copy by programmable electronic or mechanical processes. <i>43 TAC 21.142(5)</i></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. <i>43 TAC 21.941</i></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 391.001</i></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	<p>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.</p>
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; and4. 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	<p>A college district that wishes to erect an electronic sign shall comply with 43 Administrative Code Chapter 21, Subchapter I.</p>
Directional Sign	<p>A college district that wishes to erect a directional sign shall comply with 43 Administrative Code Chapter 21, Subchapter Q.</p>

Charitable Raffles

“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*

**Promotional
Activities**

College District facilities shall not be used to advertise, promote, sell tickets, or collect funds for any non-College District-related purpose without prior approval of the College President.

[For information relating to community use of College District facilities, see GD.]

Advertising

For purposes of this policy, “advertising” shall mean a communication designed to attract attention or patronage by the public or college community and communicated through means under the control of the College District in exchange for consideration to the College District. “Advertising” does not include public recognition of donors or sponsors who have made contributions, financial or otherwise, to the College District or College District support organizations.

Advertising shall be accepted solely for the purpose of generating revenue for the College District and not for the purpose of establishing a forum for communication. The College District shall retain final editorial authority to accept or reject submitted advertisements in a manner consistent with the First Amendment. The College District shall retain the authority to determine the size and location of any advertising. The College District shall also reserve the right to reject advertising that is inconsistent with federal or state law, Board policy, College District or campus regulations, or curriculum, as well as any content the College District determines has a reasonable likelihood of exposing the College District to controversy, litigation, or disruption.

Acceptance of advertising shall not constitute College District approval or endorsement of any product, service, organization, or issue referenced in the advertising, nor shall acceptance of advertising from a vendor determine whether the College District will purchase goods or services from the vendor through the College District’s formal procurement process.

[For information relating to College District-sponsored publications, see FKA.]

**Sponsorships and
Donations**

If the College District or any campus accepts financial or in-kind donations to support College District-sponsored activities, the College District reserves the right to acknowledge donors through whatever means the College District deems appropriate. The College District retains full editorial control over its acknowledgment or display of donations, even if donors are permitted to suggest text for the acknowledgment.

KILGORE COLLEGE TASB POLICY CONVERSION

Summary of Policy for Proposed Adoption by the Kilgore College Board of Trustees

LEGAL policies summarize the law on a topic. LEGAL policies are compiled by TASB to provide the legal framework for key areas of college operations and are provided to the Board for foundational and background information only. These are not adopted by the Board.

LOCAL policies outline local Board mandates regarding governance issues. LOCAL policies are developed based on existing TASB model policies and may be customized to meet local needs. LOCAL policies are proposed for adoption by the board.

Procedures will be developed for implementation of policies, as appropriate, and do not require Board adoption. These will be provided for information only.

IN CONSIDERATION OF ADOPTION OF TASB *LEGAL* POLICY

Kilgore College Board Policy and Personnel Committee Meeting Date:

May 29, 2024

Kilgore College Board of Trustees Meeting Date:

June 10, 2024

Proposed *LEGAL* Policy for *INFORMATION ONLY*:

Section: A BASIC DISTRICT FOUNDATIONS

Policy: AF Institutional Effectiveness

Summary of *LEGAL* Policy:

NOTE: AF is a LEGAL policy only. It does not require Board approval. Trustees are being provided with this document for information purposes only.

This LEGAL policy was reviewed by Administration to ascertain compliance. Kilgore College is in compliance with policy AF.

Update 46 (12/13/2023) – New AF legal policy expands umbrella of compliance to external parties (agents, contractors, subcontractors, or other persons) acting on behalf of the college.

INSTITUTIONAL EFFECTIVENESS

AF
(LEGAL)

Compliance Program

Definition

"Compliance program" means a process to assess and ensure compliance by the officers, employees, agents, contractors, sub-contractors, or other persons acting on behalf of an institution of higher education with applicable laws, rules, regulations, and policies, including matters of:

1. Ethics and standards of conduct;
2. Financial reporting;
3. Internal accounting controls; or
4. Auditing.

Education Code 51.971(a)(1)

Confidentiality
Procedures

An institution of higher education, including a college district, that maintains a compliance program may establish procedures, such as a telephone hotline, to permit private access to the compliance program office and to preserve the confidentiality of communications and the anonymity of a person making a compliance report or participating in a compliance investigation.

Unless the information relates to an individual who consents to disclosure of the information, the following are confidential:

1. Information that directly or indirectly reveals the identity of an individual who made a report to the compliance program 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 Government Code Chapter 552 if it is collected or produced in a compliance program investigation and releasing the information would interfere with an ongoing compliance investigation.

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;

INSTITUTIONAL EFFECTIVENESS

AF
(LEGAL)

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 who is responsible under institutional policy for a compliance program investigation or for reviewing a compliance program investigation.

Education Code 51.971(b)–(f) [See GCA]

**Conservator for
Gross Fiscal
Mismanagement**

On the governor's request, the Coordinating Board with the advice and assistance of the state auditor shall determine if a condition of gross fiscal mismanagement exists at a public junior college.

If the Coordinating Board finds a condition of gross fiscal mismanagement of a public junior college, the governor by proclamation may appoint a conservator for the college.

Except as otherwise provided by Government Code Chapter 2104, Subchapter D, herein, a conservator shall act as conservator of a public junior college in the manner provided by Government Code Chapter 2104 for conservatorship of state agencies by a conservator.

Gov't Code 2104.031

Gross Fiscal
Mismanagement

"Gross fiscal mismanagement" includes:

1. Failure to keep adequate fiscal records;
2. Failure to maintain proper control over assets;
3. Failure to discharge fiscal obligations in a timely manner; and
4. Misuse of state funds.

Gov't Code 2104.001(2)

Duration

A conservatorship of a public junior college continues until the earlier of:

1. The governor's issuing of a proclamation declaring that the condition of gross fiscal mismanagement no longer exists and that the conservatorship is dissolved; or
2. The Coordinating Board's finding and certifying to the governor that the condition of gross fiscal mismanagement no longer exists, in which case the conservatorship is dissolved.

Gov't Code 2104.033

INSTITUTIONAL EFFECTIVENESS

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**Review of Budget
and Operations**

The Coordinating Board may periodically review the effectiveness and efficiency of the budgets and operations of public junior colleges. A review may be initiated by the Coordinating Board or at the request of the governor or the public junior college.

A review may be initiated by a public junior college only at the request of the president of the college or by a resolution adopted by a majority of the governing body of the college. If a review is initiated by a public junior college, the college shall pay 25 percent of the cost incurred in conducting the review.

The Coordinating Board shall:

1. Prepare a report showing the results of each review conducted under this section;
2. File the report with:
 - a. The chief executive officer of the public junior college that is the subject of the report;
 - b. The governor;
 - c. The lieutenant governor;
 - d. The speaker of the house of representatives;
 - e. The chairs of the standing committees of the senate and of the house of representatives with primary jurisdiction over higher education; and
 - f. The commissioner; and
3. Make the entire report and a summary of the report available to the public on the internet.

Until the Coordinating Board has completed the review, all information, documentary or otherwise, prepared or maintained in conducting the review or preparing the review report, including intra-agency and interagency communications and drafts of the review report or portions of those drafts, is excepted from required public disclosure as audit working papers under Government Code 552.116. [See GCA] This provision does not affect whether information described by this provision is confidential or excepted from required public disclosure under a law other than Section 552.116.

Gov't Code 322.0165

KILGORE COLLEGE TASB POLICY CONVERSION

Summary of Policy for Proposed Adoption by the Kilgore College Board of Trustees

LEGAL policies summarize the law on a topic. LEGAL policies are compiled by TASB to provide the legal framework for key areas of college operations and are provided to the Board for foundational and background information only. These are not adopted by the Board.

LOCAL policies outline local Board mandates regarding governance issues. LOCAL policies are developed based on existing TASB model policies and may be customized to meet local needs. LOCAL policies are proposed for adoption by the board.

Procedures will be developed for implementation of policies, as appropriate, and do not require Board adoption. These will be provided for information only.

IN CONSIDERATION OF ADOPTION OF TASB *LEGAL* POLICY

Kilgore College Board Policy and Personnel Committee Meeting Date:

Original - September 15, 2022

Update 46 – May 29, 2024

Kilgore College Board of Trustees Meeting Date:

Original - September 26, 2022

Update 46 – June 10, 2024

Proposed *LEGAL* Policy for **INFORMATION ONLY**:

Section: B BOARD LEGAL STATUS

Policy: BAA Powers, Duties, Responsibilities

Summary of *LEGAL* Policy:

NOTE: BAA is a LEGAL policy only. It does not require Board approval. Trustees are being provided with this document for information purposes only.

This LEGAL policy was reviewed by Administration to ascertain compliance.

Update 46 (12/13/2023) prohibits a college from regulating greenhouse gas emissions, leaving regulation of emissions to the state's exclusive jurisdiction. Under section **Extent of State & Local Control – Regulatory Exceptions**, KC has no ordinance or measure, nor are we planning to have any related to this regulation.

KC is in compliance and its Governing Board adheres to the powers, duties, and responsibilities outlined in this policy.

BOARD LEGAL STATUS
POWERS, DUTIES, RESPONSIBILITIES

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Responsibilities

It is the policy of this state that the governing boards of institutions of higher education, including college districts, being composed of lay members, shall exercise the traditional and time-honored role for such boards as their role has evolved in the United States and shall constitute the keystone of the governance structure. In this regard, each governing board:

1. Is expected to preserve institutional independence and to defend its right to manage its own affairs through its chosen administrators and employees.
2. Shall enhance the public image of each institution under its governance.
3. Shall interpret the community to the campus and interpret the campus to the community.
4. Shall nurture each institution under its governance to the end that each institution achieves its full potential within its role and mission.
5. Shall insist on clarity of focus and mission of each institution under its governance.

Education Code 51.352(a)

**Extent of State and
Local Control**

All authority not vested by Education Code Chapter 130 or by other laws of the state in the Coordinating Board or in the Texas Education Agency shall be reserved and retained locally in each of the respective public junior college districts or the governing board of such junior colleges as provided in the laws applicable. *Education Code 130.002*

Regulatory
Exceptions

*Greenhouse Gas
Emissions*

The state has exclusive jurisdiction over the regulation of greenhouse gas emissions in this state. A municipality or other political subdivision, including a college district, may not enact or enforce an ordinance or other measure that directly regulates greenhouse gas emissions.

“Greenhouse gas emissions” means emissions of carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

Health and Safety Code 382.005, .05102(a)

*Oil and Gas
Operations*

An oil and gas operation is subject to the exclusive jurisdiction of this state. A municipality or other political subdivision, including a college district, may not enact or enforce an ordinance or other measure, or an amendment or revision of an ordinance or other measure, that bans, limits, or otherwise regulates an oil and gas

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operation within the boundaries or extraterritorial jurisdiction of the municipality or political subdivision.

"Oil and gas operation" means an activity associated with the exploration, development, production, processing, and transportation of oil and gas, including drilling, hydraulic fracture stimulation, completion, maintenance, reworking, recompletion, disposal, plugging and abandonment, secondary and tertiary recovery, and remediation activities.

Natural Resources Code 81.0523(a)(2), (b)

*Utility Services
and Infrastructure*

No political subdivision of this state, including a college district, may adopt or enforce an ordinance, resolution, regulation, code, order, policy, or other measure that has the purpose, intent, or effect of directly or indirectly banning, limiting, restricting, discriminating against, or prohibiting the connection or reconnection of a utility service or the construction, maintenance, or installation of residential, commercial, or other public or private infrastructure for a utility service based on the type or source of energy to be delivered to the end-use customer. This section does not limit the ability of a political subdivision to choose utility services for properties owned by the political subdivision.

"Utility" has the meaning assigned by Utilities Code 181.901, except that the term does not include a person, company, or corporation engaged in furnishing telephone service to the public.

Utilities Code 181.903(a)(2), (b), (d)

*Regulation of
Energy Sources*

A political subdivision, including a college district, may not adopt or enforce an ordinance, order, regulation, or similar measure that limits access to or use of an energy source or that results in the effective prohibition of infrastructure that is necessary to provide access to a specific energy source, including a wholesaler, retailer, energy producer, or related infrastructure, including a retail service station, unless permitted by Local Government Code 247.002.

"Energy source" means any fuel or power source used to power an engine.

Local Gov't Code 247.001(1), .002

*Regulation of
Engines*

A political subdivision, including a college district, may not adopt or enforce an ordinance, order, regulation, or similar measure that directly prohibits or restricts the use, sale, or lease of an engine based on its fuel source.

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“Engine” means a machine for converting an energy source into mechanical force and motion, including a generator or an internal combustion engine.

Local Gov’t Code 247.001(2), .003

Note: For other provisions limiting regulation authority, see CHC, CLA, CR, FLBD, FLBE, and GDA.

Powers and Duties

State statute assigns specific powers and duties to a college district board of trustees. Examples of these powers and duties are described below.

Governance

The governing board of an institution of higher education shall provide the policy direction for each institution of higher education under its management and control. Said board shall act and proceed by and through resolutions or orders adopted or passed by the board and the affirmative vote of a majority of all members of the board shall be required to adopt or pass a resolution or order, and the board shall adopt such rules, regulations, and bylaws as it deems advisable, not inconsistent with this section. *Education Code 51.352(b), 130.082(d)*

The governing board of a junior college district shall be governed in the establishment, management, and control of a public junior college in the district by the general law governing the establishment, management, and control of independent school districts insofar as the general law is applicable. *Education Code 130.084(a)*

Establish Goals

Each governing board shall establish, for each institution under its control and management, goals consistent with the role and mission of the institution. [See AD and AE] *Education Code 51.352(d)*

Taxes and Bonds

The governing board of each junior college district, and each regional college district, for and on behalf of its junior college division, annually shall cause the taxable property in its district to be assessed for ad valorem taxation and the ad valorem taxes in the district to be collected, in accordance with any one of the methods set forth in Education Code 130.121, and any method adopted shall remain in effect until changed by the board.

The governing board of each junior college district, and each regional college district for and on behalf of its junior college division, shall be authorized to issue negotiable coupon bonds for the construction and equipment of school buildings and the purchase of the necessary sites therefor, and levy and pledge annual ad valorem taxes sufficient to pay the principal of and interest on said bonds as the same come due, and to levy annual ad valorem taxes

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for the further maintenance of its public junior college or junior colleges.

Education Code 130.121(a), .122(a) [See CAD and CAI]

Tuition and Fees	The governing board of a junior college district may set and collect with respect to a public junior college in the district any amount of tuition, rentals, rates, charges, or fees the board considers necessary for the efficient operation of the college district, except that a tuition rate set under this provision must satisfy the requirements of Education Code 54.051(n). The governing board may set a different tuition rate for each program, course, or course level offered by the college, including a program, course, or course level to which a provision of Section 54.051 applies, as the governing board considers appropriate to reflect course costs or to promote efficiency or another rational purpose. [See FD] <i>Education Code 130.084(b)</i>
Management of College District Funds	Each member of a governing board has the legal responsibilities of a fiduciary in the management of funds under the control of institutions subject to the board's control and management. <i>Education Code 51.352(e)</i>
Annual Budget	The governing board of each institution shall approve an itemized current operating budget on or before September 1 of each year. [See CC] <i>19 TAC 13.42</i>
Annual Audit	The board must have the accounts of the college district audited in accordance with the approved financial reporting system. [See CDC] <i>Education Code 61.065</i>
Endowment Fund	The board of trustees of a public junior college may establish an endowment fund outside the state treasury in a depository selected by the board of trustees. <i>Education Code 130.007</i>
Depository	The governing board of each institution may select one or more depositories as places of deposit for the funds enumerated in Education Code 51.002. [See CB] <i>Education Code 51.003</i>
Elections	Each election shall be called by resolution or order of the board. <i>Education Code 130.082(f), .122(b)</i>
Eminent Domain	A board may, by the exercise of the right of eminent domain, acquire the fee simple title to real property on which to construct school buildings or for any other public use necessary for the district. [See CFG] <i>Education Code 11.155, 130.084; Atty. Gen. Op. CM-700 (1970)</i>
Appoint and Evaluate Chief Executive Officer	Each governing board shall appoint the president or other chief executive officer of each institution under the board's control and management and evaluate the chief executive officer of each com-

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	ponent institution and assist the officer in the achievement of performance goals. [See BF series] <i>Education Code 51.352(d), 130.082(d)</i>
Employment of Personnel	The board shall be authorized to appoint or employ such agents, employees, and officials as deemed necessary or advisable to carry out any power, duty, or function of said board; and to employ a dean or other administrative officer, and upon the president's recommendation to employ faculty and other employees of the College District. [See DC series] <i>Education Code 130.082(d)</i>
Rentals, Rates, and Charges	Each board shall be authorized to fix and collect rentals, rates, charges, and/or fees, including student union fees, from students and others for the occupancy, use, and/or availability of all or any of its property, buildings, structures, activities, operations, or facilities, of any nature, in such amounts and in such manner as may be determined by such board. <i>Education Code 130.123(c)</i>
Real Property	The governing body of a governmental agency may execute, perform, and make payments under a contract under the Public Property Finance Act for the use or purchase or other acquisition of real property or an improvement to real property. [See CFG] <i>Local Gov't Code 271.004</i>
Personal Property	The governing body of a governmental agency may execute, perform, and make payments under a contract with any person for the use or the purchase or other acquisition of any personal property, or the financing thereof. [See CFH] <i>Local Gov't Code 271.005</i>
Lawsuits	The board may sue and be sued. <i>Education Code 11.151(a), 130.084</i>
<i>Settlements</i>	<p>A governmental unit may not enter into a settlement of a claim or action against the governmental unit in which:</p> <ol style="list-style-type: none">1. The amount of the settlement is equal to or greater than \$30,000;2. The money that would be used to pay the settlement is derived from taxes collected by a governmental unit; received from the state; or insurance proceeds received from an insurance policy for which the premium was paid with taxes collected by a governmental unit or money received from the state; and3. A condition of the settlement requires a party seeking affirmative relief against the governmental unit to agree not to disclose any fact, allegation, evidence, or other matter to any other person, including a journalist or other member of the media.

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A settlement agreement provision entered into in violation of the provisions above is void and unenforceable.

Civ. Prac. & Rem. Code 116.002

Communicate with
Coordinating Board

Each governing board shall ensure that its formal position on matters of importance to the institutions under its governance is made clear to the Coordinating Board when such matters are under consideration by the Coordinating Board. *Education Code 51.352(d)*

Student Admissions

Each governing board shall set campus admission standards consistent with the role and mission of the institution and considering admission standards of similar institutions nationwide having a similar role and mission, as determined by the Coordinating Board. [See FB] *Education Code 51.352(d)*

Note: If the college district is subject to a court order or other binding legal determination, the college district shall conduct its elections in accordance with that court order or determination, applicable law, and this policy. To the extent of any conflict, the court order or other legal determination shall prevail.

Election Services

If requested to do so by a political subdivision, including a college district, the county elections administrator shall enter into a contract to furnish the election services requested, as set forth at Election Code Chapter 31, Subchapter D. A county elections administrator is not required to enter into a contract to furnish election services for an election held on the first Saturday in May in an even-numbered year. *Election Code 31.093(a), 41.001(d)*

Election Order

The governing body of a political subdivision, including a college district board of trustees, shall order the election. For an election to be held on a uniform election date, the election shall be ordered not later than the 78th day before election day.

Each election order must designate and state the location of the main early voting polling place and must state the date of the election; the offices or measures to be voted on; the date that early voting will begin if the early voting period is to begin later than the prescribed date; the dates and hours that early voting will be conducted; the dates and hours that early voting on Saturday and Sunday is ordered to be conducted; the early voting clerk's official mailing address or street address at which the clerk may receive delivery by common or contract carrier, if different; and the early voting clerk's phone number, email address, and internet website, if the early voting clerk has an internet website. The authority ordering an election shall preserve the order, proclamation, or other document ordering the election, in an election involving a federal office, for at least 22 months after election day in accordance with federal law or, in an election not involving a federal office, for at least six months after election day.

Election Code 3.004, .005(c), .006, .008, 66.058(a), 83.010, 85.004, .007

Failure to Order an Election

Failure to order a general election does not affect the validity of the election. *Election Code 3.007*

Election Notice**Contents**

The notice of a general or special election must state:

1. The nature and date of the election;
2. The location of each polling place;

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3. The hours the polls will be open;
4. The internet website of the authority conducting the election;
5. For early voting:
6. The designated location of the main early voting polling place, as determined under Election Code 85.002;
7. The date that early voting will begin if under Education Code 85.001(d) the early voting period is to begin later than the prescribed date;
8. The regular dates and hours that early voting will be conducted;
9. The dates and hours that voting on Saturday and Sunday is ordered to be conducted; and
10. The early voting clerk's official mailing address.
11. The numbers of the positions to be filled;
12. The candidates for each position; and
13. Any other matters deemed necessary or advisable.

When the Election Code requires notice of a polling place location, the written notice must state the building name, if any, and the street address, including the suite or room number, if any, of the polling place.

Election Code 1.021, 4.004(a), 83.010, 85.004, .007; Education Code 130.082(f)

*Notice of Special
Election*

The notice of a special election must also state each office to be filled or the proposition stating each measure to be voted on. *Election Code 4.004(b)*

Publication

Notice of the election shall be given by publishing the notice at least once, not earlier than the 30th day or later than the 10th day before election day in a newspaper published in the territory that is covered by the election and is in the jurisdiction of the authority responsible for giving the notice or in a newspaper of general circulation in the territory if none is published in the jurisdiction of the authority responsible for giving the notice.

If notice of an election is given by publication, the authority responsible for giving the notice shall retain a copy of the published notice that contains the name of the newspaper and the date of publication. The records shall be preserved by the authority to whom they are distributed for at least 22 months after election day.

Election Code 4.003(a)(1), .005(a), 66.058(a); Education Code 130.082(f)

Posting

In addition to the notice described above, not later than the 21st day before election day, a county shall post a copy of a notice of the election given by the county or provided to the county by a political subdivision under Election Code 4.008(a), which must include the location of each polling place, on the county's internet website, if the county maintains a website. An authority responsible for giving notice of an election may post a copy of the notice on the bulletin board used for posting notices of the meetings of the governing body of the political subdivision that the authority serves. If a county does not maintain a website, the authority responsible for giving notice of the election shall post a copy of a notice of the election on the bulletin board used for posting notices of meetings of the governing body of the political subdivision that the authority serves. The notice must remain posted continuously through election day. The notice must include the location of each polling place. The person posting the notice shall make a record at the time of posting stating the date and place of posting. The person shall sign the record and deliver it to the authority responsible for giving the election notice after the last posting is made. *Election Code 4.003(b), .005(b)*

Early Voting

Any notice required under Election Code 85.007 must also be posted on the internet website of the authority ordering the election, if the authority maintains a website. *Election Code 85.007(d)(1)*

Notice to the
County Clerk and
Voter Registrar

The governing body of a political subdivision, other than a county, that orders an election shall also deliver notice of the election, including the location of each polling place, to the county clerk and voter registrar of each county in which the political subdivision is located not later than the 60th day before election day. *Election Code 4.008(a)*

Notice to Election
Judge

Not later than the 15th day before election day or the seventh day after the date the election is ordered, whichever is later, the authority responsible for giving notice of the election shall deliver to the presiding judge of each election precinct in which the election is to be held in the authority's jurisdiction a written notice of:

1. The nature and date of the election;
2. The location of the polling place for the precinct served by the judge;
3. The hours that the polls will be open;

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4. The judge's duty to hold the election in the precinct specified by the notice; and
5. The maximum number of clerks that the judge may appoint for the election.

Election Code 4.007

Failure to Give
Notice of Election

Failure to give notice of a general election does not affect the validity of the election. *Election Code 4.006*

Filing Information

Notice to
Candidates

The authority with whom an application for a place on the ballot must be filed shall post notice of the dates of the filing period in a public place in a building in which the authority has an office not later than the 30th day before the first day on which a candidate may file the application. An authority shall designate an email address in the notice for the purpose of filing an application for a place on the ballot under Election Code 143.004. *Election Code 141.040*

Publication of Filing
Information Online

A political subdivision, including a college district, with the authority to impose a tax that maintains a publicly accessible internet website, shall post on a publicly accessible internet website the requirements and deadline for filing for candidacy of each elected office of the political subdivision, which shall be continuously posted for at least one year before the election day for the office. *Gov't Code 2051.201(a), (b)(4)*

General Election

An application for a place on the ballot may not be filed earlier than the 30th day before the date of the filing deadline. Any resident, qualified elector of a junior college district may have his or her name placed as a candidate on the official ballot for any position to be filled at each regular election by filing a written application, signed by the candidate, with the secretary of the board not later than 5:00 p.m. of the 78th day before election day, if the election is to be held on a uniform election date. *Education Code 130.082(g); Election Code 144.005*

Special Election

An application for a place on a special election ballot may not be filed before the election is ordered.

An application must be filed not later than:

1. 5:00 p.m. of the 62nd day before election day if election day is on or after the 70th day after the election is ordered; or
2. 5:00 p.m. of the 40th day before election day if election day is on or after the 46th day and before the 70th day after the date the election is ordered.

Election Code 201.054(a), (d)

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<i>Exception</i>	For a special election to be held on the date of the general election for state and county officers (the November uniform election date of even-numbered years), the filing deadline is 6:00 p.m. of the 75th day before election day. <i>Election Code 201.054(f)</i>
Write-In Candidacy	<p>In a general or special election for members of the governing body of a junior college district, a write-in vote may not be counted for a person unless the person has filed a declaration of write-in candidacy with the secretary of the board of trustees in the manner provided for write-in candidates in the general election for state and county officers. A declaration of write-in candidacy must be filed not later than 5:00 p.m. of the 74th day before election day, if the election is to be held on a uniform election date.</p> <p>A declaration of write-in candidacy for a special election must be filed not later than the filing deadline prescribed by Election Code 201.054.</p> <p>A write-in candidate may not withdraw from the election after the 71st day before election day.</p> <p><i>Education Code 130.0825(a)–(b); Election Code 146.054, 201.054(g)</i></p>
Application	The application must state the number of the position for which the person is a candidate or the name of the incumbent member of the board holding the position for which the person desires to run. The application shall include all statutorily required information, including that found at Election Code 141.031 and 141.039, such as an oath and a statement that the candidate is aware of the nepotism law. [See BBBD] The candidate shall be eligible to run for only one position at each election. <i>Education Code 130.082(g); Election Code 31.0021, 141.031, .039</i>
Withdrawal	To withdraw from an election, a candidate whose name is to appear on the ballot must request that the candidate's name be omitted from the ballot in accordance with Election Code 145.001. <i>Election Code 145.001(a)</i>
Deadline	A candidate may not withdraw from an election after 5:00 p.m. of the fifth day after the deadline for filing the candidate's application for a place on the ballot. <i>Election Code 145.092(a)</i>
<i>Exceptions</i>	<p>A candidate in an election for which the filing deadline for an application for a place on the ballot is not later than 5:00 p.m. of the 62nd day before election day may not withdraw from the election after 5:00 p.m. of the 57th day before election day.</p> <p>A candidate in an election for which the filing deadline for an application for a place on the ballot is not later than 5:00 p.m. of the</p>

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78th day before election day may not withdraw from the election after 5:00 p.m. of the 71st day before election day.

A candidate in a runoff election may not withdraw from the election after 5:00 p.m. of the third day after the date of the final canvass for the main election.

Election Code 145.092(b), (d), (f)

Late Request

If a candidate files a withdrawal request after the deadline prescribed by Election Code 145.092, and the candidate complies with each requirement under Election Code 145.001 except that the candidate's filing to withdraw is untimely, the authority responsible for preparing the ballots may choose to omit the candidate from the ballot if at the time the candidate files the withdrawal request:

1. The ballots have not been prepared; and
2. If using a voting system to which Election Code Chapter 129 applies, public notice of the test of logic and accuracy has not been published.

Election Code 145.098(a)

Death of Candidate

If a candidate dies on or before the deadline for filing an application for a place on the ballot:

1. The authority responsible for preparing the ballots may choose to omit the candidate from the ballot; and
2. If the authority omits the candidate's name as described above, the filing deadline for an application for a place on the ballot for the office sought by the candidate is extended until the fifth day after the filing deadline.

Election Code 145.098(b)

**Election of
Unopposed
Candidate**

The board may declare each unopposed candidate elected if each candidate for an office that is to appear on the ballot is unopposed.

For purposes of determining whether all offices on a ballot are unopposed, a special election of a political subdivision, including a college district, is considered to be a separate election with a separate ballot from:

1. A general election for officers of the political subdivision held at the same time as the special election; or
2. Another special election of the political subdivision held at the same time as the special election.

Election Code 2.051(a)

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Single-Member
Districts

In the case of an election in which any members of the political subdivision's governing body are elected from territorial units such as single-member districts, the unopposed candidate procedures apply to the election in a particular territorial unit if each candidate for an office that is to appear on the ballot in that territorial unit is unopposed and no opposed at-large race is to appear on the ballot. *Election Code 2.051(b)*

Procedure for
Canceling Election

The authority responsible for having the official ballot prepared shall certify in writing that a candidate is unopposed for election to an office if, were the election held, only the votes cast for that candidate in the election for that office may be counted.

The certification shall be delivered to the governing body of the political subdivision as soon as possible after the filing deadlines for placement on the ballot and list of write-in candidates.

Election Code 2.052(a)–(b)

Exception

A certification may be made following the filing of a withdrawal request by a candidate after the deadline prescribed by Election Code 145.092, above, if:

1. The withdrawal request is valid except for the untimely filing;
2. Ballots for the election have not been prepared; and
3. The conditions for certification under Election Code 2.052(a) are otherwise met.

The certification shall be delivered to the governing body of the political subdivision as soon as possible.

Election Code 2.052(c)–(d)

*Declaration of
Election*

On receipt of the certification, the governing body of the political subdivision by order or ordinance shall declare each unopposed candidate elected to the office. If the board makes such a declaration, the election is not held.

If no election is to be held on election day by the political subdivision, a copy of the order shall be posted on election day at each polling place used or that would have been used in the election.

The ballots used at the separate election held at the same time as an election that would have been held if the candidates were not declared elected under this section shall include the offices and names of the candidates declared elected under this section listed separately after the measures or contested races in the separate election, under the heading "Unopposed Candidates Declared Elected." The candidates shall be grouped in the same relative or-

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der prescribed for the ballot generally. No votes are cast in connection with the unopposed candidates.

Election Code 2.053(a)–(c)

Ballot

The ballot shall be printed in the form required by law. *Election Code 52.061–.064, .069, .093–.094*

Ballot Position

The name of each candidate shall be placed on the official ballot according to the number of the position for which he or she is running. The location on the ballot of the names of the candidates for each position shall be chosen by lot by the board. The candidate shall be eligible to run for only one position in each election. *Education Code 130.082(g)*

Propositions

Except as otherwise provided by law, the authority ordering the election shall prescribe the wording of a proposition that is to appear on the ballot. A proposition shall be printed on the ballot in the form of a single statement and may appear on the ballot only once.

If an election of officers is contingent on the adoption of a proposition appearing on the same ballot, the proposition shall appear on the ballot before the listing of offices. Otherwise, in an election in which an office and a measure are to be voted on, each proposition stating a measure shall appear on the ballot after the listing of offices.

Except as otherwise provided by law, the authority ordering an election in which more than one measure is to be voted on shall determine the order in which the propositions are to appear on the ballot.

Each political subdivision's proposition on the ballot shall be assigned a unique number or letter on the ballot as follows:

1. Except as provided by item 2, for each proposition on the ballot, the authority ordering the election shall assign a letter of the alphabet to the measure that corresponds to its order on the ballot; and
2. For each proposition on the ballot to be voted on statewide, the authority ordering the election shall assign a number to the measure that corresponds to its order on the ballot.

Each proposition on the ballot must identify the name of the authority ordering the election on the measure.

Election Code 52.072(a)–(d), .095(a)–(c)

Election Judges and Clerks

The board shall appoint election judges and set the maximum number of election clerks. The judges and clerks shall be selected

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CONDUCTING AN ELECTION

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and serve in accordance with Election Code Chapter 32. *Election Code Ch. 32*

The nepotism prohibitions [see DBE] do not apply to appointment of an election clerk under Election Code 32.031 who is not related in the first degree by consanguinity or affinity to an elected official of the authority that appoints the election judges for that election. *Gov't Code 573.061(8)*

Polling Places

The governing body of each political subdivision authorized to hold elections, other than a county, shall designate the location of the polling place for each of its election precincts. Each polling place shall be accessible to and usable by the elderly and persons with physical disabilities. *Election Code 43.004, .034*

Use of County
Election Precincts

The county election precincts are the election precincts for the following elections:

1. The general election for state and county officers;
2. A special election ordered by the governor;
3. A primary election;
4. A countywide election ordered by the commissioners court, county judge, or other county authority, except an election subject to Election Code 42.062(2); and
5. As provided by Election Code 42.0621, any other election held by a political subdivision, including college districts, on a uniform election date.

Election Code 42.002(a)

In an election held on the November uniform election date, the political subdivisions to which Election Code 42.002(a)(5) applies shall use the regular county election precincts. If a political subdivision holds an election on a uniform election date and is required to use the regular county election precincts, the political subdivision shall designate as the polling places for the election the regular county polling places in the county election precincts that contain territory from the political subdivision. *Election Code 42.0621(a), 43.004(b)*

Polling Place for
Early Voting

The following provision applies to an election held by a political subdivision, other than a county, on the November uniform election date in which the political subdivision:

1. Is not holding a joint election with a county in accordance with Election Code Chapter 271; and

2. Has not executed a contract with a county elections officer under which the political subdivision and the county share early voting polling places for the election.

The political subdivision shall designate as an early voting polling place for the election an eligible county polling place located in the political subdivision and may not designate as an early voting polling place a location other than an eligible county polling place unless each eligible county polling place located in the political subdivision is designated as an early voting polling place by the political subdivision.

A shared polling place established under this section that is designated as a main early voting polling place by any political subdivision must be open for voting for all political subdivisions the polling place serves for at least the days and hours required of a main early voting polling place under Election Code 85.002 for the political subdivision making the designation.

“Eligible county polling place” means an early voting polling place established by a county.

Election Code 85.010

*Temporary
Branch*

Early voting by personal appearance at each temporary branch polling place shall be conducted on the days that voting is required to be conducted at the main early voting polling place under Election Code 85.005 and remain open for at least:

1. Eight hours each day; or
2. Three hours each day if the city or county clerk does not serve as the early voting clerk for the territory holding the election and the territory has fewer than 1,000 registered voters.

The authority authorized under Election Code 85.006 to order early voting on a Saturday or Sunday may also order, in the manner prescribed by that section, early voting to be conducted on a Saturday or Sunday at any one or more of the temporary branch polling places. In addition, the early voting clerk shall order such voting in accordance with Election Code 85.006(e) at each temporary branch polling place established under Election Code 85.062(d).

Election Code 85.064(b), (d)

*Posting Signs
Prohibited*

An election officer commits an offense if the officer knowingly posts at a polling place, including the area within 100 feet of an outside door through which a voter may enter the building in which the polling place is located, a sign, card, poster, or other similar mate-

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CONDUCTING AN ELECTION

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rial that is not authorized or required by law; or is in a form or contains information that is not authorized or required by law.

A person other than an election officer commits an offense if the person posts a sign, card, poster, or similar material at a polling place, including the 100-foot area described above.

Election Code 62.013(a)–(b)

Electioneering

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

“Electioneering” includes the posting, use, or distribution of political signs or literature. The term does not include the distribution of a notice of a party convention authorized under Election Code 172.1114.

“Voting period” means the period beginning when the polls open for voting and ending when the polls close or the last voter has voted, whichever is later.

“Early voting period” is described at Election Code 85.001.

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

Election Code 61.003, 85.036

Use of Certain
Devices Prohibited

A person may not use a wireless communication device within 100 feet of a voting station. A person may not use any mechanical or electronic means of recording images or sound within 100 feet of a voting station. *Election Code 61.014(a)–(b)*

Exception

The prohibitions do not apply to:

1. An election officer in conducting the officer’s official duties;
2. The use of election equipment necessary for the conduct of the election; or
3. A person who is employed at the location in which a polling place is located while the person is acting in the course of the person’s employment.

Election Code 61.014(d)

Bilingual Materials

Spanish

Bilingual election materials shall be used in each election precinct situated wholly or partly in a county in which five percent or more of the inhabitants are persons of Spanish origin or descent according to the most recent federal decennial census that may be officially recognized or acted upon by the state or political subdivisions.

An election precinct may be exempted from the bilingual requirement if official census information or other information indicates that persons of Spanish origin or descent comprise less than five percent of the precinct's inhabitants. To exempt an election precinct from the bilingual requirement, the presiding officer of the governing body of the political subdivision responsible for the expenses of an election, with the approval of the governing body, must file with the authority responsible for procuring the election supplies for the political subdivision's elections the documentation described at Election Code 272.003. An exemption is effective on the 30th day after the date the certification and other required materials are filed. A precinct exempted under this section remains exempt until the precinct becomes subject to Election Code 272.002 as a result of a subsequent federal decennial census; or the effective date of a change in the precinct's boundary.

Election Code 272.002, .003(a)–(c), (e)

Other Languages

If the director of the census determines under 42 U.S.C. 1973aa-1a that a political subdivision must provide election materials in a language other than English or Spanish, the political subdivision shall provide election materials in that language in the same manner in which the political subdivision would be required to provide materials in Spanish, to the extent applicable. *Election Code 272.011(a); 52 U.S.C. 10503*

Voting Systems

Voting System
Standards

A voting system shall be selected and utilized in accordance with Election Code Title 8. *Election Code Title 8*

For a voting system or voting system equipment to be approved for use in elections, the voting system in which the equipment is designed to be used must comply with the standards prescribed by Election Code Chapter 122, Subchapter A, and be manufactured, stored, and held in the United States and sold by a company whose headquarters are located in the United States and parent company's headquarters, if applicable, are located in the United States.

A voting system or voting system equipment is considered to be manufactured in the United States if final assembly of the voting system or voting system equipment occurs in the United States and all firmware and software are installed and tested in the United States.

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Election Code 122.032

Voting Machines
and Punch-Card
Ballots

A voting system may not be used in an election if the system uses mechanical voting machines or a punch-card ballot or similar form of tabulating card. *Election Code 122.001(d)*

Voters with
Disabilities

*Accessible Voting
Stations*

Each polling place must provide at least one voting station that complies with Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. 794) and its subsequent amendments, Title II of the federal Americans with Disabilities Act (42 U.S.C. 12131 et seq.) and its subsequent amendments and the requirements for accessibility under 42 U.S.C. 15481(a)(3) and its subsequent amendments, and provides a practical and effective means for voters with physical disabilities to cast a secret ballot. *Election Code 61.012(a)*

*Electronic Voting
System
Exceptions*

Upon providing the notice detailed in Election Code 61.013(d), for an election other than an election of a political subdivision that is held jointly with another election in which a federal office appears on the ballot, a political subdivision, including a college district, is not required to meet the requirements for accessibility under Election Code 61.012(a)(1)(C) if the political subdivision is located in a county:

1. With a population of less than 2,000;
2. With a population of 2,000 or more but less than 5,000, and the political subdivision provides at least one voting station that meets the requirements for accessibility under 42 U.S.C. 15481(a)(3) on election day;
3. With a population of 5,000 or more but less than 10,000, and the political subdivision provides at least one voting station that meets the requirements for accessibility under 42 U.S.C. 15481(a)(3) on election day and during the period for early voting by personal appearance;
4. With a population of 10,000 or more but less than 20,000, and the political subdivision:
 - a. Makes a showing in the manner provided by Election Code 61.103(c) that compliance with Section 61.012(a)(1)(C) constitutes an undue burden on the political subdivision;
 - b. Provides at least one voting station that meets the requirements for accessibility under 42 U.S.C. 15481(a)(3) on election day and during the period for early voting by personal appearance; and

- c. Provides a mobile voting station that meets the requirements for accessibility under 42 U.S.C. 15481(a)(3) that during the period for early voting by personal appearance is deployed at least once at each polling place used for early voting by personal appearance.

Election Code 61.013(a)

Multiple
Counties

For purposes of Election Code 61.013, a political subdivision located in more than one county may choose:

1. To be considered located in the county that contains the greatest number of registered voters of the political subdivision; or
2. For each portion of the political subdivision located in a different county, to be considered a separate political subdivision.

Election Code 61.013(e)

*Multiple Voting
Systems
Permitted*

A political subdivision may use more than one type of voting system in a single polling place in order to provide a person with physical disabilities with a method of casting a secret ballot. [See GA] 1 TAC 81.55

**Voting System
Malfunction**

If no private vendor supports the political subdivision's voting system, the political subdivision must give notice to the secretary of state within 24 hours of a malfunction of the political subdivision's voting system software or equipment in an election. The notice may be verbal or in writing. 1 TAC 81.64(a)

Early Voting

A board shall provide for early voting in board elections by personal appearance at an early voting polling place and by mail in accordance with Election Code Title 7. *Election Code 81.001*

**Conducting
Elections**

Elections shall be conducted in accordance with Election Code Title 6. *Election Code Title 6*

ELECTIONS
POST-ELECTION PROCEDURESBBBB
(LEGAL)**Determination of Results**

Majority

A candidate receiving a majority of the votes cast for all candidates for a board member position shall be declared elected. *Education Code 130.082(g); Atty. Gen. Op. CM-1101 (1972)*

Runoff Elections

If no candidate receives such a majority, then the two candidates receiving the highest number of votes shall run against each other for the position. The runoff election for all positions shall be held on a Saturday designated by the secretary of state. A date designated by the secretary of state for a runoff election:

1. Must be not earlier than the 30th day after the date of the main election and not later than the 45th day after the date of the main election; and
2. May not be a national or state holiday under Election Code 1.006(f) or have an early voting period that includes a national or state holiday under Election Code 1.006(f).

The runoff election shall be conducted in accordance with Election Code Chapter 2, Subchapter B.

Education Code 130.082(g); Election Code 2.021, .025(a), (e)

Write-In Voting

Election Code Chapter 146, Subchapter B, applies to write-in voting in an election for members of the governing body except to the extent of a conflict with this section. In a general or special election for members of the governing body of a junior college district, a write-in vote may not be counted for a person unless the person has filed a declaration of write-in candidacy with the secretary of the board of trustees in the manner provided for write-in candidates in the general election for state and county officers. *Education Code 130.0825(a), (c)*

Canvass Returns

Except as provided by Election Code 67.003(c), each local canvassing authority shall convene to conduct the local canvass at the time set by the canvassing authority's presiding officer not later than the 11th day after election day and not earlier than the later of:

1. The third day after election day;
2. The date on which the early voting ballot board has verified and counted all provisional ballots, if a provisional ballot has been cast in the election; or
3. The date on which all timely received ballots cast from addresses outside of the United States are counted, if a ballot to be voted by mail in the election was provided to a person outside of the United States.

ELECTIONS
POST-ELECTION PROCEDURES

BBBB
(LEGAL)

Two members of the authority constitute a quorum for purposes of canvassing an election.

The presiding officer of the canvassing authority shall note the completion of the canvass in the minutes or in the recording required by Government Code 551.021.

Election Code 67.003(b), .004(a), (g)

Early Voting
Canvass—
November Election

For an election held on the date of the general election for state and county officers (November of even-numbered years), the time for the canvass of early voting results may be set not later than the 14th day after election day. *Election Code 65.051(a-1), 67.003(c)*

**Certificate of
Election**

After the completion of a canvass, the presiding officer of the local canvassing authority shall prepare a certificate of election for each candidate who is elected to an office for which the official result is determined by that authority's canvass. A certificate of election must contain:

1. The candidate's name;
2. The office to which the candidate is elected;
3. A statement of election to an unexpired term, if applicable;
4. The date of the election;
5. The signature of the officer preparing the certificate; and
6. Any seal used by the officer preparing the certificate to authenticate documents that the officer executes or certifies.

The authority preparing a certificate of election shall promptly deliver it to the person for whom it is prepared, subject to the submission of a recount petition.

The submission of a recount petition delays the issuance of a certificate of election and qualification for the office involved in the recount pending completion of the recount. A candidate may not qualify for an office involved in a recount before completion of the recount. The recount petition does not affect a candidate who has received a certificate of election and qualified for an office before the submission of a recount petition.

A certificate of election may not be issued to a person who has been declared ineligible to be elected to the office.

Election Code 67.016(a), (c), (e), 212.0331(a)–(c)

ELECTIONS
POST-ELECTION PROCEDURES

BBBB
(LEGAL)

**Certificate of
Election for
Unopposed
Candidate**

A certificate of election shall be issued to each unopposed candidate in the same manner and at the same time as provided for a candidate elected at the election. The candidate must qualify for the office in the same manner as provided for a candidate elected at the election. *Election Code 2.053(e)*

Officer's Statement

All elected or appointed officers, before taking the oath or affirmation of office and entering upon the duties of office, shall subscribe to the required officer's statement. All other officers shall retain the signed statement with the official records of the office. [See BBBB(EXHIBIT)] *Tex. Const. Art. XVI, Sec. 1(b)–(c)*

Oath of Office

All elected and appointed officers, before they enter upon the duties of their offices, shall take the oath or affirmation of office. [See BBBB(EXHIBIT)]

An oath made in this state may be administered and a certificate of the fact given by the individuals listed at Government Code 602.002, including:

1. A judge, retired judge, or clerk of a municipal court.
2. A judge, retired judge, senior judge, clerk, or commissioner of a court of record.
3. A notary public.
4. A justice of the peace, a retired justice of the peace, or a clerk of a justice court.
5. An associate judge, magistrate, master, referee, or criminal law hearing officer.
6. The secretary of state or a former secretary of state.
7. The speaker of the house of representatives or a former speaker of the house of representatives.
8. The lieutenant governor or a former lieutenant governor.
9. The governor or a former governor.
10. A legislator or retired legislator.
11. The secretary of the senate or the chief clerk of the house of representatives.
12. The attorney general or a former attorney general.
13. The comptroller of public accounts or a former comptroller of public accounts.
14. A county treasurer.

Tex. Const. Art. XVI, Sec. 1(a); Education Code 130.082(d); Gov't Code 602.002

Candidates for membership on the board of trustees shall file the designation of a campaign treasurer and all required financial statements with the secretary of the board in accordance with applicable law and directives from the Texas Ethics Commission.

Election Code Title 15

**Termination of
Campaign Treasurer
Appointment**

In accordance with Election Code 252.0131, the governing body of a political subdivision, including a college district board of trustees, by ordinance or order may adopt a process by which the secretary of the political subdivision may terminate the campaign treasurer appointment of an inactive candidate or political committee that is required to file a campaign treasurer appointment with the secretary.

A candidate or political committee is inactive if the candidate or committee:

1. Has never filed or has ceased to file reports under Election Code Chapter 254;
2. In the case of a candidate, has not been elected to an office for which a candidate is required to file a campaign treasurer appointment with the authority who is seeking to terminate the candidate's campaign treasurer appointment; and
3. Has not filed a final report under Election Code 254.065 or 254.125, or a dissolution report under Election Code 254.126 or 254.159.

Before the secretary of a political subdivision may terminate a campaign treasurer appointment, the governing body of the political subdivision must consider the proposed termination in a regularly scheduled open meeting.

The termination of a campaign treasurer appointment under this section takes effect on the 30th day after the date of the meeting at which the governing body votes to terminate the appointment. Following that meeting, the secretary of the political subdivision shall promptly notify the affected candidate or political committee that the appointment has been terminated. The notice must state the effective date of the termination.

Election Code 252.0131(a)–(b), (d)

**Online Availability of
Campaign Finance
Reports**

The clerk or secretary of a political subdivision's governing body, including a college district board of trustees, or, if the governing body does not have a clerk or secretary, the governing body's presiding officer shall make a report filed with the political subdivision by a candidate, officeholder, or specific-purpose committee under Election Code Chapter 254, Subchapter B, available to the public

ELECTIONS
REPORTING CAMPAIGN FUNDS

BBBC
(LEGAL)

on the political subdivision's internet website not later than the 10th business day after the date the report is received. A report made available on an internet website under this section must be accessible on that website until the fifth anniversary of the date the report is first made available.

The access allowed by this section to reports is in addition to the public's access to the information through other electronic or print distribution of the information.

Election Code 254.0401(b), (d), (h)

Exception	Electronic 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. [See GCA] <i>Election Code 254.0401(g)</i>
Redaction	Before making a report available on the internet, the authority with whom the report is filed may remove each portion, other than city, state, and zip code, of the address of a person listed as having made a political contribution to the person filing the report. The address information removed must remain available on the report maintained in the authority's office. <i>Election Code 254.0401 (e-1)</i>

KILGORE COLLEGE TASB POLICY CONVERSION

Summary of Policy for Proposed Adoption by the Kilgore College Board of Trustees

LEGAL policies summarize the law on a topic. LEGAL policies are compiled by TASB to provide the legal framework for key areas of college operations and are provided to the Board for foundational and background information only. These are not adopted by the Board.

LOCAL policies outline local Board mandates regarding governance issues. LOCAL policies are developed based on existing TASB model policies and may be customized to meet local needs. LOCAL policies are proposed for adoption by the board.

Procedures will be developed for implementation of policies, as appropriate, and do not require Board adoption. These will be provided for information only.

IN CONSIDERATION OF ADOPTION OF TASB *LEGAL* POLICY

Kilgore College Board Policy and Personnel Committee Meeting Date:

Original - November 10, 2022

Update 46 – May 29, 2024

Kilgore College Board of Trustees Meeting Date:

Original - December 12, 2022

Update 46 – June 10, 2024

Proposed *LEGAL* Policy for *INFORMATION ONLY*:

Section: BB BOARD MEMBERS

Policy: BBC Board Members: Vacancies and Removal from Office

Summary of *LEGAL* Policy:

NOTE: BBC is a LEGAL policy only. It does not require Board approval. Trustees are being provided with this document for information purposes only.

The Update 46 (12/13/2023) change has to do with the automatic removal of a Board of Trustee member for certain criminal offenses.

This LEGAL policy was reviewed by Administration to ascertain compliance and is being reviewed by trustees. KC is in compliance.

BOARD MEMBERS
VACANCIES AND REMOVAL FROM OFFICE

BBC
(LEGAL)

Resignation

To be effective, a public officer's resignation or an officer-elect's declination must be in writing and signed by the officer or officer-elect and delivered to the appropriate authority, the college district board of trustees, for acting on the resignation or declination. The resignation or declination may be delivered to the presiding officer of the body or to its clerk or secretary. The authority may not refuse to accept a resignation. *Election Code 201.001(a)–(b), .002*

Effective Date

If an officer submits a resignation, whether to be effective immediately or at a future date, a vacancy occurs on the date the resignation is accepted by the appropriate authority or on the eighth day after the date of its receipt by the authority, whichever is earlier. *Election Code 201.023*

Holdover Doctrine

All public officers shall continue to perform the duties of their offices until their successors shall be duly qualified, i.e., sworn in. Until the vacancy created by a public officer's resignation is filled by a successor, the public officer continues to serve and have the duties and powers of office and continues to be subject to the nepotism provision. A holdover public officer may not vote on the appointment of the officer's successor. [See DBE] *Tex. Const. Art. XVI, Sec. 17; Atty. Gen. Ops. JM-636 (1987), DM-2 (1991), GS-6259 (1945)*

Residency

A person elected or appointed to serve as a board member must remain a resident of the college district throughout the term of office. A board member who ceases to reside in the college district vacates office. *Tex. Const. Art. XVI, Sec. 14; Whitmarsh v. Buckley, 324 S.W.2d 298 (Tex. App.—Houston 1959, no writ) [See BBA]*

Single-Member
Districts

A trustee other than a trustee allowed to complete the remainder of the trustee's term after the initial election from single-member districts vacates the office if the trustee ceases to reside in the trustee district the trustee represents. *Education Code 130.0822(g)–(h)*

**Involuntary Removal
from Office**

Quo Warranto

If grounds for the remedy exist, the attorney general or the county or district attorney of the proper county may petition the district court of the proper county or a district judge if the court is in vacation for leave to file an information in the nature of quo warranto. The attorney general or county or district attorney may file the petition on his or her own motion or at the request of an individual relator. An action in the nature of quo warranto is available if:

1. A person usurps, intrudes into, or unlawfully holds or executes a public office; or
2. A public officer does an act or allows an act that by law causes forfeiture of office.

BOARD MEMBERS
VACANCIES AND REMOVAL FROM OFFICE

BBC
(LEGAL)

Civ. Prac. & Rem. Code 66.001–.002

Removal by Petition
and Trial

A petition for removal of a public officer may be filed by any resident of this state who has lived for at least six months in the county in which the petition is to be filed and who is not currently under indictment in the county. A proceeding for removal is begun by filing a written petition for removal in a district court of the county in which the officer resides. *Local Gov't Code 87.015(a)-(b)*

*Reasons for
Removal*

An officer may be removed for:

1. Incompetency. "Incompetency" means:
 - a. Gross ignorance of official duties;
 - b. Gross carelessness in the discharge of those duties; or
 - c. Unfitness or inability to promptly and properly discharge official duties because of a serious physical or mental defect that did not exist at the time of the officer's election.
2. Official misconduct. "Official misconduct" means intentional, unlawful behavior relating to official duties by an officer entrusted with the administration of justice or the execution of the law. The term includes an intentional or corrupt failure, refusal, or neglect of an officer to perform a duty imposed on the officer by law.
3. Intoxication on or off duty caused by drinking an alcoholic beverage. Intoxication is not grounds for removal if it appears at the trial that the intoxication was caused by drinking an alcoholic beverage on the direction and prescription of a licensed physician practicing in this state.
4. The conviction of a board member by a jury for any felony or for misdemeanor official misconduct. The conviction of a public officer by a petit jury for any felony or for a misdemeanor involving official misconduct operates as an immediate removal from office of that officer.
5. Nonattendance of board meetings if the member is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year, not counting an absence for which the member is excused by a majority vote of the board.

Tex. Const. Art. V, Sec. 24; Local Gov't Code 87.011(2)–(3), .013, .031; Education Code 130.0845

BOARD MEMBERS
VACANCIES AND REMOVAL FROM OFFICE

BBC
(LEGAL)

Automatic Removal
for Certain Criminal
Offenses

*Qualifying
Offense*

“Qualifying offense” means a criminal offense involving:

1. Bribery;
2. Theft of public money;
3. Perjury;
4. Coercion of public servant or voter;
5. Tampering with governmental record;
6. Misuse of official information;
7. Abuse of official capacity; or
8. Conspiracy or the attempt to commit any of the offenses described by this provision.

Local Gov’t Code 180.010(a)

*Automatic
Removal*

A person who holds an elected or appointed office of a college district is automatically removed from and vacates the office on the earlier of the date the person:

1. Enters a plea of guilty or nolo contendere to a qualifying offense;
2. Receives deferred adjudication for a qualifying offense; or
3. Is convicted of a qualifying offense.

Local Gov’t Code 180.010(b)

*Filling Vacancy
Upon Removal*

The governing body of a political subdivision shall, at the first regularly scheduled meeting of the governing body for which notice is required under Government Code Chapter 551, fill the vacancy in the manner provided by law following the date an officer of the political subdivision is removed from office, if an election is not required. *Local Gov’t Code 180.010(a)-(b), (c)*

Removal for
Purchasing
Violations

A board member who is convicted of a purchasing offense under Education Code 44.032 [see CF(LEGAL), Impermissible Practices] is considered to have committed official misconduct and is subject to removal under Local Government Code Chapter 87. *Education Code 44.032*

Filling a Vacancy

Any vacancy occurring on the board through death, resignation, or otherwise, shall be filled by a special election ordered by the board or by appointment by resolution or order of the board. *Education Code 130.082(d)*

BOARD MEMBERS
VACANCIES AND REMOVAL FROM OFFICE

BBC
(LEGAL)

Special Election

A special election to fill a board vacancy is conducted in the same manner as the district's general election except as provided by the applicable provisions of the Election Code. [See BBBA]

If a vacancy in office is to be filled by special election, the election shall be ordered as soon as practicable after the vacancy occurs. A special election to fill a vacancy shall be held on the first authorized uniform election date occurring on or after the 46th day after the date the election is ordered. For a vacancy to be filled by a special election to be held on the date of the general election for state and county officers (November of even-numbered years), the election shall be ordered not later than the 78th day before election day.

In all elections to fill vacancies of office in this state, it shall be to fill the unexpired term only.

Tex. Const. Art. XVI, Sec. 27; Education Code 130.082(d); Election Code 41.002, 201.051–.052

Appointment

An appointment to the governing body of a local government shall be made as required by the law applicable to that local government and may be made with the intent to ensure that the governing body is representative of the constituency served by the governing body. A local government that chooses to implement this provision shall adopt procedures for the implementation. *Local Gov't Code 180.005(b)–(c)*

To be eligible to be appointed to a public elective office, a person must meet the qualifications set forth at Election Code 141.001(a) and Education Code 130.082(d). [See BBA] *Election Code 141.001(a); Education Code 130.082(d)*

The person appointed to fill the unexpired term shall serve until the next regular election of members to the board, at which time the position shall be filled by election for a term appropriately shortened to conform with what regularly would have been the length of the term for that position. *Tex. Const. Art. XVI, Sec. 27; Education Code 130.082(d)*

*Single-Member
Districts*

Except as provided in Education Code 130.0822(l), in single-member districts, any vacancy on the board shall be filled by appointment made by the remaining members of the board. The appointed person serves for the unexpired term. *Tex. Const. Art. XVI, Sec. 27; Education Code 130.0822(i), (l)*

**Temporary
Replacement of
Board Member on
Military Active Duty**

An elected or appointed officer of the state or of any political subdivision, including a member of the college district board of trustees, who enters active duty in the armed forces of the United States as a result of being called to duty, drafted, or activated does not vacate the office held, but the appropriate authority may appoint a re-

BOARD MEMBERS
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placement to serve as a temporary active officer as provided by Texas Constitution Article XVI, Section 72 if the elected or appointed board member will be on active duty for longer than 30 days.

The officer who is temporarily replaced may recommend to the appropriate appointing authority the name of a person to temporarily fill the office. The appropriate authority shall appoint the temporary acting officer to begin service on the date specified in writing by the officer being temporarily replaced as the date the officer will enter active military service.

A temporary acting officer has all the powers, privileges, and duties of the office. A temporary acting officer shall perform the duties of office for the shorter period of:

1. The term of the active military service of the officer who is temporarily replaced; or
2. The term of office of the officer who is temporarily replaced.

“Armed Forces of the United States” means the U.S. Army, the U.S. Navy, the U.S. Air Force, the U.S. Marine Corps, the U.S. Coast Guard, any reserve or auxiliary component of any of those services, or the National Guard.

Tex. Const. Art. XVI, Sec. 72

KILGORE COLLEGE TASB POLICY CONVERSION

Summary of Policy for Proposed Adoption by the Kilgore College Board of Trustees

LEGAL policies summarize the law on a topic. LEGAL policies are compiled by TASB to provide the legal framework for key areas of college operations and are provided to the Board for foundational and background information only. These are not adopted by the Board.

LOCAL policies outline local Board mandates regarding governance issues. LOCAL policies are developed based on existing TASB model policies and may be customized to meet local needs. LOCAL policies are proposed for adoption by the board.

Procedures will be developed for implementation of policies, as appropriate, and do not require Board adoption. These will be provided for information only.

IN CONSIDERATION OF ADOPTION OF TASB LOCAL POLICY

Kilgore College Board Policy and Personnel Committee Meeting Date:

January 27, 2022

Kilgore College Board of Trustees Meeting Date:

February 21, 2022

Proposed LOCAL Policy for Adoption:

Section: B LOCAL GOVERNANCE

Policy: BD Board Meetings

Summary of LOCAL Policy:

- This policy outlines the rules and regulations associated with who/what/where/when and how meetings of the KC Board of Trustees will be conducted.

Procedures:

- None

BOARD MEETINGS

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Definitions

Meeting

“Meeting” means a deliberation among a quorum of a governmental body, including a college district board of trustees, or between a quorum of a governmental body and another person, during which public business or public policy over which the governmental body has supervision or control is discussed or considered, or during which the governmental body takes formal action, or except as otherwise provided by this provision, a gathering:

1. That is conducted by the governmental body or for which the governmental body is responsible;
2. At which a quorum of members of the governmental body is present;
3. That has been called by the governmental body; and
4. At which the members receive information from, give information to, ask questions of, or receive questions from any third person, including an employee of the governmental body, about the public business or public policy over which the governmental body has supervision or control.

Gov’t Code 551.001(3)–(4)

Deliberation

“Deliberation” means a verbal or written exchange between a quorum of a governmental body, or between a quorum of a governmental body and another person, concerning an issue within the jurisdiction of the governmental body. *Gov’t Code 551.001(2)*

Quorum

“Quorum” means a majority of a governmental body. *Gov’t Code 311.013(b), 551.001(6)*

Recording

“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)*

Videoconference

“Videoconference” means a communication conducted between two or more persons in which one or more of the participants communicate with the other participants through audio and video signals transmitted over a telephone network, a data network, or the internet. *Gov’t Code 551.001(8); 1 TAC 209.1(5)*

Computer-Based
Videoconferencing
Application

“Computer-based videoconferencing application” means a commercially available application designed to facilitate videoconferencing between a personal computer to another personal computer or mobile device either one-to-one or in a group environment. *1 TAC 209.1(1)*

BOARD MEETINGS

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Dedicated Video
Room Environment

“Dedicated video room environment” means a room that is specifically and exclusively built for the purpose of videoconferencing with specific acoustics, permanent microphone and camera placement, dedicated camera and system equipment, and other equipment that is permanently fixed in the room for videoconferencing. A dedicated video room environment generally uses specific, proprietary software to connect participants at remote locations through a private data network or through a proprietary software connection with the primary dedicated video room environment; this software is typically only compatible with the video room equipment that is used in the primary dedicated video room environment. This definition does not include a room that has nonpermanent connections set up to permit an institution of higher education or governmental body to bring their own electronics into the room and connect them therein. *1 TAC 209.1(2)*

Meeting Exceptions

Social Function or
Convention

The term “meeting” does not include the gathering of a quorum of a governmental body, including a college district board of trustees, at a social function unrelated to the public business that is conducted by the body, the attendance by a quorum of the governmental body at a regional, state, or national convention or workshop, ceremonial event, or press conference, or the attendance by a quorum of a governmental body at a candidate forum, appearance, or debate to inform the electorate, if formal action is not taken and any discussion of public business is incidental to the social function, convention, workshop, ceremonial event, press conference, forum, appearance, or debate. *Gov’t Code 551.001(4)*

Legislative
Committee or
Agency Meeting

The attendance by a quorum of a governmental body at a meeting of a committee or agency of the legislature is not considered to be a meeting of that governmental body if the deliberations at the meeting by the members of that governmental body consist only of publicly testifying at the meeting, publicly commenting at the meeting, and publicly responding at the meeting to a question asked by a member of the legislative committee or agency. *Gov’t Code 551.0035(b)*

Online Message
Board

A communication or exchange of information between members of a governmental body about public business or public policy over which the governmental body has supervision or control does not constitute a meeting or deliberation for purposes of Government Code Chapter 551 if the communication is in writing and the writing is posted to an online message board or similar internet application in accordance with Government Code 551.006. [See BBI(LEGAL)] *Gov’t Code 551.006(a)*

Prohibited Series of
Communications

A member of a governmental body commits an offense if the member:

BOARD MEETINGS

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(LEGAL)

1. Knowingly engages in at least one communication among a series of communications that each occur outside of a meeting authorized by Government Code Chapter 551 and that concern an issue within the jurisdiction of the governmental body in which the members engaging in the individual communications constitute fewer than a quorum of members but the members engaging in the series of communications constitute a quorum of members; and
2. Knew at the time the member engaged in the communication that the series of communications involved would involve a quorum and would constitute a deliberation once a quorum of members engaged in the series of communications.

Gov't Code 551.143(a)

Open to Public

Every regular, special, or called meeting of a governmental body shall be open to the public, except as provided by Government Code Chapter 551. [See BCB and BDA] *Gov't Code 551.002*

**Exclusion of a
Witness**

A governmental body that is investigating a matter may exclude a witness from a hearing during the examination of another witness in an investigation. *Gov't Code 551.084*

**Recording by
Attendees**

A person in attendance may record all or any part of an open meeting of a governmental body by means of a recorder, video camera, or any other means of aural or visual reproduction. A governmental body may adopt reasonable rules to maintain order at a meeting, including rules related to the location of recording equipment and the manner in which the recording is conducted. A rule adopted under this section may not prevent or unreasonably impair a person from exercising the right to record. *Gov't Code 551.023*

Minutes

A governmental body shall prepare and keep minutes or make a recording of each open meeting of the body. The minutes must state the subject of each deliberation and indicate each vote, order, decision, or other action taken.

The minutes and recordings of an open meeting are public records and shall be available for public inspection and copying on request to the governmental body's chief administrative officer or the officer's designee.

Gov't Code 551.021–.022

Notice Required

The governmental body shall give written notice of the date, hour, place, and subject of each meeting held by the governmental body. *Gov't Code 551.041*

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Continued Meeting	Government Code 551.041 does not require a governmental body that recesses an open meeting to the following regular business day to post notice of the continued meeting if the action is taken in good faith and not to circumvent Government Code Chapter 551. If an open meeting is continued to the following regular business day and, on that following day, the board continues the meeting to another day, the governmental body must give the required written notice of the meeting continued to that other day. <i>Gov't Code 551.0411(a)</i>
Inquiry During Meeting	If, at a meeting of a governmental body, a member of the public or of the governmental body inquires about a subject for which the required notice has not been given, the notice provisions do not apply to a statement of specific factual information given in response to the inquiry or a recitation of existing policy in response to the inquiry. Any deliberation of or decision about the subject of the inquiry shall be limited to a proposal to place the subject on the agenda of a subsequent meeting. <i>Gov't Code 551.042</i>
Time of Notice and Accessibility	<p>The notice of a meeting of a governmental body must be posted on a bulletin board at a place convenient to the public in the central administration office for at least 72 hours before the scheduled time of the meeting. The notice must be posted in a place readily accessible to the public at all times for at least 72 hours before the scheduled time of the meeting. <i>Gov't Code 551.043(a), .051; <u>City of San Antonio v. Fourth Court of Appeals</u>, 820 S.W.2d 762 (Tex. 1991)</i></p> <p>If the Open Meetings Act (OMA) specifically requires or allows a governmental body to post notice of a meeting on the internet, the governmental body satisfies the requirement that the notice must be posted in a place readily accessible to the general public at all times by making a good-faith attempt to continuously post the notice on the internet during the prescribed period.</p> <p>The governmental body must still comply with any duty to physically post the notice at a particular location. If the governmental body makes a good-faith attempt to continuously post the notice on the internet during the prescribed period, the notice physically posted on the location prescribed by the OMA must be readily accessible to the general public during normal business hours.</p> <p><i>Gov't Code 551.043(b)</i></p>
Internet Posting Generally	Government Code 551.056 applies only to a governmental body that maintains an internet website or for which an internet website is maintained. In addition to the other place at which notice or an agenda of a meeting is required to be posted, the governing body of a junior college or junior college district, including a college or

BOARD MEETINGS

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district that has changed its name in accordance with Education Code Chapter 130, must also concurrently post notice of a meeting and the agenda for the meeting on the internet website of the governmental body.

The validity of a posted notice of a meeting or an agenda by a governmental body that made a good-faith attempt to comply with the internet posting requirements is not affected by a failure to comply that is due to a technical problem beyond the control of the governmental body.

Gov't Code 551.056

A political subdivision, including a college district, with the authority to impose a tax that maintains a publicly accessible internet website shall post on a publicly accessible internet website each notice of a meeting of the political subdivision's governing body under the OMA, and each record of a meeting of the political subdivision's governing body under the OMA. *Gov't Code 2051.201(a), (b)(5)–(6)*

Large College
Districts

The governing board of a junior college district with a total student enrollment of more than 20,000 in any semester of the preceding academic year, for any regularly scheduled meeting of the governing board for which notice is required under Government Code Chapter 551, shall post as early as practicable in advance of the meeting on the internet website of the district any written agenda and related supplemental written materials provided by the district to the board members for the members' use during the meeting. This requirement does not apply to written materials that the general counsel or other appropriate attorney for the district certifies are confidential or may be withheld from public disclosure under Government Code Chapter 552 (Public Information Act).

The governing board of a junior college district is not required to comply with the requirements of this section if that compliance is not possible because of an act of God, force majeure, or a similar cause not reasonably within the governing board's control.

Gov't Code 551.1282

**Specificity of
Agenda / Notice**

Agendas for all meetings shall be sufficiently specific to inform the public of the subjects to be deliberated at the meeting, setting out any special or unusual matters to be considered or any matter in which the public has a particular interest. Deliberations or actions pertaining to top administrators are of particular public interest, and notice of those subjects must be worded with such clarity that the public will understand what the board proposes to discuss or accomplish. *Cox Enterprises, Inc. v. Austin Indep. Sch. Dist.*, 706

S.W.2d 956 (Tex. 1986); Point Isabel Indep. Sch. Dist. v. Hinojosa, 797 S.W.2d 176 (Tex. App.—Corpus Christi, 1990, writ denied); Atty. Gen. Ops. CM-494 (1969), JH-419 (1974), JH-662 (1975), JH-1045 (1977)

The terms “employee briefing” or “staff briefing” do not give adequate notice of the subject matter to be presented to the board by employees or staff members. *Atty. Gen. Op. JC-169 (2000)*

The subject of a report or update by college district staff or a member of the board must be set out in the notice in a manner that informs a reader about the subjects to be addressed. *Atty. Gen. Op. GA-668 (2008)*

**Emergency Meeting
or Emergency
Addition to an
Agenda**

In an emergency or when there is an urgent public necessity, the notice of a meeting to deliberate or take action on the emergency or urgent public necessity, or the supplemental notice to add the deliberation or taking of action on the emergency or urgent public necessity as an item to the agenda for a meeting for which the required notice has been posted is sufficient if the notice or supplemental notice is posted for at least one hour before the meeting is convened. *Gov’t Code 551.045(a)*

An emergency or urgent public necessity exists only if immediate action is required of a governmental body because of an imminent threat to public health and safety, including a threat described below, if imminent or a reasonably unforeseeable situation, including:

1. Fire, flood, earthquake, hurricane, tornado, or wind, rain, or snowstorm;
2. Power failure, transportation failure, or interruption of communication facilities;
3. Epidemic; or
4. Riot, civil disturbance, enemy attack, or other actual or threatened act of lawlessness or violence.

Gov’t Code 551.045(b)

The sudden relocation of a large number of residents from the area of a declared disaster to a governmental body’s jurisdiction is considered a reasonably unforeseeable situation for a reasonable period immediately following the relocation. *Gov’t Code 551.045(e)*

The governmental body shall clearly identify the emergency or urgent public necessity in the notice or supplemental notice. *Gov’t Code 551.045(c)*

A governmental body may not deliberate or take action on a matter at a meeting for which notice or supplemental notice is posted under Government Code 551.045(a) other than:

1. A matter directly related to responding to the emergency or urgent public necessity identified in the notice or supplemental notice of the meeting as provided by Government Code 551.045(c); or
2. An agenda item listed on a notice of the meeting before the supplemental notice was posted.

Gov't Code 551.045(a-1)

Catastrophe

A governmental body that is prevented from convening an open meeting that was otherwise properly posted under Government Code 551.041 because of a catastrophe may convene the meeting in a convenient location within 72 hours pursuant to Government Code 551.045 if the action is taken in good faith and not to circumvent the OMA. If the governmental body is unable to convene the open meeting within those 72 hours, the governmental body may subsequently convene the meeting only if the governmental body gives the required written notice of the meeting.

"Catastrophe" means a condition or occurrence that interferes physically with the ability of the governmental body to conduct a meeting, including:

1. Fire, flood, earthquake, hurricane, tornado, or wind, rain, or snow storm;
2. Power failure, transportation failure, or interruption of communication facilities;
3. Epidemic; or
4. Riot, civil disturbance, enemy attack, or other actual or threatened act of lawlessness or violence.

Gov't Code 551.0411(b)–(c)

**Special Notice to
News Media**

A school district shall provide special notice of each meeting to any news media that has requested special notice and agreed to reimburse the district for the cost of providing the special notice. The notice shall be by telephone, facsimile transmission, or electronic mail. *Gov't Code 551.052; Att'y Gen. Op. JM-340 (1985) (a college district board of trustees is considered a school district board of trustees for the purposes of the OMA)*

BOARD MEETINGS

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(LEGAL)

Emergency Meeting
or Emergency Item

The presiding officer of a governmental body, or the member of a governmental body who calls an emergency meeting of the governmental body or adds an emergency item to the agenda of a meeting of the governmental body, shall notify the news media of the emergency meeting or emergency item. The presiding officer or member is required to notify only those members of the news media that have previously filed at the headquarters of the governmental body a request containing all pertinent information for the special notice and agreed to reimburse the governmental body for the cost of providing the special notice. The presiding officer or member shall give the notice by telephone, facsimile transmission, or electronic mail at least one hour before the meeting is convened to any news media who have previously requested special notice of all meetings. *Gov't Code 551.047*

Disaster

Notwithstanding any other law, a quorum is not required for the governing body of a local governmental entity to act if:

1. The entity's jurisdiction is wholly or partly located in the area of a disaster declared by the president of the United States or the governor; and
2. A majority of the members of the governing body are unable to be present at a meeting of the governing body as a result of the disaster.

Gov't Code 418.1102

Secret Ballot

No vote shall be taken by secret ballot. *Atty. Gen. Op. JH-1163 (1978)*

**Meeting by
Telephone
Conference Call**

Special Meeting

The OMA does not prohibit the governing board of an institution of higher education from holding a meeting by telephone conference call. A meeting held by telephone conference call authorized by this section may be held only if the meeting is a special called meeting and immediate action is required, and the convening at one location of a quorum of the board is difficult or impossible. *Gov't Code 551.121(b)–(c)*

Public Access

Each part of the telephone conference call meeting that is required to be open to the public must be:

1. Audible to the public at the location specified in the notice of the meeting as the location of the meeting; and
2. Broadcast over the internet in the manner prescribed by Government Code 551.128, below.

Gov't Code 551.121(f)

BOARD MEETINGS

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<i>Notice</i>	The telephone conference call meeting is subject to the notice requirements applicable to other meetings. The notice of a telephone conference call meeting of a governing board must specify as the location of the meeting the location where meetings of the governmental board are usually held. <i>Gov't Code 551.121(d)–(e)</i>
<i>Recording</i>	Each part of the telephone conference call meeting that is required to be open to the public must be recorded and made available to the public in an online archive located on the internet website of the entity holding the meeting. <i>Gov't Code 551.121(f)</i>
Quorum at One Location	The OMA does not prohibit the governing board of a junior college district from holding an open or closed meeting by telephone conference call. A meeting held by telephone conference call authorized by this section may be held only if a quorum of the governing board is physically present at the location where meetings of the board are usually held. <i>Gov't Code 551.122(a)–(b)</i>
<i>Public Access</i>	Each part of the telephone conference call meeting that is required to be open to the public shall be audible to the public at the location where the quorum is present. The location of the meeting shall provide two-way communication during the entire telephone conference call meeting, and the identification of each party to the telephone conference shall be clearly stated before the party speaks. <i>Gov't Code 551.122(d)–(e)</i>
<i>Notice</i>	The telephone conference call meeting is subject to the notice requirements applicable to other meetings. <i>Gov't Code 551.122(c)</i>
<i>Recording</i>	Each part of the telephone conference call meeting that is required to be open to the public shall be recorded. The recording shall be made available to the public. <i>Gov't Code 551.122(d)</i>
<i>Attendance</i>	A member of a governing board of a junior college district who participates in a board meeting by telephone conference call but is not physically present at the location of the meeting is considered to be absent from the meeting for purposes of Education Code 130.0845. <i>Gov't Code 551.122(g)</i>
Meeting by Videoconference	A member or employee of a governmental body, including a college district board of trustees, may participate remotely in a meeting of the governmental body by means of a videoconference call if the video and audio feed of the member's or employee's participation, as applicable, is broadcast live at the meeting and complies with the provisions of this section. <i>Gov't Code 551.127(a-1)</i>
Quorum	A meeting may be held by videoconference call only if a quorum of the governmental body is physically present at one location of the meeting. <i>Gov't Code 551.127(b)</i>

BOARD MEETINGS

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<i>Exception</i>	A meeting of a state governmental body or a governmental body that extends into three or more counties may be held by videoconference call only if the member of the governmental body presiding over the meeting is physically present at one location of the meeting that is open to the public during the open portions of the meeting. <i>Gov't Code 551.127(c)</i>
Attendance	<p>A member of a governmental body who participates in the meeting as provided by Government Code 551.127(a-1), above, shall be counted as present at the meeting for all purposes.</p> <p>A member of a governmental body who participates in a meeting by videoconference call shall be considered absent from any portion of the meeting during which audio or video communication with the member is lost or disconnected. The governmental body may continue the meeting only if a quorum of the body remains present at the meeting location or, if applicable, continues to participate in a meeting conducted under Government Code 551.127(c), above.</p> <p><i>Gov't Code 551.217(a-2)–(a-3)</i></p>
Notice	A meeting held by videoconference call is subject to the notice requirements applicable to other meetings in addition to the notice requirements prescribed by this section. The notice of a meeting to be held by videoconference call must specify as a location of the meeting the location where a quorum of the governmental body will be physically present and specify the intent to have a quorum present at that location, except that the notice of a meeting to be held by videoconference call under Government Code 551.127(c), above, must specify as a location of the meeting the location where the member of the governmental body presiding over the meeting will be physically present and specify the intent to have the member of the governmental body presiding over the meeting present at that location. <i>Gov't Code 551.127(d)–(e)</i>
Public Access	The location where the member of the governmental body presiding over the meeting is physically present shall be open to the public during the open portions of the meeting. <i>Gov't Code 551.127(e)</i>
Quality of Audio and Video Signals	Each portion of a meeting held by videoconference call that is required to be open to the public shall be visible and audible to the public at the location specified under Government Code 551.127(e), above. If a problem occurs that causes a meeting to no longer be visible and audible to the public at that location, the meeting must be recessed until the problem is resolved. If the problem is not resolved in six hours or less, the meeting must be adjourned.

The physical location specified under Section 551.127(e), and each remote location from which a member of the governmental body participates, shall have two-way audio and video communication with each member who is participating by videoconference call during the entire meeting. The face of each participant in the videoconference call, while that participant is speaking, shall be clearly visible, and the voice audible, to each other participant and, during the open portion of the meeting, to the members of the public in attendance at the physical location described by Section 551.127(e) and at any other location of the meeting that is open to the public.

The Department of Information Resources (DIR) by rule shall specify minimum standards for audio and video signals at a meeting held by videoconference call. The quality of the audio and video signals perceptible at each location of the meeting must meet or exceed those standards.

The audio and video signals perceptible by members of the public at each location of the meeting described by Government Code 551.127(h) must be of sufficient quality so that members of the public at each location can observe the demeanor and hear the voice of each participant in the open portion of the meeting.

Gov't Code 551.127(f), (h)–(j)

*Meetings Held by
Computer-Based
Video-
conferencing
Applications*

All computer-based videoconferencing applications shall employ a minimum bandwidth transmission speed and/or adequate data compression algorithm to produce a sufficient quality such that audio volume and clarity and video clarity are sufficient to hear and view all speaking participants on the videoconference clearly.

Computer-based videoconferencing applications may specify unique minimum requirements for computer central processing unit, memory, and video capability to run the computer-based videoconferencing application. An institution of higher education, including a college district, shall comply with these minimum requirements.

If the videoconference call hosts a public audience at a location or locations specified by the official notice of the open meeting posted by the institution of higher education in compliance with OMA requirements, then the institution of higher education shall establish a minimum of one host computer at such location(s) that will run the computer-based videoconferencing application. This host computer shall then be connected to:

1. Either a separate video monitor of size proportional to the room and clearly visible to all in the room or multiple video

monitors so that all attendees may clearly view the videostream; and

2. External speakers of suitable volume and sound quality such that all meeting attendees at the host location may clearly hear the meeting.

Any personal computer used by a governing body member of an institution of higher education for the purpose of videoconferencing for an open meeting subject to the OMA shall contain a camera and speakers of sufficient quality to permit all meeting attendees to see the individual who is using the personal computer and for the individual to hear all speaking attendees.

1 TAC 209.30

*Meetings
Conducted
Between
Dedicated Video
Room
Environments*

Videoconferencing equipment used in a dedicated video room environment shall meet the International Telecommunication Union (ITU) standards for the respective medium of transmission described by 1 Administrative Code 209.31(a).

When using a computer web conferencing system at the primary dedicated video room environment site, a large monitor and adequate speakers shall be used.

Audio signals from the remote dedicated video room environment(s) shall be of similar quality and volume as the local audio at the primary dedicated video room environment.

At least one monitor shall be available at the primary dedicated video room environment site for the audience to easily see remote meeting participants. When using a computer web conferencing system at the primary site, a large monitor and adequate speakers shall be used. The audience and members of the institution of higher education shall have full view of at least one monitor at each meeting location. Additional monitors shall be placed, as necessary, to ensure a clear view by all in attendance.

If an institution of higher education uses a dedicated video room environment for the dedicated camera and speaker equipment but is using a computer-based videoconferencing application that is not part of the proprietary dedicated video room equipment setup, then the institution of higher education must comply with all minimum standards for computer-based application software and is not subject to the requirements of a dedicated video room environment.

1 TAC 209.31

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<i>Guidelines</i>	At its discretion, DIR may promulgate guidelines establishing technical standards pertaining to rapidly emerging technologies or technological issues or advancement. DIR will publish any such guidelines to the department's website. Governmental bodies and institutions of higher education conducting open or closed meetings by videoconference call shall review and consider any applicable guidelines promulgated by DIR. <i>1 TAC 209.5</i>
<i>Security Requirements</i>	Each institution of higher education subject to the OMA shall review any additional internal security requirements of their institution of higher education. If 1 Administrative Code Chapter 202 applies to the institution of higher education [see CS], then the institution of higher education shall ensure compliance with any information security standards promulgated regarding the transmission of data through a public or data/IP network. <i>1 TAC 209.32</i>
<i>Effect of Other Law</i>	No requirements found in 1 Administrative Code Chapter 209, Subchapters B or C, shall be interpreted to overrule any section of Government Code Chapter 551 or any rules adopted or opinions issued by the Office of the Attorney General interpreting Chapter 551. <i>1 TAC 209.4</i>
Recording	The governmental body shall make at least an audio recording of the meeting. The recording shall be made available to the public. <i>Gov't Code 551.127(g)</i>
Public Testimony by Videoconference Call	Without regard to whether a member of the governmental body is participating in a meeting from a remote location by videoconference call, a governmental body may allow a member of the public to testify at a meeting from a remote location by videoconference call. <i>Gov't Code 551.127(k)</i>
Internet Broadcast	A governmental body may broadcast an open meeting over the internet. Except as provided by Government Code 551.128(b-2), a governmental body that broadcasts a meeting over the internet shall establish an internet site and provide access to the broadcast from that site. The governmental body shall provide on the internet site the same notice of the meeting that the governmental body is required to post under Government Code Chapter 551, Subchapter C. The notice on the internet must be posted within the time required for posting notice under Chapter 551, Subchapter C. <i>Gov't Code 551.128(b)–(c)</i>
Large College Districts	The governing board of a junior college district with a total student enrollment of more than 20,000 in any semester of the preceding academic year, for any regularly scheduled meeting of the governing board for which notice is required under Government Code Chapter 551, shall:

BOARD MEETINGS

BD
(LEGAL)

1. Broadcast the meeting, other than any portions of the meeting closed to the public as authorized by law, over the internet in the manner prescribed by Government Code 551.128; and
2. Record the broadcast and make that recording publicly available in an online archive located on the district's internet web-site.

The governing board of the junior college district is not required to comply with the requirements of this section if that compliance is not possible because of an act of God, force majeure, or a similar cause not reasonably within the governing board's control.

Gov't Code 551.1282(a)–(b), (d)

**Meeting Recording
Required**

An elected school district board of trustees for a school district that has a student enrollment of 10,000 or more shall:

1. Make a video and audio recording of reasonable quality of each regularly scheduled open meeting that is not a work session or a special called meeting; and
2. Make available an archived copy of the video and audio recording of each meeting described by item 1 on the internet.

Gov't Code 551.128(b-1); Att'y Gen. Op. JM-340 (1985) (a college district board of trustees is considered a school district board of trustees for the purposes of the OMA)

A governmental body described by Government Code 551.128(b-1) may make available the archived recording of a meeting on an existing internet site, including a publicly accessible video-sharing or social networking site. The governmental body is not required to establish a separate internet site and provide access to archived recordings of meetings from that site. *Gov't Code 551.128(b-2)*

A governmental body described by Section 551.128(b-1) that maintains an internet site shall make available on that site, in a conspicuous manner the archived recording of each meeting or an accessible link to the archived recording of each such meeting. *Gov't Code 551.128(b-3)*

A governmental body described by Section 551.128(b-1) shall make the archived recording of each meeting available on the internet not later than seven days after the date the recording was made and maintain the archived recording on the internet for not less than two years after the date the recording was first made available. *Gov't Code 551.128(b-4)*

A governmental body described by Section 551.128(b-1) is exempt from the requirements of Government Code 551.128 (b-2) and (b-

4) if the governmental body's failure to make the required recording of a meeting available is the result of a catastrophe, as defined by Government Code 551.0411, or a technical breakdown. Following a catastrophe or breakdown, a governmental body must make all reasonable efforts to make the required recording available in a timely manner. *Gov't Code 551.128(b-5)*

A governmental body described by Government Code 551.128(b-1) may broadcast a regularly scheduled open meeting of the body on television. *Gov't Code 551.128(b-6)*

**Attorney
Consultation**

A governmental body may use a telephone conference call, video-conference call, or communications over the internet to conduct a public consultation with its attorney in an open meeting of the governmental body or a private consultation with its attorney in a closed meeting of the governmental body. [See BDA]

Each part of a public consultation by a governmental body with its attorney in an open meeting of the governmental body must be audible to the public at the location specified in the notice of the meeting as the location of the meeting.

Gov't Code 551.129(a)–(b)

**Passing Resolutions
or Orders**

The board shall act and proceed by and through resolutions or orders adopted or passed by the board and the affirmative vote of a majority of all members of the board shall be required to adopt or pass a resolution or order, and the board shall adopt such rules, regulations, and bylaws as it deems advisable, not inconsistent with Education Code 130.082. *Education Code 130.082(d)*

**Persons with a
Hearing Impairment**

In a proceeding before the governing body of a political subdivision in which the legal rights, duties, or privileges of a party are to be determined by the governing body after an adjudicative hearing, the governing body shall supply for a party who is deaf or hearing impaired an interpreter who has qualifications approved by the Department of Assistive and Rehabilitative Services.

"Deaf or hearing impaired" means having a hearing impairment, regardless of the existence of a speech impairment, that inhibits comprehension of an examination or proceeding or communication with others.

Gov't Code 558.001, .003

BOARD MEETINGS

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(LEGAL)

Definitions

Meeting

“Meeting” means a deliberation among a quorum of a governmental body, including a college district board of trustees, or between a quorum of a governmental body and another person, during which public business or public policy over which the governmental body has supervision or control is discussed or considered, or during which the governmental body takes formal action, or except as otherwise provided by this provision, a gathering:

1. That is conducted by the governmental body or for which the governmental body is responsible;
2. At which a quorum of members of the governmental body is present;
3. That has been called by the governmental body; and
4. At which the members receive information from, give information to, ask questions of, or receive questions from any third person, including an employee of the governmental body, about the public business or public policy over which the governmental body has supervision or control.

Gov’t Code 551.001(3)–(4)

Deliberation

“Deliberation” means a verbal or written exchange between a quorum of a governmental body, or between a quorum of a governmental body and another person, concerning an issue within the jurisdiction of the governmental body. *Gov’t Code 551.001(2)*

Quorum

“Quorum” means a majority of a governmental body. *Gov’t Code 311.013(b), 551.001(6)*

Recording

“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)*

Videoconference

“Videoconference” means a communication conducted between two or more persons in which one or more of the participants communicate with the other participants through audio and video signals transmitted over a telephone network, a data network, or the internet. *Gov’t Code 551.001(8); 1 TAC 209.1(5)*

Computer-Based
Videoconferencing
Application

“Computer-based videoconferencing application” means a commercially available application designed to facilitate videoconferencing between a personal computer to another personal computer or mobile device either one-to-one or in a group environment. *1 TAC 209.1(1)*

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Dedicated Video Room Environment	“Dedicated video room environment” means a room that is specifically and exclusively built for the purpose of videoconferencing with specific acoustics, permanent microphone and camera placement, dedicated camera and system equipment, and other equipment that is permanently fixed in the room for videoconferencing. A dedicated video room environment generally uses specific, proprietary software to connect participants at remote locations through a private data network or through a proprietary software connection with the primary dedicated video room environment; this software is typically only compatible with the video room equipment that is used in the primary dedicated video room environment. This definition does not include a room that has nonpermanent connections set up to permit an institution of higher education or governmental body to bring their own electronics into the room and connect them therein. <i>1 TAC 209.1(2)</i>
Meeting Exceptions Social Function or Convention	The term “meeting” does not include the gathering of a quorum of a governmental body, including a college district board of trustees, at a social function unrelated to the public business that is conducted by the body, the attendance by a quorum of the governmental body at a regional, state, or national convention or workshop, ceremonial event, or press conference, or the attendance by a quorum of a governmental body at a candidate forum, appearance, or debate to inform the electorate, if formal action is not taken and any discussion of public business is incidental to the social function, convention, workshop, ceremonial event, press conference, forum, appearance, or debate. <i>Gov’t Code 551.001(4)</i>
Legislative Committee or Agency Meeting	The attendance by a quorum of a governmental body at a meeting of a committee or agency of the legislature is not considered to be a meeting of that governmental body if the deliberations at the meeting by the members of that governmental body consist only of publicly testifying at the meeting, publicly commenting at the meeting, and publicly responding at the meeting to a question asked by a member of the legislative committee or agency. <i>Gov’t Code 551.0035(b)</i>
Online Message Board	A communication or exchange of information between members of a governmental body about public business or public policy over which the governmental body has supervision or control does not constitute a meeting or deliberation for purposes of Government Code Chapter 551 if the communication is in writing and the writing is posted to an online message board or similar internet application in accordance with Government Code 551.006. [See BBI(LEGAL)] <i>Gov’t Code 551.006(a)</i>
Prohibited Series of Communications	A member of a governmental body commits an offense if the member:

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1. Knowingly engages in at least one communication among a series of communications that each occur outside of a meeting authorized by Government Code Chapter 551 and that concern an issue within the jurisdiction of the governmental body in which the members engaging in the individual communications constitute fewer than a quorum of members but the members engaging in the series of communications constitute a quorum of members; and
2. Knew at the time the member engaged in the communication that the series of communications involved would involve a quorum and would constitute a deliberation once a quorum of members engaged in the series of communications.

Gov't Code 551.143(a)

Open to Public

Every regular, special, or called meeting of a governmental body shall be open to the public, except as provided by Government Code Chapter 551. [See BCB and BDA] *Gov't Code 551.002*

**Exclusion of a
Witness**

A governmental body that is investigating a matter may exclude a witness from a hearing during the examination of another witness in an investigation. *Gov't Code 551.084*

**Recording by
Attendees**

A person in attendance may record all or any part of an open meeting of a governmental body by means of a recorder, video camera, or any other means of aural or visual reproduction. A governmental body may adopt reasonable rules to maintain order at a meeting, including rules related to the location of recording equipment and the manner in which the recording is conducted. A rule adopted under this section may not prevent or unreasonably impair a person from exercising the right to record. *Gov't Code 551.023*

Minutes

A governmental body shall prepare and keep minutes or make a recording of each open meeting of the body. The minutes must state the subject of each deliberation and indicate each vote, order, decision, or other action taken.

The minutes and recordings of an open meeting are public records and shall be available for public inspection and copying on request to the governmental body's chief administrative officer or the officer's designee.

Gov't Code 551.021–.022

Notice Required

The governmental body shall give written notice of the date, hour, place, and subject of each meeting held by the governmental body. *Gov't Code 551.041*

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Continued Meeting	Government Code 551.041 does not require a governmental body that recesses an open meeting to the following regular business day to post notice of the continued meeting if the action is taken in good faith and not to circumvent Government Code Chapter 551. If an open meeting is continued to the following regular business day and, on that following day, the board continues the meeting to another day, the governmental body must give the required written notice of the meeting continued to that other day. <i>Gov't Code 551.0411(a)</i>
Inquiry During Meeting	If, at a meeting of a governmental body, a member of the public or of the governmental body inquires about a subject for which the required notice has not been given, the notice provisions do not apply to a statement of specific factual information given in response to the inquiry or a recitation of existing policy in response to the inquiry. Any deliberation of or decision about the subject of the inquiry shall be limited to a proposal to place the subject on the agenda of a subsequent meeting. <i>Gov't Code 551.042</i>
Time of Notice and Accessibility	<p>The notice of a meeting of a governmental body must be posted on a bulletin board at a place convenient to the public in the central administration office for at least 72 hours before the scheduled time of the meeting. The notice must be posted in a place readily accessible to the public at all times for at least 72 hours before the scheduled time of the meeting. <i>Gov't Code 551.043(a), .051; <u>City of San Antonio v. Fourth Court of Appeals</u>, 820 S.W.2d 762 (Tex. 1991)</i></p> <p>If the Open Meetings Act (OMA) specifically requires or allows a governmental body to post notice of a meeting on the internet, the governmental body satisfies the requirement that the notice must be posted in a place readily accessible to the general public at all times by making a good-faith attempt to continuously post the notice on the internet during the prescribed period.</p> <p>The governmental body must still comply with any duty to physically post the notice at a particular location. If the governmental body makes a good-faith attempt to continuously post the notice on the internet during the prescribed period, the notice physically posted on the location prescribed by the OMA must be readily accessible to the general public during normal business hours.</p> <p><i>Gov't Code 551.043(b)</i></p>
Internet Posting Generally	Government Code 551.056 applies only to a governmental body that maintains an internet website or for which an internet website is maintained. In addition to the other place at which notice or an agenda of a meeting is required to be posted, the governing body of a junior college or junior college district, including a college or

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district that has changed its name in accordance with Education Code Chapter 130, must also concurrently post notice of a meeting and the agenda for the meeting on the internet website of the governmental body.

The validity of a posted notice of a meeting or an agenda by a governmental body that made a good-faith attempt to comply with the internet posting requirements is not affected by a failure to comply that is due to a technical problem beyond the control of the governmental body.

Gov't Code 551.056

A political subdivision, including a college district, with the authority to impose a tax that maintains a publicly accessible internet website shall post on a publicly accessible internet website each notice of a meeting of the political subdivision's governing body under the OMA, and each record of a meeting of the political subdivision's governing body under the OMA. *Gov't Code 2051.201(a), (b)(5)–(6)*

Large College
Districts

The governing board of a junior college district with a total student enrollment of more than 20,000 in any semester of the preceding academic year, for any regularly scheduled meeting of the governing board for which notice is required under Government Code Chapter 551, shall post as early as practicable in advance of the meeting on the internet website of the district any written agenda and related supplemental written materials provided by the district to the board members for the members' use during the meeting. This requirement does not apply to written materials that the general counsel or other appropriate attorney for the district certifies are confidential or may be withheld from public disclosure under Government Code Chapter 552 (Public Information Act).

The governing board of a junior college district is not required to comply with the requirements of this section if that compliance is not possible because of an act of God, force majeure, or a similar cause not reasonably within the governing board's control.

Gov't Code 551.1282

**Specificity of
Agenda / Notice**

Agendas for all meetings shall be sufficiently specific to inform the public of the subjects to be deliberated at the meeting, setting out any special or unusual matters to be considered or any matter in which the public has a particular interest. Deliberations or actions pertaining to top administrators are of particular public interest, and notice of those subjects must be worded with such clarity that the public will understand what the board proposes to discuss or accomplish. *Cox Enterprises, Inc. v. Austin Indep. Sch. Dist.*, 706

S.W.2d 956 (Tex. 1986); Point Isabel Indep. Sch. Dist. v. Hinojosa, 797 S.W.2d 176 (Tex. App.—Corpus Christi, 1990, writ denied); Atty. Gen. Ops. CM-494 (1969), JH-419 (1974), JH-662 (1975), JH-1045 (1977)

The terms “employee briefing” or “staff briefing” do not give adequate notice of the subject matter to be presented to the board by employees or staff members. *Atty. Gen. Op. JC-169 (2000)*

The subject of a report or update by college district staff or a member of the board must be set out in the notice in a manner that informs a reader about the subjects to be addressed. *Atty. Gen. Op. GA-668 (2008)*

**Emergency Meeting
or Emergency
Addition to an
Agenda**

In an emergency or when there is an urgent public necessity, the notice of a meeting to deliberate or take action on the emergency or urgent public necessity, or the supplemental notice to add the deliberation or taking of action on the emergency or urgent public necessity as an item to the agenda for a meeting for which the required notice has been posted is sufficient if the notice or supplemental notice is posted for at least one hour before the meeting is convened. *Gov’t Code 551.045(a)*

An emergency or urgent public necessity exists only if immediate action is required of a governmental body because of an imminent threat to public health and safety, including a threat described below, if imminent or a reasonably unforeseeable situation, including:

1. Fire, flood, earthquake, hurricane, tornado, or wind, rain, or snowstorm;
2. Power failure, transportation failure, or interruption of communication facilities;
3. Epidemic; or
4. Riot, civil disturbance, enemy attack, or other actual or threatened act of lawlessness or violence.

Gov’t Code 551.045(b)

The sudden relocation of a large number of residents from the area of a declared disaster to a governmental body’s jurisdiction is considered a reasonably unforeseeable situation for a reasonable period immediately following the relocation. *Gov’t Code 551.045(e)*

The governmental body shall clearly identify the emergency or urgent public necessity in the notice or supplemental notice. *Gov’t Code 551.045(c)*

A governmental body may not deliberate or take action on a matter at a meeting for which notice or supplemental notice is posted under Government Code 551.045(a) other than:

1. A matter directly related to responding to the emergency or urgent public necessity identified in the notice or supplemental notice of the meeting as provided by Government Code 551.045(c); or
2. An agenda item listed on a notice of the meeting before the supplemental notice was posted.

Gov't Code 551.045(a-1)

Catastrophe

A governmental body that is prevented from convening an open meeting that was otherwise properly posted under Government Code 551.041 because of a catastrophe may convene the meeting in a convenient location within 72 hours pursuant to Government Code 551.045 if the action is taken in good faith and not to circumvent the OMA. If the governmental body is unable to convene the open meeting within those 72 hours, the governmental body may subsequently convene the meeting only if the governmental body gives the required written notice of the meeting.

“Catastrophe” means a condition or occurrence that interferes physically with the ability of the governmental body to conduct a meeting, including:

1. Fire, flood, earthquake, hurricane, tornado, or wind, rain, or snow storm;
2. Power failure, transportation failure, or interruption of communication facilities;
3. Epidemic; or
4. Riot, civil disturbance, enemy attack, or other actual or threatened act of lawlessness or violence.

Gov't Code 551.0411(b)–(c)

**Special Notice to
News Media**

A school district shall provide special notice of each meeting to any news media that has requested special notice and agreed to reimburse the district for the cost of providing the special notice. The notice shall be by telephone, facsimile transmission, or electronic mail. *Gov't Code 551.052; Att'y Gen. Op. JM-340 (1985) (a college district board of trustees is considered a school district board of trustees for the purposes of the OMA)*

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Emergency Meeting
or Emergency Item

The presiding officer of a governmental body, or the member of a governmental body who calls an emergency meeting of the governmental body or adds an emergency item to the agenda of a meeting of the governmental body, shall notify the news media of the emergency meeting or emergency item. The presiding officer or member is required to notify only those members of the news media that have previously filed at the headquarters of the governmental body a request containing all pertinent information for the special notice and agreed to reimburse the governmental body for the cost of providing the special notice. The presiding officer or member shall give the notice by telephone, facsimile transmission, or electronic mail at least one hour before the meeting is convened to any news media who have previously requested special notice of all meetings. *Gov't Code 551.047*

Disaster

Notwithstanding any other law, a quorum is not required for the governing body of a local governmental entity to act if:

1. The entity's jurisdiction is wholly or partly located in the area of a disaster declared by the president of the United States or the governor; and
2. A majority of the members of the governing body are unable to be present at a meeting of the governing body as a result of the disaster.

Gov't Code 418.1102

Secret Ballot

No vote shall be taken by secret ballot. *Atty. Gen. Op. JH-1163 (1978)*

**Meeting by
Telephone
Conference Call**

Special Meeting

The OMA does not prohibit the governing board of an institution of higher education from holding a meeting by telephone conference call. A meeting held by telephone conference call authorized by this section may be held only if the meeting is a special called meeting and immediate action is required, and the convening at one location of a quorum of the board is difficult or impossible. *Gov't Code 551.121(b)–(c)*

Public Access

Each part of the telephone conference call meeting that is required to be open to the public must be:

1. Audible to the public at the location specified in the notice of the meeting as the location of the meeting; and
2. Broadcast over the internet in the manner prescribed by Government Code 551.128, below.

Gov't Code 551.121(f)

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<i>Notice</i>	The telephone conference call meeting is subject to the notice requirements applicable to other meetings. The notice of a telephone conference call meeting of a governing board must specify as the location of the meeting the location where meetings of the governmental board are usually held. <i>Gov't Code 551.121(d)–(e)</i>
<i>Recording</i>	Each part of the telephone conference call meeting that is required to be open to the public must be recorded and made available to the public in an online archive located on the internet website of the entity holding the meeting. <i>Gov't Code 551.121(f)</i>
Quorum at One Location	The OMA does not prohibit the governing board of a junior college district from holding an open or closed meeting by telephone conference call. A meeting held by telephone conference call authorized by this section may be held only if a quorum of the governing board is physically present at the location where meetings of the board are usually held. <i>Gov't Code 551.122(a)–(b)</i>
<i>Public Access</i>	Each part of the telephone conference call meeting that is required to be open to the public shall be audible to the public at the location where the quorum is present. The location of the meeting shall provide two-way communication during the entire telephone conference call meeting, and the identification of each party to the telephone conference shall be clearly stated before the party speaks. <i>Gov't Code 551.122(d)–(e)</i>
<i>Notice</i>	The telephone conference call meeting is subject to the notice requirements applicable to other meetings. <i>Gov't Code 551.122(c)</i>
<i>Recording</i>	Each part of the telephone conference call meeting that is required to be open to the public shall be recorded. The recording shall be made available to the public. <i>Gov't Code 551.122(d)</i>
<i>Attendance</i>	A member of a governing board of a junior college district who participates in a board meeting by telephone conference call but is not physically present at the location of the meeting is considered to be absent from the meeting for purposes of Education Code 130.0845. <i>Gov't Code 551.122(g)</i>
Meeting by Videoconference	A member or employee of a governmental body, including a college district board of trustees, may participate remotely in a meeting of the governmental body by means of a videoconference call if the video and audio feed of the member's or employee's participation, as applicable, is broadcast live at the meeting and complies with the provisions of this section. <i>Gov't Code 551.127(a-1)</i>
Quorum	A meeting may be held by videoconference call only if a quorum of the governmental body is physically present at one location of the meeting. <i>Gov't Code 551.127(b)</i>

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<i>Exception</i>	A meeting of a state governmental body or a governmental body that extends into three or more counties may be held by videoconference call only if the member of the governmental body presiding over the meeting is physically present at one location of the meeting that is open to the public during the open portions of the meeting. <i>Gov't Code 551.127(c)</i>
Attendance	<p>A member of a governmental body who participates in the meeting as provided by Government Code 551.127(a-1), above, shall be counted as present at the meeting for all purposes.</p> <p>A member of a governmental body who participates in a meeting by videoconference call shall be considered absent from any portion of the meeting during which audio or video communication with the member is lost or disconnected. The governmental body may continue the meeting only if a quorum of the body remains present at the meeting location or, if applicable, continues to participate in a meeting conducted under Government Code 551.127(c), above.</p> <p><i>Gov't Code 551.217(a-2)–(a-3)</i></p>
Notice	A meeting held by videoconference call is subject to the notice requirements applicable to other meetings in addition to the notice requirements prescribed by this section. The notice of a meeting to be held by videoconference call must specify as a location of the meeting the location where a quorum of the governmental body will be physically present and specify the intent to have a quorum present at that location, except that the notice of a meeting to be held by videoconference call under Government Code 551.127(c), above, must specify as a location of the meeting the location where the member of the governmental body presiding over the meeting will be physically present and specify the intent to have the member of the governmental body presiding over the meeting present at that location. <i>Gov't Code 551.127(d)–(e)</i>
Public Access	The location where the member of the governmental body presiding over the meeting is physically present shall be open to the public during the open portions of the meeting. <i>Gov't Code 551.127(e)</i>
Quality of Audio and Video Signals	Each portion of a meeting held by videoconference call that is required to be open to the public shall be visible and audible to the public at the location specified under Government Code 551.127(e), above. If a problem occurs that causes a meeting to no longer be visible and audible to the public at that location, the meeting must be recessed until the problem is resolved. If the problem is not resolved in six hours or less, the meeting must be adjourned.

The physical location specified under Section 551.127(e), and each remote location from which a member of the governmental body participates, shall have two-way audio and video communication with each member who is participating by videoconference call during the entire meeting. The face of each participant in the videoconference call, while that participant is speaking, shall be clearly visible, and the voice audible, to each other participant and, during the open portion of the meeting, to the members of the public in attendance at the physical location described by Section 551.127(e) and at any other location of the meeting that is open to the public.

The Department of Information Resources (DIR) by rule shall specify minimum standards for audio and video signals at a meeting held by videoconference call. The quality of the audio and video signals perceptible at each location of the meeting must meet or exceed those standards.

The audio and video signals perceptible by members of the public at each location of the meeting described by Government Code 551.127(h) must be of sufficient quality so that members of the public at each location can observe the demeanor and hear the voice of each participant in the open portion of the meeting.

Gov't Code 551.127(f), (h)–(j)

*Meetings Held by
Computer-Based
Video-
conferencing
Applications*

All computer-based videoconferencing applications shall employ a minimum bandwidth transmission speed and/or adequate data compression algorithm to produce a sufficient quality such that audio volume and clarity and video clarity are sufficient to hear and view all speaking participants on the videoconference clearly.

Computer-based videoconferencing applications may specify unique minimum requirements for computer central processing unit, memory, and video capability to run the computer-based videoconferencing application. An institution of higher education, including a college district, shall comply with these minimum requirements.

If the videoconference call hosts a public audience at a location or locations specified by the official notice of the open meeting posted by the institution of higher education in compliance with OMA requirements, then the institution of higher education shall establish a minimum of one host computer at such location(s) that will run the computer-based videoconferencing application. This host computer shall then be connected to:

1. Either a separate video monitor of size proportional to the room and clearly visible to all in the room or multiple video

monitors so that all attendees may clearly view the videostream; and

2. External speakers of suitable volume and sound quality such that all meeting attendees at the host location may clearly hear the meeting.

Any personal computer used by a governing body member of an institution of higher education for the purpose of videoconferencing for an open meeting subject to the OMA shall contain a camera and speakers of sufficient quality to permit all meeting attendees to see the individual who is using the personal computer and for the individual to hear all speaking attendees.

1 TAC 209.30

*Meetings
Conducted
Between
Dedicated Video
Room
Environments*

Videoconferencing equipment used in a dedicated video room environment shall meet the International Telecommunication Union (ITU) standards for the respective medium of transmission described by 1 Administrative Code 209.31(a).

When using a computer web conferencing system at the primary dedicated video room environment site, a large monitor and adequate speakers shall be used.

Audio signals from the remote dedicated video room environment(s) shall be of similar quality and volume as the local audio at the primary dedicated video room environment.

At least one monitor shall be available at the primary dedicated video room environment site for the audience to easily see remote meeting participants. When using a computer web conferencing system at the primary site, a large monitor and adequate speakers shall be used. The audience and members of the institution of higher education shall have full view of at least one monitor at each meeting location. Additional monitors shall be placed, as necessary, to ensure a clear view by all in attendance.

If an institution of higher education uses a dedicated video room environment for the dedicated camera and speaker equipment but is using a computer-based videoconferencing application that is not part of the proprietary dedicated video room equipment setup, then the institution of higher education must comply with all minimum standards for computer-based application software and is not subject to the requirements of a dedicated video room environment.

1 TAC 209.31

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<i>Guidelines</i>	At its discretion, DIR may promulgate guidelines establishing technical standards pertaining to rapidly emerging technologies or technological issues or advancement. DIR will publish any such guidelines to the department's website. Governmental bodies and institutions of higher education conducting open or closed meetings by videoconference call shall review and consider any applicable guidelines promulgated by DIR. <i>1 TAC 209.5</i>
<i>Security Requirements</i>	Each institution of higher education subject to the OMA shall review any additional internal security requirements of their institution of higher education. If 1 Administrative Code Chapter 202 applies to the institution of higher education [see CS], then the institution of higher education shall ensure compliance with any information security standards promulgated regarding the transmission of data through a public or data/IP network. <i>1 TAC 209.32</i>
<i>Effect of Other Law</i>	No requirements found in 1 Administrative Code Chapter 209, Subchapters B or C, shall be interpreted to overrule any section of Government Code Chapter 551 or any rules adopted or opinions issued by the Office of the Attorney General interpreting Chapter 551. <i>1 TAC 209.4</i>
Recording	The governmental body shall make at least an audio recording of the meeting. The recording shall be made available to the public. <i>Gov't Code 551.127(g)</i>
Public Testimony by Videoconference Call	Without regard to whether a member of the governmental body is participating in a meeting from a remote location by videoconference call, a governmental body may allow a member of the public to testify at a meeting from a remote location by videoconference call. <i>Gov't Code 551.127(k)</i>
Internet Broadcast	A governmental body may broadcast an open meeting over the internet. Except as provided by Government Code 551.128(b-2), a governmental body that broadcasts a meeting over the internet shall establish an internet site and provide access to the broadcast from that site. The governmental body shall provide on the internet site the same notice of the meeting that the governmental body is required to post under Government Code Chapter 551, Subchapter C. The notice on the internet must be posted within the time required for posting notice under Chapter 551, Subchapter C. <i>Gov't Code 551.128(b)–(c)</i>
Large College Districts	The governing board of a junior college district with a total student enrollment of more than 20,000 in any semester of the preceding academic year, for any regularly scheduled meeting of the governing board for which notice is required under Government Code Chapter 551, shall:

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1. Broadcast the meeting, other than any portions of the meeting closed to the public as authorized by law, over the internet in the manner prescribed by Government Code 551.128; and
2. Record the broadcast and make that recording publicly available in an online archive located on the district's internet web-site.

The governing board of the junior college district is not required to comply with the requirements of this section if that compliance is not possible because of an act of God, force majeure, or a similar cause not reasonably within the governing board's control.

Gov't Code 551.1282(a)–(b), (d)

**Meeting Recording
Required**

An elected school district board of trustees for a school district that has a student enrollment of 10,000 or more shall:

1. Make a video and audio recording of reasonable quality of each regularly scheduled open meeting that is not a work session or a special called meeting; and
2. Make available an archived copy of the video and audio recording of each meeting described by item 1 on the internet.

Gov't Code 551.128(b-1); Att'y Gen. Op. JM-340 (1985) (a college district board of trustees is considered a school district board of trustees for the purposes of the OMA)

A governmental body described by Government Code 551.128(b-1) may make available the archived recording of a meeting on an existing internet site, including a publicly accessible video-sharing or social networking site. The governmental body is not required to establish a separate internet site and provide access to archived recordings of meetings from that site. *Gov't Code 551.128(b-2)*

A governmental body described by Section 551.128(b-1) that maintains an internet site shall make available on that site, in a conspicuous manner the archived recording of each meeting or an accessible link to the archived recording of each such meeting. *Gov't Code 551.128(b-3)*

A governmental body described by Section 551.128(b-1) shall make the archived recording of each meeting available on the internet not later than seven days after the date the recording was made and maintain the archived recording on the internet for not less than two years after the date the recording was first made available. *Gov't Code 551.128(b-4)*

A governmental body described by Section 551.128(b-1) is exempt from the requirements of Government Code 551.128 (b-2) and (b-

4) if the governmental body's failure to make the required recording of a meeting available is the result of a catastrophe, as defined by Government Code 551.0411, or a technical breakdown. Following a catastrophe or breakdown, a governmental body must make all reasonable efforts to make the required recording available in a timely manner. *Gov't Code 551.128(b-5)*

A governmental body described by Government Code 551.128(b-1) may broadcast a regularly scheduled open meeting of the body on television. *Gov't Code 551.128(b-6)*

**Attorney
Consultation**

A governmental body may use a telephone conference call, video-conference call, or communications over the internet to conduct a public consultation with its attorney in an open meeting of the governmental body or a private consultation with its attorney in a closed meeting of the governmental body. [See BDA]

Each part of a public consultation by a governmental body with its attorney in an open meeting of the governmental body must be audible to the public at the location specified in the notice of the meeting as the location of the meeting.

Gov't Code 551.129(a)–(b)

**Passing Resolutions
or Orders**

The board shall act and proceed by and through resolutions or orders adopted or passed by the board and the affirmative vote of a majority of all members of the board shall be required to adopt or pass a resolution or order, and the board shall adopt such rules, regulations, and bylaws as it deems advisable, not inconsistent with Education Code 130.082. *Education Code 130.082(d)*

**Persons with a
Hearing Impairment**

In a proceeding before the governing body of a political subdivision in which the legal rights, duties, or privileges of a party are to be determined by the governing body after an adjudicative hearing, the governing body shall supply for a party who is deaf or hearing impaired an interpreter who has qualifications approved by the Department of Assistive and Rehabilitative Services.

"Deaf or hearing impaired" means having a hearing impairment, regardless of the existence of a speech impairment, that inhibits comprehension of an examination or proceeding or communication with others.

Gov't Code 558.001, .003

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(LEGAL)**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 junior college district has an unresolved or ongoing audit finding that the certifying official determines may preclude the district's certification under Section 130.003(b), the district shall disclose the finding(s) and provide an explanation of the finding(s) and proposed resolution.

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The commissioner shall determine whether the junior college district can demonstrate that the district 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*

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 data reporting error that may impact formula funding, Coordinating Board staff shall notify the commissioner as soon as practicable.

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2. Upon receiving a notification from the chief audit executive or Coordinating Board staff of a potential data reporting error, 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, 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 Chapter 130A, Subchapter C, 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

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,

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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 close out 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

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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 S, 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. *19 TAC 13.527*

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] *19 TAC 13.526(b)*

Audit

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-

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	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>
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. <i>Education Code 130.003(c)</i>
	<hr/> 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. <hr/>
Report on Lending and Credit Support Programs	<p>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.</p> <p>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.</p> <p>"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.</p>

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"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: CTC@highered.texas.gov

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

KILGORE COLLEGE TASB POLICY CONVERSION

Summary of Policy for Proposed Adoption by the Kilgore College Board of Trustees

LEGAL policies summarize the law on a topic. LEGAL policies are compiled by TASB to provide the legal framework for key areas of college operations and are provided to the Board for foundational and background information only. These are not adopted by the Board.

LOCAL policies outline local Board mandates regarding governance issues. LOCAL policies are developed based on existing TASB model policies and may be customized to meet local needs. LOCAL policies are proposed for adoption by the board.

Procedures will be developed for implementation of policies, as appropriate, and do not require Board adoption. These will be provided for information only.

IN CONSIDERATION OF ADOPTION OF TASB *LEGAL* POLICY

Kilgore College Board Policy and Personnel Committee Meeting Date:

May 22, 2023

Kilgore College Board of Trustees Meeting Date:

June 12, 2023

Proposed *LEGAL* Policy for *INFORMATION ONLY*:

Section: C BUSINESS AND SUPPORT SERVICES

Policy: CAI Appropriations and Revenue Sources: Ad Valorem Taxes

Summary of *LEGAL* Policy:

NOTE: CAI is a LEGAL policy only. It does not require Board approval. Trustees are being provided with this document for information purposes only.

This LEGAL policy was reviewed by Administration to ascertain compliance. KC is in compliance with the policy.

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**Tax Bonds and
Maintenance Tax**

The governing board of each junior college district shall be authorized to issue negotiable coupon bonds for the construction and equipment of school buildings and the purchase of the necessary sites therefor, and levy and pledge annual ad valorem taxes sufficient to pay the principal of and interest on said bonds as they come due, and levy annual ad valorem taxes for the further maintenance of its public junior college or junior colleges; provided that the annual bond tax shall never exceed \$.50 on the \$100 valuation of taxable property in the district, and the annual bond tax, if any, together with the annual maintenance tax shall never exceed the aggregate of \$1 on the \$100 valuation of taxable property in the district. [See CAD] *Education Code 130.122(a)*

Tax Rate Calculation

After the assessor for the taxing unit, including a college district, submits the appraisal roll for the taxing unit to the governing body of the taxing unit as required by Tax Code 26.04(b), an officer or employee designated by the governing body shall calculate the no-new-revenue tax rate and the voter-approval tax rate for the taxing unit in accordance with Tax Code 26.04.

The designated officer or employee shall use the tax rate calculation forms prescribed by the comptroller under Tax Code 5.07 in calculating the no-new-revenue tax rate and the voter-approval tax rate.

As soon as practicable after the designated officer or employee calculates the no-new-revenue tax rate and the voter-approval tax rate of the taxing unit, the designated officer or employee shall submit the tax rate calculation forms used in calculating the rates to the county assessor-collector for each county in which all or part of the territory of the taxing unit is located.

Tax Code 26.04(c), (d-1), (d-3)

Notice

By August 7 or as soon thereafter as practicable, the designated officer or employee shall submit the no-new-revenue tax rate and the voter-approval tax rate in accordance with Tax Code 26.04 to the governing body. The designated officer or employee shall post prominently on the home page of the taxing unit's internet website in the form prescribed by the comptroller:

1. The no-new-revenue tax rate, the voter-approval tax rate, and an explanation of how they were calculated;
2. The estimated amount of interest and sinking fund balances and the estimated amount of maintenance and operation or general fund balances remaining at the end of the current fiscal year that are not encumbered with or by corresponding existing debt obligations; and

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3. A schedule of the taxing unit's debt obligations as prescribed by Tax Code 26.04(e)(3).

Tax Code 26.04(e)

Tax Rate Adoption

The governing body of each taxing unit shall adopt a tax rate for the current tax year and shall notify the assessor for the taxing unit of the rate adopted. The governing body must adopt a tax rate before the later of September 30 or the 60th day after the date the certified appraisal roll is received by the taxing unit, except that the governing body must adopt a tax rate that exceeds the voter-approval tax rate not later than the 71st day before the next uniform election date prescribed by Election Code 41.001 that occurs in November of that year. The tax rate consists of two components, each of which must be approved separately. The components are:

1. The rate that, if applied to the total taxable value, will impose the total amount described by Tax Code 26.04(e)(3)(c), less any amount of additional sales and use tax revenue that will be used to pay debt service; and
2. The rate that, if applied to the total taxable value, will impose the amount of taxes needed to fund maintenance and operation expenditures of the taxing unit for the next year.

A taxing unit may not impose property taxes in any year until the governing body has adopted a tax rate for that year, and the annual tax rate shall be set by ordinance, resolution, or order, depending on the method prescribed by law for adoption of a law by the governing body. The vote on the ordinance, resolution, or order setting the tax rate must be separate from the vote adopting the budget.

Tax Code 26.05(a)–(b)

**No-New-Revenue
Tax Rate**

The vote on the ordinance, resolution, or order setting a tax rate that exceeds the no-new-revenue tax rate must be a record vote, and at least 60 percent of the members of the governing body must vote in favor of the ordinance, resolution, or order. A motion to adopt an ordinance, resolution, or order setting a tax rate that exceeds the no-new-revenue tax rate must be made in the following form: "I move that the property tax rate be increased by the adoption of a tax rate of (specify tax rate), which is effectively a (insert percentage by which the proposed tax rate exceeds the no-new-revenue tax rate) percent increase in the tax rate." *Tax Code 26.05(b)*

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Maintenance and
Operations Tax
Rate

If the ordinance, resolution, or order sets a tax rate that, if applied to the total taxable value, will impose an amount of taxes to fund maintenance and operation expenditures of the taxing unit that exceeds the amount of taxes imposed for that purpose in the preceding year, the taxing unit must include in the ordinance, resolution, or order in type larger than the type used in any other portion of the document the following statement: "THIS TAX RATE WILL RAISE MORE TAXES FOR MAINTENANCE AND OPERATIONS THAN LAST YEAR'S TAX RATE."; and if the tax rate exceeds the no-new-revenue maintenance and operations rate, the following statement: "THE TAX RATE WILL EFFECTIVELY BE RAISED BY (INSERT PERCENTAGE BY WHICH THE TAX RATE EXCEEDS THE NO-NEW-REVENUE MAINTENANCE AND OPERATIONS RATE) PERCENT AND WILL RAISE TAXES FOR MAINTENANCE AND OPERATIONS ON A \$100,000 HOME BY APPROXIMATELY \$(Insert amount)." *Tax Code 26.05(b)*

Internet Posting

The taxing unit must include on the home page of the internet website of the taxing unit the following statement: "(Insert name of unit) ADOPTED A TAX RATE THAT WILL RAISE MORE TAXES FOR MAINTENANCE AND OPERATIONS THAN LAST YEAR'S TAX RATE"; and if the tax rate exceeds the no-new-revenue maintenance and operations rate, the following statement: "THE TAX RATE WILL EFFECTIVELY BE RAISED BY (INSERT PERCENTAGE BY WHICH THE TAX RATE EXCEEDS THE NO-NEW-REVENUE MAINTENANCE AND OPERATIONS RATE) PERCENT AND WILL RAISE TAXES FOR MAINTENANCE AND OPERATIONS ON A \$100,000 HOME BY APPROXIMATELY \$(Insert amount)." *Tax Code 26.05(b)*

**Tax Rate Exceeding
the Voter-Approval
or No-New-Revenue
Tax Rate**

The governing body of a taxing unit other than a school district may not adopt a tax rate that exceeds the lower of the voter-approval tax rate or the no-new-revenue tax rate calculated as provided by Tax Code Chapter 26 until the governing body has held a public hearing on the proposed tax rate and has otherwise complied with Tax Code 26.06 and 26.065. The governing body of a taxing unit shall reduce a tax rate set by law or by vote of the electorate to the lower of the voter-approval tax rate or the no-new-revenue tax rate and may not adopt a higher rate unless it first complies with Tax Code 26.06.

The governing body of a taxing unit other than a school district may not hold a public hearing on a proposed tax rate or a public meeting to adopt a tax rate until the fifth day after the date the chief appraiser of each appraisal district in which the taxing unit participates has:

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1. Posted the notice required by Tax Code 26.04(e-2) or published or posted the notice required by Section 26.04(e-6); and
2. Complied with Tax Code 26.17(f).

Notwithstanding Tax Code 26.05(a), the governing body of a taxing unit other than a school district may not adopt a tax rate until the chief appraiser of each appraisal district in which the taxing unit participates has complied with Tax Code 26.05(d-1).

Tax Code 26.05(d)–(d-2)

Public Hearing

The public hearing required above may not be held before the fifth day after the notice of the public hearing is given. The hearing must be on a weekday that is not a public holiday. The hearing must be held inside the boundaries of the unit in a publicly owned building or, if a suitable publicly owned building is not available, in a suitable building to which the public normally has access. At the hearing, the governing body must afford adequate opportunity for proponents and opponents of the tax increase to present their views.

The notice of a public hearing shall be in the size and form prescribed by Tax Code 26.06(b)-(b-4). In addition, the notice must include at the end of the notice the information prescribed by Tax Code 26.062. The notice of a public hearing may be delivered by mail to each property owner in the taxing unit, or may be published in a newspaper. If the notice is published in a newspaper, it may not be in the part of the paper in which legal notices and classified advertisements appear. If the taxing unit publishes the notice in a newspaper, the taxing unit must also post the notice prominently on the home page of the internet website of the taxing unit from the date the notice is first published until the second public hearing is concluded.

The governing body may vote on the proposed tax rate at the public hearing. If the governing body does not vote on the proposed tax rate at the public hearing, the governing body shall announce at the public hearing the date, time, and place of the meeting at which it will vote on the proposed tax rate.

Tax Code 26.06(a)–(d), .062

Adoption of Tax
Rate After Hearing

A meeting to vote on the tax increase may not be held later than the seventh day after the date of the public hearing. The meeting must be held inside the boundaries of the taxing unit in a publicly owned building or, if a suitable publicly owned building is not available, in a suitable building to which the public normally has access.
Tax Code 26.06(e)

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Supplemental
Notice

In addition to the notice required under Tax Code 26.06, the governing body of a taxing unit required to hold a public hearing by Tax Code 26.05(d) shall give notice of the hearing in the manner provided by this section.

The taxing unit shall post notice of the public hearing prominently on the home page of the internet website of the taxing unit continuously for at least seven days immediately before the public hearing on the proposed tax rate increase and at least seven days immediately before the date of the vote proposing the increase in the tax rate.

If the taxing unit has free access to a television channel, the taxing unit shall request that the station carry a 60-second notice of the public hearing at least five times a day between the hours of 7:00 a.m. and 9:00 p.m. for at least seven days immediately before the public hearing on the proposed tax rate increase and at least seven days immediately before the date of the vote proposing the increase in the tax rate.

The notice of the public hearing required by Tax Code 26.065(b) must contain a statement that is substantially the same as the statement required by Tax Code 26.06(b).

This section does not apply to a taxing unit if the taxing unit:

1. Is unable to comply with the requirements of this section because of the failure of an electronic or mechanical device, including a computer or server; or
2. Is unable to comply with the requirements of this section due to other circumstances beyond its control.

A person who owns taxable property is not entitled to an injunction restraining the collection of taxes by the taxing unit in which the property is taxable if the taxing unit has, in good faith, attempted to comply with the requirements of this section.

Tax Code 26.065

**Tax Rate Below the
Voter-Approval or
No-New-Revenue
Tax Rate**

This section applies only to the governing body of a taxing unit other than a school district that proposes to adopt a tax rate that does not exceed the lower of the no-new-revenue tax rate or the voter-approval tax rate calculated as provided by Tax Code Chapter 26.

The notice of the meeting at which the governing body of the taxing unit will vote on the proposed tax rate must contain a statement in the form prescribed by Tax Code 26.061(b). In addition to including

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the information described by Tax Code 26.061(b), the notice must include the information described by Tax Code 26.062.

The notice required under this section must be provided in the manner required under Tax Code 26.06(c).

Tax Code 26.061

**Failure to Timely
Adopt a Tax Rate**

If the governing body of a taxing unit does not adopt a tax rate before the date required by Tax Code 26.05(a), the tax rate for the taxing unit for that tax year is the lower of the no-new-revenue tax rate calculated for that tax year or the tax rate adopted by the taxing unit for the preceding tax year. A tax rate established by this provision is treated as an adopted tax rate. Before the fifth day after the establishment of a tax rate by this provision, the governing body of the taxing unit must ratify the applicable tax rate in the manner required by Tax Code 26.05(b). *Tax Code 26.05(c)*

**Election to Approve
Increase**

If the governing body of a special taxing unit, including a community college, adopts a tax rate that exceeds the taxing unit's voter-approval tax rate, the registered voters of the taxing unit at an election held for that purpose must determine whether to approve the adopted tax rate.

The governing body shall order that the election be held in the taxing unit on the uniform election date prescribed by Election Code 41.001 that occurs in November of the applicable tax year. The order calling the election may not be issued later than the 71st day before the date of the election. At the election, the ballots shall be prepared to permit voting for or against the proposition: "Approving the ad valorem tax rate of \$_____ per \$100 valuation in (name of taxing unit) for the current year, a rate that is \$_____ higher per \$100 valuation than the voter-approval tax rate of (name of taxing unit), for the purpose of (description of purpose of increase). Last year, the ad valorem tax rate in (name of taxing unit) was \$_____ per \$100 valuation." The ballot proposition must include the adopted tax rate, the difference between the adopted tax rate and the voter-approval tax rate, and the taxing unit's tax rate for the preceding tax year in the appropriate places.

If a majority of the votes cast in the election favor the proposition, the tax rate for the current year is the rate that was adopted by the governing body. If the proposition is not approved, the taxing unit's tax rate for the current tax year is the taxing unit's voter-approval tax rate.

Tax Code 26.07(b)–(e)

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Exception	In accordance with Tax Code 26.042, when increased expenditure of money by a taxing unit is necessary to respond to a disaster, including a tornado, hurricane, flood, wildfire, or other calamity, but not including a drought, epidemic, or pandemic, that has impacted the taxing unit and the governor has declared any part of the area in which the taxing unit is located as a disaster area, an election is not required under Tax Code 26.07 to approve the tax rate adopted by the governing body for the year following the year in which the disaster occurs. <i>Tax Code 26.042</i>
Call for Election	An election ordered by an authority of a political subdivision shall be ordered not later than the 62nd day before election day. <i>Election Code 3.005(a)</i>
<i>Exception</i>	For an election to be held on a uniform election date, the election shall be ordered not later than the 78th day before election day. [See BBBA] <i>Election Code 3.003, .005(c), 41.002</i>
Notice to County Clerk and Voter Registrar	The governing body of a political subdivision, including a college district, that orders an election shall deliver notice of the election to the county clerk and voter registrar of each county in which the political subdivision is located not later than the 60th day before election day. <i>Election Code 4.008(a)</i>
Proposition	In addition to any other requirement imposed by law for a proposition, including a provision prescribing the proposition language [see BBBA], a proposition submitted to the voters for approval of the reduction of a tax shall specifically state the amount of tax rate reduction or the tax rate for which approval is sought. <i>Election Code 52.072(e)</i>
Dissemination of Tax Information	A communication that is required or permitted by Tax Code Title 1 to be delivered between a tax official, including a college district or a person designated by the college district to perform a function on behalf of the college district, and a property owner or a person designated by a property owner under Tax Code 1.111(f) shall be delivered electronically if the property owner or person designated by the owner elects to exchange communications with the tax official electronically under Tax Code 1.085(a-2).
Electronic Communications	"Communication" means a notice, rendition, application form, completed application, report, filing, statement, appraisal review board order, bill, or other item of information required or permitted to be delivered under a provision of Title 1. <i>Tax Code 1.085(a)-(a-1)</i>
<i>Procedure</i>	A tax official shall:

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1. Establish a procedure that allows a property owner or a person designated by a property owner to make the election described by this section; and
2. For electronic communications between the official and a property owner or the person designated by the owner who elects to exchange communications with the official electronically, specify:
 - a. The manner in which communications will be exchanged; and
 - b. The method that will be used to confirm the delivery of communications.

An election by a property owner or a person designated by a property owner must be made in writing on a form prescribed by the comptroller for that purpose and remains in effect until rescinded in writing by the property owner or person designated by the owner.

The comptroller by rule shall prescribe acceptable media, formats, content, and methods for the electronic delivery of communications under this section and adopt guidelines for the implementation of this section by tax officials. A tax official may select the medium, format, content, and method to be used by the tax official and a property owner or a person designated by a property owner to exchange communications electronically from among those prescribed by the comptroller.

A tax official may require a property owner or a person designated by a property owner who elects to exchange communications electronically to provide an email address and other information necessary for the exchange of communications.

Tax Code 1.085(a-2)-(a-3), (a-5), (e)-(f)

*Communication
by Tax Official*

The electronic delivery of any communication by a tax official to a property owner or a person designated by a property owner is effective on delivery by the tax official. *Tax Code 1.085(d)*

*Communication
by Property
Owner*

The electronic delivery of a communication by a property owner or a person designated by a property owner to a tax official is timely if the communication is:

1. Addressed to the correct delivery portal or electronic delivery system; and
2. Received by the tax official's server on or before the date on which the communication is due.

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A tax official shall acknowledge the receipt of a communication delivered electronically to the official by a property owner or a person designated by the property owner.

A property owner or a person designated by the property owner who elects to exchange communications electronically with a tax official under this section and who has not rescinded the election shall notify the tax official of a change in the email address provided by the property owner or person designated by the owner before the first April 1 that occurs following the change. If notification is not received by the tax official before that date, until notification is received, any communications delivered electronically to the property owner or person designated by the owner are considered to be timely delivered.

Tax Code 1.085(d-1), (n), (i)

*Electronic
Signature*

An electronic signature that is included in any communication delivered electronically under this section is considered to be a digital signature for purposes of Government Code 2054.060 and that section applies to the electronic signature. *Tax Code 1.085(j)*

Fee Prohibited

A tax official may not charge a fee to accept a communication delivered electronically to the official. *Tax Code 1.085(a-4)*

*Publication of
Procedures*

A tax official shall prominently display the information necessary for proper electronic delivery of communications to the official on the official's internet website, if applicable. *Tax Code 1.085(a-6)*

Posting of
Information Online

Each taxing unit shall maintain an internet website or have access to a generally accessible internet website that may be used for the purposes of this section. Each taxing unit shall post or cause to be posted on the internet website the following information in a format prescribed by the comptroller:

1. The name of each member of the governing body of the taxing unit;
2. The mailing address, email address, and telephone number of the taxing unit;
3. The official contact information for each member of the governing body of the taxing unit, if that information is different from the information described by item 2;
4. The taxing unit's budget for the preceding two years;
5. The taxing unit's proposed or adopted budget for the current year;

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6. The change in the amount of the taxing unit's budget from the preceding year to the current year, by dollar amount and percentage;
7. In the case of a taxing unit other than a school district, the amount of property tax revenue budgeted for maintenance and operations for the preceding two years and the current year;
8. In the case of a taxing unit other than a school district, the amount of property tax revenue budgeted for debt service for the preceding two years and the current year;
9. The tax rate for maintenance and operations adopted by the taxing unit for the preceding two years;
10. In the case of a taxing unit other than a school district, the tax rate for debt service adopted by the taxing unit for the preceding two years;
11. The tax rate for maintenance and operations proposed by the taxing unit for the current year;
12. In the case of a taxing unit other than a school district, the tax rate for debt service proposed by the taxing unit for the current year; and
13. The most recent financial audit of the taxing unit.

Tax Code 26.18

Tax Information to
County

The county assessor-collector for each county shall post on the internet website maintained by the county the following information for the most recent five tax years for each taxing unit all or part of the territory of which is located in the county: the adopted tax rate, the maintenance and operations rate, the debt rate, the no-new-revenue tax rate, the no-new-revenue maintenance and operations rate, and the voter-approval tax rate.

A taxing unit all or part of the territory of which is located in a county shall provide the information described above pertaining to the taxing unit to the county assessor-collector annually following the adoption of a tax rate by the taxing unit for the current tax year.

Tax Code 26.16(a)–(b)

Property Tax
Database

In accordance with Tax Code 26.17, the chief appraiser of each appraisal district shall create and maintain a property tax database.

The officer or employee designated by the governing body of each taxing unit in which the property is located to calculate the no-new-

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revenue tax rate and the voter-approval tax rate for the taxing unit must electronically incorporate into the database:

1. The information described by Tax Code 26.17(b)(5), (6), (7), (12), and (13), as applicable, as the information becomes available; and
2. The tax rate calculation forms prepared under Tax Code 26.04(d-1) at the same time the designated officer or employee submits the tax rates to the governing body of the taxing unit under Tax Code 26.04(e).

Tax Code 26.17(a), (e)

Notice

The assessor for each taxing unit that participates in the appraisal district shall post prominently on the taxing unit's website a notice informing each owner of property located in the appraisal district that the estimated amount of taxes to be imposed on the owner's property by each taxing unit in which the property is located may be found in the property tax database. The notice must include:

1. The following statement in bold typeface: "Visit [Texas.gov/PropertyTaxes](https://www.texas.gov/PropertyTaxes) to find a link to your local property tax database on which you can easily access information regarding your property taxes, including information regarding the amount of taxes that each entity that taxes your property will impose if the entity adopts its proposed tax rate. Your local property tax database will be updated regularly during August and September as local elected officials propose and adopt the property tax rates that will determine how much you pay in property taxes.";
2. A statement that the property owner may request from the county assessor-collector for the county in which the property is located or, if the county assessor-collector does not assess taxes for the county, the person who assesses taxes for the county under Tax Code 6.24(b), contact information for the assessor for each taxing unit in which the property is located, who must provide the information described by this subsection to the owner on request;
3. The name, address, and telephone number of the county assessor-collector for the county in which the property is located or, if the county assessor-collector does not assess taxes for the county, the person who assesses taxes for the county under Section 6.24(b); and
4. Instructions describing how a property owner may register on the appraisal district's internet website, if the appraisal district maintains an internet website, to have notifications regarding

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updates to the property tax database delivered to the owner by email.

Tax Code 26.04(e-2)

**Branch Campus
Maintenance Tax**

In accordance with Education Code 130.253, the governing body of a school district or a county may levy a junior college district branch campus maintenance tax at a rate not to exceed five cents on each \$100 valuation of all taxable property in its jurisdiction.

The proceeds of the junior college district branch campus maintenance tax may be used only as follows:

1. To operate and maintain a branch campus and support its programs and services in the area of the political subdivision that levied the tax; and
2. Under an agreement by the applicable junior college district and the political subdivision levying the tax, to make lease payments to the political subdivision for facilities used exclusively by the branch campus that are owned by the political subdivision.

Education Code 130.253(a), (k)

**Local Steering
Committee**

A local group of citizens interested in establishing a branch campus maintenance tax jurisdiction shall appoint a steering committee of at least seven citizens to provide leadership on behalf of the tax effort. The steering committee shall be composed of a cross-section of the population of the area, with representation from major civic groups and business and industry. A chair, co-chair, and secretary shall be appointed, along with any other officers who may be of assistance to the committee. Where the proposed branch campus maintenance tax jurisdiction is to be located in an independent school district, the district board of trustees may serve as the steering committee.

The steering committee shall:

1. Serve as liaison between the local community, the college district which would operate the branch campus, and the Coordinating Board;
2. Be responsible for conducting a feasibility study and a survey of the needs and potential of the area for a branch campus;
3. Provide information to the community, which at a minimum, describes the nature and purpose of a branch campus;

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4. Summarize and evaluate the results of the feasibility study and survey and formulate conclusions for submission to the commissioner;
5. Prepare and circulate a petition to obtain not fewer than five percent of the qualified voters of the proposed branch maintenance tax jurisdiction; and
6. Present the appropriately signed petition as set out in 19 Administrative Code 8.30(a) to appropriate authorities for certification in compliance with Education Code 130.087.

19 TAC 8.93

Application
Procedures

The steering committee and the community college district that is planning the branch campus shall jointly file a letter of intent with the commissioner as soon as practical. The staff of the Coordinating Board shall offer advice and technical assistance to the steering committee under the direction of the commissioner on procedures and requirements. *19 TAC 8.94*

Local Feasibility
Study and Survey

A local feasibility study consisting of a survey of need, potential student clientele, financial ability of the jurisdiction, and other pertinent data must be carried out under the auspices of the steering committee and the college which shall operate the branch campus. This feasibility study may be conducted either by the steering committee or by professionals.

The Coordinating Board staff shall offer advice and technical assistance to the steering committee under the direction of the commissioner. When the feasibility study is conducted by a professional individual or research organization, the steering committee shall fully advise the commissioner prior to initiating the study.

The feasibility study shall be made in consultation with the Coordinating Board staff and, upon completion, be submitted to the commissioner. The commissioner, in consultation with Coordinating Board staff, shall determine if further documentation or clarification is needed to supplement the information presented in the feasibility study.

The feasibility study shall be reviewed by the Coordinating Board, along with other information it deems appropriate, in determining whether the criteria as set out in 19 Administrative Code 8.89 (relating to Standards and Board Procedure for Approval) have been met.

19 TAC 8.95

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Petition

In counties with a population of more than 150,000, the steering committee shall be responsible for the circulation of a petition for authorization of an election to levy a public community college branch campus maintenance tax. At a minimum, the petition shall include the maintenance tax limits that shall appear on the ballot in the event an election is authorized. For counties with a population of 150,000 or less or an independent school district within a county with a population of 150,000 or less, no petition to propose an election for a branch campus maintenance tax is required to be submitted to the Coordinating Board.

The petition must incorporate all requirements as set forth in Election Code Chapter 277. After the petition has been circulated among the electorate and has been signed by not less than five percent of the qualified electors of the proposed branch maintenance tax jurisdiction, the petition shall be presented to the appropriate authorities who have the duty of verifying the legality of the petition.

Upon submission of a petition for an election to authorize a branch campus maintenance tax to a governing body of an independent school district or county, the governing body may propose an election and submit to the commissioner a feasibility study and survey. Upon approval by the commissioner, the governing body may enter an order for an election.

The governing body of a county with a population of 150,000 or less or an independent school district within a county with a population of 150,000 or less, on completion and approval of the feasibility study and survey by the commissioner, on its own motion and without presentation and approval of a certified petition to the Coordinating Board may order an election to authorize a branch campus maintenance tax. The governing body of an independent school district or county, notwithstanding 19 Administrative Code 8.98(b), shall present a certified petition to the commissioner who shall then present it to the Coordinating Board for approval or disapproval.

After the petition and any additional documentation or information are presented to the commissioner, a minimum of 45 days must elapse between the date on which the petition and supporting documents are received by the commissioner and the quarterly meeting of the Coordinating Board when the Coordinating Board will consider the petition.

19 TAC 8.96-.98

Coordinating Board
Approval

Education Code 130.253 requires the Coordinating Board to determine that:

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1. The branch campus maintenance tax rate does not exceed five cents on each \$100 valuation of all taxable property;
2. A certified petition has been submitted by the appropriate authorities to the Coordinating Board; and
3. The proposed tax is feasible and desirable.

Education Code 130.253(c); 19 TAC 8.99(a)

Criteria

The Coordinating Board shall apply the following criteria when considering the appropriateness for the levying of a branch campus maintenance tax:

1. Demographic and economic characteristics of the jurisdiction seeking to establish the maintenance tax, such as:
 - a. Population trends by age group;
 - b. Economic development trends and projection; and
 - c. Employment trends and projection (i.e., supply-demand data).
2. Potential student clientele, including:
 - a. Educational levels by age group; and
 - b. College-bound data (i.e., trends by age group).
3. The financial status of the proposed jurisdiction to be taxed and the state as a whole, including:
 - a. Any projected growth or decline in the tax base; and
 - b. Trends in state appropriations for community/junior colleges and other institutions of higher education.
4. Projected programs and services for the proposed jurisdiction based on economic and population trends.
5. Proximity and impediments to programs and services to existing institutions of higher education such as:
 - a. Identification of institutions that could be affected by a new branch campus;
 - b. Documentation of existing programs and services:
 - (1) On the campuses of nearby institutions of higher education;
 - (2) Available to citizens within a 50-mile radius of the proposed jurisdiction; and

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- (3) Offered in the proposed jurisdiction by existing institutions of higher education.
- c. Financial limitations on existing institutions of higher education inhibiting the offering of programs and services in the proposed jurisdiction;
- d. Availability of facilities, libraries, and equipment for institutions to offer classes in the proposed jurisdiction;
- e. Distance and traffic patterns to existing institutions of higher education;
- f. Effect on enrollments of existing institutions of higher education; and
- g. Effect on financing of existing institutions of higher education.

Education Code 130.253(c); 19 TAC 8.99(b)

Public Hearings

A Coordinating Board committee may conduct one or more public hearings in the proposed jurisdiction to:

1. Assess public sentiment regarding the levying of a branch campus maintenance tax;
2. Determine whether programs in the proposed jurisdiction would create unnecessary duplication or seriously harm programs in existing community/junior college districts or other institutions of higher education in the area; and
3. Assess the potential impact of the proposed jurisdiction on existing community/junior colleges or other institutions of higher education in the area and on the state of Texas.

Education Code 130.253(c); 19 TAC 8.99(c)

Recommendation

After the self-study has been reviewed and, if applicable, a site visit conducted by a Coordinating Board committee and Coordinating Board staff, a report from the Coordinating Board staff shall be submitted to the commissioner indicating whether the criteria as set out above have been met. The report shall include a recommendation for approval or denial of the request for approval to hold an election to levy a branch campus maintenance tax, but shall not be binding on the commissioner or the Coordinating Board.

Coordinating Board action on the request for approval to hold an election to levy a branch campus maintenance tax shall be taken at the next quarterly Coordinating Board meeting. In making its decision, the Coordinating Board shall consider the needs of the community/junior college, the needs of the community or communities

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served by the branch campus maintenance tax jurisdiction, and the welfare of the state as a whole. A resolution shall be entered in the minutes of the board and conveyed in writing by the commissioner to the governing board of the community/junior college district.

Education Code 130.253(c); 19 TAC 8.99(d), .100

Election

If the Coordinating Board approves the establishment of the branch campus maintenance tax, the governing body of the school district or county shall enter an order for an election to be held in the territory under its jurisdiction not less than 20 days nor more than 60 days after the date on which the order is entered to determine whether the branch campus maintenance tax may be levied. In the case of the joint school district or joint county elections, by mutual agreement of the governing bodies, the elections shall be held on the same date throughout the jurisdictions.

The president of the governing board of the school district or the county judge, as applicable, shall give notice of the election in the manner provided by law for notice by the county judge of general elections.

A majority of the electors in the proposed branch campus maintenance tax jurisdiction voting in the election shall determine the question of the creation of the branch campus maintenance tax jurisdiction submitted in the order.

19 TAC 8.101–.102

Resubmission of
Applications

Should an election to create a branch campus maintenance tax jurisdiction fail, a period of 12 months must elapse before resubmission of the proposition to the Coordinating Board. The Coordinating Board shall require a strong showing of need and unusual circumstances before approving resubmission before the 12 months have elapsed. *19 TAC 8.103*

KILGORE COLLEGE TASB POLICY CONVERSION

Summary of Policy for Proposed Adoption by the Kilgore College Board of Trustees

LEGAL policies summarize the law on a topic. LEGAL policies are compiled by TASB to provide the legal framework for key areas of college operations and are provided to the Board for foundational and background information only. These are not adopted by the Board.

LOCAL policies outline local Board mandates regarding governance issues. LOCAL policies are developed based on existing TASB model policies and may be customized to meet local needs. LOCAL policies are proposed for adoption by the board.

Procedures will be developed for implementation of policies, as appropriate, and do not require Board adoption. These will be provided for information only.

IN CONSIDERATION OF ADOPTION OF TASB LOCAL POLICY

Kilgore College Board Policy and Personnel Committee Meeting Date:

August 28, 2023

Kilgore College Board of Trustees Meeting Date:

September 11, 2023

Proposed LOCAL Policy for Adoption:

Section: C BUSINESS AND SUPPORT SERVICES

Policy: CF Purchasing and Acquisition

Summary of LOCAL Policy:

The policy specifies the authority given the College President to make budgeted purchases for goods or services on behalf of the College District. Purchasing procedures and associated methods are outlined in the policy. Any consideration of purchases not budgeted shall be presented to the Board by the College President for consideration.

Procedures:

The Business Office Procurement Services (BOPS) develops and maintains procedures for purchasing and accounts payable. The procedures are established to ensure compliance with state requirements. The procedures are available to staff through the BOPS website.

The BOPS provides periodic training on the procedures to ensure compliance throughout the college.

Items not included in the budget but needing to be purchased are brought to the board for approval through a budget amendment. The budget amendments are to be adopted prior to purchase.

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Applicable Law	<p>The provisions of Education Code Chapter 44, Subchapter B, relating to the purchase of goods and services under contract by a school district apply to the purchase of goods and services under contract by a junior college district.</p> <p>To the extent of any conflict, the provisions of Chapter 44, Subchapter B, prevail over any other law relating to the purchase of goods and services by a junior college district.</p> <p><i>Education Code 44.0311(a), 130.010</i></p>
Exception	<p>Education Code Chapter 44, Subchapter B, does not apply to a purchase, acquisition, or license of library goods and services for a library operated as a part of a junior college district. "Library goods and services" has the meaning assigned by Education Code 130.0101(a). [See EDAA] <i>Education Code 44.0311(c)</i></p> <hr/> <p>Note: For information on purchases using federal funds, see CAAB.</p> <hr/>
Board Authority	<p>The board of trustees of the district may adopt rules and procedures for the acquisition of goods and services. <i>Education Code 44.031(d)</i></p>
Delegation of Authority	<p>The board of trustees of the district may, as appropriate, delegate its authority under Education Code Chapter 44, Subchapter B, regarding an action authorized or required by Chapter 44, Subchapter B, to be taken by a college district to a designated person, representative, or committee.</p> <p>The board may not delegate the authority to act regarding an action authorized or required by Education Code Chapter 44, Subchapter B, to be taken by the board.</p> <p><i>Education Code 44.0312(a)–(b)</i></p>
<i>Disaster Exception</i>	<p>Notwithstanding any other provision of the Education Code, in the event of a catastrophe, emergency, or natural disaster affecting a college district, the board of trustees of the district may delegate to the college chief executive officer or designated person the authority to contract for the replacement, construction, or repair of college district equipment or facilities under Education Code Chapter 44, Subchapter B, if emergency replacement, construction, or repair is necessary for the health and safety of district students and staff.</p> <p><i>Education Code 44.0312(c)</i></p>
Contract with Another Agency	<p>Except as provided by Government Code 771.003, an agency, including a junior college district, may agree or contract with another</p>

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agency for the provision of necessary and authorized services and resources. *Gov't Code 771.003(a)*

**Contract with the
Coordinating Board**

From money appropriated or otherwise available for the purpose, the Coordinating Board may procure goods and services for the direct benefit of an institution of higher education, including a college district, and enter into an interagency contract under Government Code Chapter 771 with the institution to reimburse the Coordinating Board for the cost of the goods and services. *Education Code 61.0571(e)*

**Purchases Valued at
or Above \$50,000**

Except as provided by Education Code Chapter 44, Subchapter B, all college district contracts for the purchase of goods and services, except contracts for the purchase of produce or vehicle fuel, valued at \$50,000 or more in the aggregate for each 12-month period, shall be made by the method that provides the best value for the district:

1. Competitive bidding for services other than construction services.
2. Competitive sealed proposals for services other than construction services.
3. A request for proposals, for services other than construction services.
4. An interlocal contract.
5. The reverse auction procedure as defined by Government Code 2155.062(d).
6. The formation of a political subdivision corporation under Local Government Code 304.001.

Education Code 44.031(a)

Note: Regarding construction of school facilities, see CM generally; CMA for competitive bidding; CMB for competitive sealed proposals; CMC and CMD for contracts using a construction manager; CME for design/build contracts; and CMF for job-order contracts for minor repairs/alterations.

Regarding notice to the Legislative Budget Board (LBB) about contracts, see GGC.

Factors

Except as provided by Education Code Chapter 44, Subchapter B, in determining to whom to award a contract, the district shall consider:

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1. The purchase price.
2. The reputation of the vendor and of the vendor's goods and services.
3. The quality of the vendor's goods or services.
4. The extent to which the goods or services meet the district's needs.
5. The vendor's past relationship with the district.
6. The impact on the ability of the district to comply with laws and rules relating to historically underutilized businesses.
7. The total long-term cost to the district to acquire the goods or services.
8. For a contract for goods and services, other than goods and services related to telecommunications and information services, building construction and maintenance, or instructional materials, whether the vendor or the vendor's ultimate parent company or majority owner has its principal place of business in this state or employs at least 500 persons in this state.
9. Any other relevant factor specifically listed in the request for bids or proposals.

Education Code 44.031(b)

In awarding a contract by competitive sealed bid under Education Code 44.031, a college district that has its central administrative office located in a municipality with a population of less than 250,000 may consider a bidder's principal place of business in the manner provided by Local Government Code 271.9051. This provision does not apply to the purchase of telecommunications services or information services, as those terms are defined by 47 U.S.C. 153. *Education Code 44.031(b-1)*

The factors listed above are the only criteria that may be considered by the college district in its decision to award a contract. The college district may apply one, some, or all of the criteria, but it may not completely ignore them. *R.G.V. Vending v. Weslaco Indep. Sch. Dist.*, 995 S.W.2d 897 (Tex. App.—Corpus Christi 1999, no pet.).

Out-of-State Bidder

A governmental entity, including a college district, may not award a governmental contract to a nonresident bidder unless the nonresident underbids the lowest bid submitted by a responsible resident bidder by an amount that is not less than the greater of the amount by which a resident bidder would be required to underbid a nonres-

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ident bidder to obtain a comparable contract in the state in which the nonresident's principal place of business is located, or the amount by which a resident bidder would be required to underbid the nonresident bidder to obtain a comparable contract in the state in which a majority of the manufacturing relating to the contract will be performed.

This requirement does not apply to a contract involving federal funds. A governmental entity shall use the information published by the comptroller in the Texas Register in evaluating the bids of a nonresident bidder.

Gov't Code 2252.001-.004

**Contracts Valued at
or Above \$1 Million**

This section applies to an entity that is not a governmental body that executes a contract with a governmental body that:

1. Has a stated expenditure of at least \$1 million in public funds for the purchase of goods or services by the governmental body; or
2. Results in the expenditure of at least \$1 million in public funds for the purchase of goods or services by the governmental body in a fiscal year of the governmental body.

Gov't Code 552.371(a)

**Contract
Requirements**

A contract described above must require a contracting entity to:

1. Preserve all contracting information related to the contract as provided by the records retention requirements applicable to the governmental body for the duration of the contract;
2. Promptly provide to the governmental body any contracting information related to the contract that is in the custody or possession of the entity on request of the governmental body; and
3. On completion of the contract, either:
 - a. Provide at no cost to the governmental body all contracting information related to the contract that is in the custody or possession of the entity; or
 - b. Preserve the contracting information related to the contract as provided by the records retention requirements applicable to the governmental body.

Gov't Code 552.372(a)

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Acknowledgement of PIA Requirements	Unless Government Code 552.374(c) applies, a bid for a contract described above and the contract must include the following statement: "The requirements of Subchapter J, Chapter 552, Government Code, may apply to this (include "bid" or "contract" as applicable) and the contractor or vendor agrees that the contract can be terminated if the contractor or vendor knowingly or intentionally fails to comply with a requirement of that subchapter." <i>Gov't Code 552.372(b)</i>
Bid Acceptance and Contract Award Prohibited	A governmental body may not accept a bid for a contract described by Government Code 552.371 or award the contract to an entity that the governmental body has determined has knowingly or intentionally failed to comply with Government Code Chapter 552, Subchapter J, in a previous bid or contract described by that section unless the governmental body determines and documents that the entity has taken adequate steps to ensure future compliance with the requirements of Subchapter J. <i>Gov't Code 552.372(c)</i>
Termination of Contract	<p>A governmental body may terminate a contract described above if:</p> <ol style="list-style-type: none">1. The governmental body provides notice under Government Code 552.373 to the entity that is party to the contract;2. The contracting entity does not cure the violation in the period prescribed by Government Code 552.373;3. The governmental body determines that the contracting entity has intentionally or knowingly failed to comply with a requirement of Subchapter J; and4. The governmental body determines that the entity has not taken adequate steps to ensure future compliance with the requirements of Subchapter J. An entity has taken adequate steps to ensure future compliance with Subchapter J if the entity produces contracting information requested by the governmental body that is in the custody or possession of the entity not later than the 10th business day after the date the governmental body makes the request and the entity establishes a records management program to enable the entity to comply with Subchapter J. <p><i>Gov't Code 552.374(a)–(b)</i></p>
<i>Exception</i>	A governmental body may not terminate a contract under this section if the contract is related to the purchase or underwriting of a public security, the contract is or may be used as collateral on a loan, or the contract's proceeds are used to pay debt service of a public security or loan. <i>Gov't Code 552.374(c)</i>

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**Contract with Person
Indebted to College
District**

The board of trustees of a college district by resolution may establish regulations permitting the college district to refuse to enter into a contract or other transaction with a person indebted to the college district. It is not a violation of Education Code Chapter 44, Subchapter B, for a college district, under the adopted regulations, to refuse to award a contract to or enter into a transaction with an apparent low bidder or successful proposer that is indebted to the college district.

The term "person" includes an individual, sole proprietorship, corporation, nonprofit corporation, partnership, joint venture, limited liability company, and any other entity that seeks to enter into a contract or other transaction with the college district requiring approval by the board.

Education Code 44.044

Contracts Prohibited

Scrutinized
Companies

A governmental entity, including a college district, may not enter into a governmental contract with a company that is identified on a list prepared and maintained by the comptroller under Government Code 806.051, 807.051, or 2252.153.

"Governmental contract" means a contract awarded by a governmental entity for general construction, an improvement, a service, or a public works project or for a purchase of supplies, materials, or equipment. The term includes a contract to obtain a professional or consulting service subject to Government Code Chapter 2254.

Gov't Code 2252.001(3), .152

Companies that
Boycott Israel

This section applies only to a contract that:

1. Is between a governmental entity and a company with 10 or more full-time employees; and
2. Has a value of \$100,000 or more that is to be paid wholly or partly from public funds of the governmental entity.

A governmental entity may not enter into a contract with a company for goods or services unless the contract contains a written verification from the company that it does not boycott Israel and will not boycott Israel during the term of the contract.

"Boycott Israel" has the meaning assigned by Government Code 808.001.

"Company" has the meaning assigned by Government Code 808.001, except that the term does not include a sole proprietorship.

Gov't Code 2271.001(1)–(2), .002

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Companies that
Boycott Energy
Companies

This section applies only to a contract that:

1. Is between a governmental entity and a company with 10 or more full-time employees; and
2. Has a value of \$100,000 or more that is to be paid wholly or partly from public funds of the governmental entity.

A governmental entity may not enter into a contract with a company for goods or services unless the contract contains a written verification from the company that it does not boycott energy companies and will not boycott energy companies during the term of the contract.

"Boycott energy company" has the meaning assigned by Government Code 809.001.

"Company" has the meaning assigned by Government Code 809.001, except that the term does not include a sole proprietorship.

Gov't Code 2276.001(1)–(2), .002(a)–(b)

Exception

The above section does not apply to a governmental entity that determines the requirements of that section are inconsistent with the governmental entity's constitutional or statutory duties related to the issuance, incurrence, or management of debt obligations or the deposit, custody, management, borrowing, or investment of funds.
Gov't Code 2276.002(c)

Companies that
Discriminate
Against a Firearm
Entity or Firearm
Trade Association

This section applies only to a contract that:

1. Is between a governmental entity and a company with at least 10 full-time employees; and
2. Has a value of at least \$100,000 that is to be paid wholly or partly from public funds of the governmental entity.

A governmental entity may not enter into a contract with a company for the purchase of goods or services unless the contract contains a written verification from the company that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate during the term of the contract against a firearm entity or firearm trade association.

Gov't Code 2274.002(a)–(b)

Definition

"Discriminate against a firearm entity or firearm trade association" means, with respect to the entity or association, to:

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1. Refuse to engage in the trade of any goods or services with the entity or association based solely on its status as a firearm entity or firearm trade association;
2. Refrain from continuing an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; or
3. Terminate an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association.

The term does not include:

1. The established policies of a merchant, retail seller, or platform that restrict or prohibit the listing or selling of ammunition, firearms, or firearm accessories; and
2. A company's refusal to engage in the trade of any goods or services, decision to refrain from continuing an existing business relationship, or decision to terminate an existing business relationship:
 - a. To comply with federal, state, or local law, policy, or regulations or a directive by a regulatory agency; or
 - b. For any traditional business reason that is specific to the customer or potential customer and not based solely on an entity's or association's status as a firearm entity or firearm trade association.

Gov't Code 2274.001(3)

Exceptions

The above prohibition does not apply to a governmental entity that contracts with a sole-source provider or does not receive any bids from a company that is able to provide the written verification required by that section.

The above prohibition does not apply to a contract entered into in connection with or relating to the issuance, sale, or delivery of notes under Government Code Chapter 404, Subchapter H, or the administration of matters related to the notes, including the investment of note proceeds, as provided by Government Code 2274.003.

Gov't Code 2274.002(c), .003

Contracts with
Foreign-Owned
Companies

A governmental entity may not enter into a contract or other agreement relating to critical infrastructure in this state with a company:

1. If, under the contract or other agreement, the company would be granted direct or remote access to or control of critical in-

frastructure in this state, excluding access specifically allowed by the governmental entity for product warranty and support purposes; and

2. If the governmental entity knows that the company is:
 - a. Owned by or the majority of stock or other ownership interest of the company is held or controlled by:
 - (1) Individuals who are citizens of China, Iran, North Korea, Russia, or a designated country; or
 - (2) A company or other entity, including a governmental entity, that is owned or controlled by citizens of or is directly controlled by the government of China, Iran, North Korea, Russia, or a designated country; or
 - b. Headquartered in China, Iran, North Korea, Russia, or a designated country.

"Company" means a sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations, that exists to make a profit.

"Critical infrastructure" means the measures taken to protect a computer, computer network, computer system, or other technology infrastructure against unauthorized use or access.

"Designated country" means a country designated by the governor as a threat to critical infrastructure under Government Code 2275.0103.

Gov't Code 2275.0101(1)-(2), (4), .0102(a)

**Required
Disclosures**

Disclosure of
Interested Parties

A governmental entity or state agency, including a college district, may not enter into a contract with a business entity that requires an action or vote by the governing body of the entity or agency before the contract may be signed, has a value of at least \$1 million, or is for services that would require a person to register as a lobbyist under Government Code Chapter 305, with certain exceptions, unless the business entity, in accordance with Government Code 2252.908 and rules adopted by the Texas Ethics Commission, submits a disclosure of interested parties to the governmental entity or state agency at the time the business entity submits the signed contract to the governmental entity or state agency. [See GL] *Gov't Code 2252.908*

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Disclosures by
Purchasing
Personnel

Before a state agency, including a college district, may award a major contract, a contract that has a value of at least \$1 million, for the purchase of goods or services to a business entity, each of the state agency's purchasing personnel working on the contract must disclose in writing to the administrative head of the state agency any relationship the purchasing personnel is aware about that the employee has with an employee, a partner, a major stockholder, a paid consultant with a contract with the business entity the value of which exceeds \$25,000, or other owner of the business entity who is within a degree described by Government Code 573.002, the third degree by consanguinity or within the second degree by affinity of the purchasing employee. The state auditor shall develop a form for use in reporting a specified relationship.

"Purchasing personnel" means an employee of a state agency who makes decisions on behalf of the state agency or recommendations regarding contract terms or conditions on a major contract, who is to be awarded a major contract, preparation of a solicitation for a major contract, or evaluation of a bid or proposal.

Gov't Code 2262.001(4), .004

*Notice
Publication*

Notice of the time by when and place where the bids or proposals, or the responses to a request for qualifications, will be received and opened shall be published in the county in which the district's central administrative office is located, once a week for at least two weeks before the deadline for receiving bids, proposals, or responses to a request for qualifications. If there is not a newspaper in that county, the advertising shall be published in a newspaper in the county nearest the county seat of the county in which the district's central administrative office is located. In a two-step procurement process, the time and place where the second-step bids, proposals, or responses will be received are not required to be published separately. *Education Code 44.031(g)*

**Electronic Bids or
Proposals**

A college district may receive bids or proposals under Education Code Chapter 44 through electronic transmission if the board of trustees of the college district adopts rules to ensure the identification, security, and confidentiality of electronic bids or proposals and to ensure that the electronic bids or proposals remain effectively unopened until the proper time.

An electronic bid or proposal is not required to be sealed. A provision of Education Code Chapter 44 that applies to a sealed bid or proposal applies to a bid or proposal received through electronic

transmission in accordance with the rules adopted by the board.

Education Code 44.0313

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**Professional
Services**

The purchasing requirements of Education Code 44.031 do not apply to a contract for professional services rendered, including services of an architect, attorney, certified public accountant, engineer, or fiscal agent.

The college district may, at its option, contract for professional services rendered by a financial consultant or a technology consultant in the manner provided by Government Code 2254.003, in lieu of the methods provided by Education Code 44.031.

Education Code 44.031(f)

A governmental entity, including a college district, may not select a provider of professional services or a group or association of providers or award a contract for the services on the basis of competitive bids submitted for the contract or for the services, but shall make the selection and award on the basis of demonstrated competence and qualifications to perform the services and for a fair and reasonable price.

"Professional services" means services:

1. Within the scope of the practice, as defined by state law, of accounting, architecture, landscape architecture, land surveying, medicine, optometry, professional engineering, real estate appraising, professional nursing, or forensic science;
2. Provided in connection with the professional employment or practice of a person who is licensed or registered as a certified public accountant, an architect, a landscape architect, a land surveyor, a physician, including a surgeon, an optometrist, a professional engineer, a state certified or state licensed real estate appraiser, a registered nurse, or a forensic analyst or forensic science expert; or
3. Provided by a person lawfully engaged in interior design, regardless of whether the person is registered as an interior designer under Occupations Code Chapter 1053.

Gov't Code 2254.002, .003(a) [See also CM]

An interlocal contract between a governmental entity and a purchasing cooperative may not be used to purchase engineering or architectural services. *Gov't Code 791.011(h)*

**Certain Medical
Services**

If a governmental entity is procuring services provided in connection with the professional employment or practice of a physician, including a surgeon, or an optometrist or registered nurse and the number of contracts to be awarded under this section is not other-

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wise limited, the governmental entity may make the selection and award on the basis of:

1. The provider's agreement to payment of a set fee, as a range or lump-sum amount; and
2. The provider's affirmation and the governmental entity's verification that the provider has the necessary occupational licenses and experience.

Gov't Code 2254.008(a)

Professional
Services Contract
Exceeding \$50,000

A state agency, including a college district and other institutions of higher education, shall provide written notice to the LBB of a contract for professional services, other than a contract for physician or optometric services, if the amount of the contract, including an amendment, modification, renewal, or extension of the contract, exceeds \$50,000. The notice must be on a form prescribed by the LBB and filed not later than the 30th day after the date the agency enters into the contract. *Gov't Code 2254.006*

**Contingent Fee
Contracts for Legal
Services**

Government Code Chapter 2254, Subchapter C, provisions applicable to a state governmental entity and a political subdivision apply to a contingent fee contract for legal services entered into by a college district. *Gov't Code 2254.102(a)*

Exceptions

Subchapter C does not apply to a contract for legal services entered into by a political subdivision for the collection of an obligation that is delinquent or for services under Government Code 1201.027, except that Government Code 2254.1032, 2254.1034, 2254.1036, and 2254.1037 do apply to the contract. "Obligation" includes a debt, judgment, claim, account, fee, fine, tax, penalty, interest, loan, charge, or grant. *Gov't Code 2107.001(1), 2254.102(e)*

**Emergency Damage
or Destruction**

If school equipment, a school facility, or a portion of a school facility or personal property is destroyed or severely damaged or, as a result of an unforeseen catastrophe or emergency, undergoes major operational or structural failure, and the board of trustees determines that the delay posed by the methods provided for in Education Code 44.031 would prevent or substantially impair the conduct of classes or other essential school activities, then contracts for the replacement or repair of the equipment, school facility, or the part of the school facility may be made by methods other than those required by Education Code 44.031. *Education Code 44.031(h)*

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**Computers and
Computer-Related
Equipment**

Purchasing Through
DIR

A college district may acquire computers and computer-related equipment, including computer software, through the Department of Information Resources (DIR) under contracts entered into in accordance with Government Code Chapter 2054 or 2157. *Education Code 44.031(i)*

Purchase Using
Competitive Bidding

Each institution of higher education, including each college district, that solicits bids or proposals from the public for the purchase and/or lease of computer equipment must do so in accordance with applicable rules adopted by the comptroller pertaining to competitive bidding or competitive sealed proposals. *1 TAC 217.30(c)*

*Required
Certification*

A public solicitation for the purchase or lease of computer equipment issued by an institution of higher education is required to contain the certification to be completed by bidders, in accordance with 1 Administrative Code 217.30. Failure of a bidder to provide this certification shall render the bidder ineligible to participate in the bidding. The institution of higher education shall reject the related bid and not evaluate it. *1 TAC 217.30(a)–(b)*

*Special
Preference*

All institutions of higher education shall include in all bids for the purchase or lease of computer equipment a special preference for all manufacturers that have a program to recycle the computer equipment of other manufacturers, which program includes collection events and manufacturer initiatives to accept computer equipment labeled with another manufacturer's brand. The preference may take the form of extra evaluation points or be the tie-breaking factor among equal bids. *1 TAC 217.31*

*Computer
Equipment*

"Computer equipment" is defined as a desktop or notebook computer and includes a computer monitor or other display device that does not contain a tuner. *1 TAC 217.1(1)*

**Cloud Computing
Services**

A state agency, including a college district, shall require each vendor contracting with the agency to provide cloud computing services for the agency to comply with the requirements of the state risk and authorization management program as provided by Government Code 2054.0593. DIR shall evaluate vendors to determine whether a vendor qualifies for a certification issued by DIR reflecting compliance with program requirements.

A state agency may not enter or renew a contract with a vendor to purchase cloud computing services for the agency that are subject to the state risk and authorization management program unless the vendor demonstrates compliance with program requirements.

A state agency shall require a vendor contracting with the agency to provide cloud computing services for the agency that are subject to the state risk and authorization management program to main-

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tain program compliance and certification throughout the term of the contract.

In this section, "cloud computing service" has the meaning assigned by Government Code 2157.007.

Gov't Code 2054.0593(a), (d)–(f)

**Data Security
Controls for Vendors**

Each state agency, including a college district, entering into or renewing a contract with a vendor authorized to access, transmit, use, or store data for the agency shall include a provision in the contract requiring the vendor to meet the security controls the agency determines are proportionate with the agency's risk under the contract based on the sensitivity of the agency's data. The vendor must periodically provide to the agency evidence that the vendor meets the security controls required under the contract. *Gov't Code 2054.138*

**Automated
Information System**

The comptroller or other state agency, including a college district, shall purchase an automated information system using:

1. The purchasing method described by Section 2157.068 for commodity items; or
2. A purchasing method designated by the comptroller to obtain the best value for the state, including a request for offers method.

A local government, including a college district, shall purchase an automated information system using the purchasing method described by Government Code 2157.068 for commodity items or a purchasing method designated by the comptroller to obtain the best value for the state, including a request for offers method. A local government that purchases an item using a method listed above satisfies any state law requiring the local government to seek competitive bids for the purchase of the item. [See 1 Administrative Code Chapter 212 for rules related to purchases of commodity items.]

Gov't Code 2157.006; 34 TAC 20.222

Sole Source

Without complying with Education Code 44.031(a), a college district may purchase an item that is available from only one source, including:

1. An item for which competition is precluded because of a patent, copyright, secret process, or monopoly.
2. A film, manuscript, or book.
3. A utility service, including electricity, gas, or water.

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4. A captive replacement part or component for equipment.

The sole source exception does not apply to mainframe data-processing equipment and peripheral attachments with a single-item purchase price in excess of \$15,000.

Education Code 44.031(j)–(k)

Insurance

A contract for the purchase of insurance is a contract for the purchase of personal property and shall be made in accordance with Education Code 44.031. *Education Code 44.031; Atty. Gen. Op. DM-347 (1995)*

Multiyear Contracts

The college district may execute an insurance contract for a period longer than 12 months, if the contract contains either or both of the provisions described at Commitment of Current Revenue, below. If the college district executes a multiyear insurance contract, it need not advertise for insurance vendors until the 12-month period during which the college district will be executing a new insurance contract. *Atty. Gen. Op. DM-418 (1996)*

Competitive Bidding

Except to the extent prohibited by other law and to the extent consistent with Education Code Chapter 44, Subchapter B, a college district may use competitive bidding to select a vendor as authorized by Education Code 44.031(a)(1).

A college district shall award a competitively bid contract at the bid amount to the bidder offering the best value for the district. In determining the best value for the district, the district is not restricted to considering price alone but may consider any other factors stated in the selection criteria. The selection criteria may include the factors listed in Education Code 44.031(b) [see Factors, above].

Except as provided below, Local Government Code Chapter 271, Subchapter B, does not apply to a competitive bidding process under this policy.

Education Code 44.0351

Opening Bids

Bids may be opened only by the governing body of the governmental entity at a public meeting or by an officer or employee of the governmental entity at or in an office of the governmental entity. A bid that has been opened may not be changed for the purpose of correcting an error in the bid price.

The governmental entity is entitled to reject any and all bids.

Local Gov't Code 271.026–.027(a)

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Safety Record

In determining who is a responsible bidder, the governmental entity may take into account the safety record of the bidder; of the firm, corporation, partnership, or institution represented by the bidder; or of anyone acting for such firm, corporation, partnership, or institution if:

1. The governing body of the governmental entity has adopted a written definition and criteria for accurately determining the safety record of a bidder.
2. The governing body has given notice to prospective bidders in the bid specifications that the safety record of a bidder may be considered in determining the responsibility of the bidder.
3. The determinations are not arbitrary and capricious.

Local Gov't Code 271.0275

Identical Bids

If a district is required to accept bids on a contract and receives two or more bids from responsible bidders that are identical, in nature and amount, as the lowest and best bids, the governing body of the district shall enter into a contract with only one of those bidders and must reject all other bids.

If only one of the bidders submitting identical bids is a resident of the district, the district must select that bidder. If two or more of the bidders submitting identical bids are residents of the district, the district must select one of those bidders by the casting of lots. In all other cases, the district must select from the identical bids by the casting of lots.

The casting of lots must be in a manner prescribed by the governing body of the district and must be conducted in the presence of the governing body of the district. All qualified bidders or their legal representatives may be present at the casting of lots.

This section does not prohibit a district from rejecting all bids.

Local Gov't Code 271.901

Competitive Sealed Proposals

In selecting a vendor through competitive sealed proposals as authorized by Education Code 44.031(a)(2), a college district shall follow the procedures prescribed below. *Education Code 44.0352(a)*

Request for Proposals

The district shall prepare a request for competitive sealed proposals that includes information that vendors may require to respond to the request. The district shall state in the request for proposals the selection criteria that will be used in selecting the successful offeror. *Education Code 44.0352(b)*

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Opening Proposals	The district shall receive, publicly open, and read aloud the names of the offerors and, if any are required to be stated, all prices stated in each proposal. Not later than the 45th day after the date on which the proposals are opened, the district shall evaluate and rank each proposal submitted in relation to the published selection criteria. <i>Education Code 44.0352(c)</i>
Selection	The district shall select the offeror that offers the best value for the district based on the published selection criteria and on its ranking evaluation. The district shall first attempt to negotiate a contract with the selected offeror. The district may discuss with the selected offeror options for a scope or time modification and any price change associated with the modification. If the district is unable to negotiate a satisfactory contract with the selected offeror, the district shall, formally and in writing, end negotiations with that offeror and proceed to the next offeror in the order of the selection ranking until a contract is reached or all proposals are rejected. <i>Education Code 44.0352(d)</i>
Best Value Determination	In determining the best value for the district, the district is not restricted to considering price alone but may consider any other factors stated in the selection criteria. <i>Education Code 44.0352(e)</i>
Interlocal Agreements	<p>A local government, including a college district, may contract or agree with another local government or with the state or a state agency, including the comptroller, or a federally recognized Indian Tribe, as listed by the U.S. secretary of the interior under 25 U.S.C. 479a-1, whose reservation is located within the boundaries of this state to perform governmental functions and services, such as to purchase goods and services, in accordance with Government Code Chapter 791. <i>Gov't Code 791.001, .011, .025</i></p> <p>An interlocal contract must be authorized by the governing body of each party to the contract; must state the purpose, terms, rights, and duties of the contracting parties; and must specify that each party paying for the performance of governmental functions or services shall make those payments from current revenues available to the paying party.</p> <p>An interlocal contractual payment must be in an amount that fairly compensates the performing party for the services or functions performed under the contract. An interlocal contract may have a specified term of years. An interlocal contract may be renewed.</p> <p><i>Gov't Code 791.011(d)–(f), (i)</i></p> <p>A local government, including a council of governments, may agree with another local government, including a nonprofit corporation that is created and operated to provide one or more governmental</p>

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functions and services, or with the state or a state agency, including the comptroller, to purchase goods and services reasonably required for the installation, operation, or maintenance of the goods. This provision does not apply to services provided by firefighters, police officers, or emergency medical personnel.

A local government that purchases goods and services under Government Code 791.025 satisfies the requirement to seek competitive bids for the purchase of goods and services.

Gov't Code 791.025(b)–(c); Atty. Gen. Op. JC-37(1999)

A local government may not enter into a contract to purchase construction-related goods or services through a purchasing cooperative in an amount greater than \$50,000 unless a person designated by the local government certifies in writing that:

1. The project for which the construction-related goods or services are being procured does not require the preparation of plans and specifications under Occupations Code Chapter 1001 or 1051; or
2. The plans and specifications required under Chapters 1001 and 1051 have been prepared.

“Purchasing cooperative” means a group purchasing organization that governmental entities join as members and the managing entity of which receives fees from members or vendors.

Gov't Code 791.011(j)

**State Purchasing
Program**

The comptroller shall establish a program by which the comptroller performs purchasing services for local governments. The services must include:

1. The extension of state contract prices to participating local governments when the comptroller considers it feasible;
2. Solicitation of bids on items desired by local governments if the solicitation is considered feasible by the comptroller and is desired by the local government; and
3. Provision of information and technical assistance to local governments about the purchasing program.

The comptroller may charge a participating local government an amount not to exceed the actual costs incurred by the comptroller in providing purchasing services to the local government under the program.

Local Gov't Code 271.082

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College District
Requirements

A local government may participate in the purchasing program, including participation in purchases that use the reverse auction procedure, by filing with the comptroller a resolution adopted by the governing body of the local government requesting that the local government be allowed to participate on a voluntary basis, to the extent the comptroller deems feasible, and stating that the local government shall:

1. Designate an official to act for the local government in all matters relating to the program, including the purchase of items from the vendor under any contract, and that the governing body will direct the decisions of the representative;
2. Be responsible for:
 - a. Submitting requisitions to the comptroller under any contract; or
 - b. Electronically sending purchase orders directly to vendors, or complying with procedures governing a reverse auction purchase and electronically sending to the comptroller reports on actual purchases made under this paragraph that provide the information and are sent at the times required by the comptroller;
3. Be responsible for making payment directly to the vendor; and
4. Be responsible for the vendor's compliance with all conditions of delivery and quality of the purchased item.

A local government that purchases an item under a state contract or under a reverse auction procedure sponsored by the comptroller satisfies any state law requiring the local government to seek competitive bids for the purchase of the item.

Local Gov't Code 271.083

**Multiple Award
Contract Schedule**

The comptroller shall develop a schedule of multiple award contracts that have been previously awarded using a competitive process by the federal government, including the federal General Services Administration, or any other governmental entity in any state.

A local government may purchase goods or services directly from a vendor under a contract listed on a schedule. A state agency or local government contracting for the purchase of an automated information system under a contract listed on a schedule developed under this Government Code Chapter 2155, Subchapter I, shall comply with Government Code 2157.068(e-1). An authorized pur-

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chase satisfies any requirement of state law relating to competitive bids or proposals.

The price listed for a good or service under a multiple award contract is a maximum price. A local government may negotiate a lower price for goods or services under a contract listed on a schedule.

Gov't Code 2155.502, .504

**Cooperative
Purchasing Program**

A local government may participate in a cooperative purchasing program with another local government of this state or another state or with a local cooperative organization of this state or another state. A local government that is participating in a cooperative purchasing program may sign an agreement with another participating local government or a local cooperative stating that the signing local government will:

1. Designate a person to act under the direction of, and on behalf of, that local government in all matters relating to the program;
2. Make payments to another participating local government or local cooperative organization or directly to a vendor under a contract made under Local Government Code Chapter 271, Subchapter F, as provided in the agreement between the participating local governments or between a local government and a local cooperative organization; and
3. Be responsible for the vendor's compliance with provisions relating to the quality of items and terms of delivery, to the extent provided in the agreement between the participating local governments or between a local government and a local cooperative organization.

A local government that purchases goods or services under Local Government Code Chapter 271, Subchapter F, satisfies any state law requiring the local government to seek competitive bids for the purchase of the goods or services.

Local Gov't Code 271.102; Atty. Gen. Op. JC-37 (1999)

**Contract-Related Fee
Report**

A college district that enters into a purchasing contract valued at \$25,000 or more under Education Code 44.031(a)(5), under Local Government Code Chapter 271, Subchapter F, or under any other cooperative purchasing program authorized for college districts by law shall document a contract-related fee, including a management fee, paid by or to the college district and the purpose of each fee under the contract.

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The amount, purpose, and disposition of any fee described above must be presented in a written report and submitted annually in an open meeting of the board of trustees of the college district. The written report must appear as an agenda item.

Education Code 44.0331

Reverse Auction

A local government that uses the reverse auction procedure must include in the procedure a notice provision and other provisions necessary to produce a method of purchasing that is advantageous to the local government and fair to vendors. *Local Gov't Code 271.906(b)*

"Reverse auction procedure" means:

1. A real-time bidding process usually lasting less than one hour and taking place at a previously scheduled time and internet location, in which multiple suppliers, anonymous to each other, submit bids to provide the designated goods or services; or
2. A bidding process usually lasting less than two weeks and taking place during a previously scheduled period and at a previously scheduled internet location, in which multiple suppliers, anonymous to each other, submit bids to provide the designated goods or services.

Gov't Code 2155.062(d)

**Commitment of
Current Revenue**

If a contract for the acquisition, including lease, of real or personal property retains to the governing body of a local government the continuing right to terminate the contract at the expiration of each budget period of the local government during the term of the contract, is conditioned on a best efforts attempt by the governing body to obtain and appropriate funds for payment of the contract, or contains both the continuing right to terminate and the best efforts conditions, the contract is a commitment of the local government's current revenues only. *Local Gov't Code 271.903*

Change Orders

If a change in plans or specifications is necessary after the performance of a contract is begun or if it is necessary to decrease or increase the quantity of work to be performed or of materials, equipment, or supplies to be furnished, the district may approve change orders making the changes. The district may grant general authority to an administrative official to approve the change orders.

The total contract price may not be increased because of the changes unless additional money for increased costs is approved for that purpose from available money or is provided for by the authorization of the issuance of time warrants.

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A contract with an original contract price of \$1 million or more may not be increased by more than 25 percent. If a change order for a contract with an original contract price of less than \$1 million increases the contract amount to \$1 million or more, the total of the subsequent change orders may not increase the revised contract amount by more than 25 percent of the original contract price.

Education Code 44.0411

**Energy or Water
Conservation
Measures**

The governing board of an institution of higher education may enter into an energy savings performance contract in accordance with Education Code 51.927. An energy savings performance contract shall be let according to the procedures established for procuring certain professional services by Government Code 2254.004. *Education Code 51.927(b), (i)*

[See policy CH for legal requirements pertaining to such contracts]

Recycled Products

A junior or community college district shall give preference in purchasing to products made of recycled materials if the products meet applicable specifications as to quantity and quality and the average price of the product is not more than 10 percent greater than the price of comparable nonrecycled products. Preferences will be applied in accordance with state procurement statutes and rules. *Health and Safety Code 361.426; 30 TAC 328.201, .203*

Exception

A college district may request additional consideration from the Texas Commission on Environmental Quality (TCEQ) if compliance with this section would create a hardship. "Hardship" means a circumstance that causes unreasonable burden on the college district. *Health and Safety Code 361.426(d); 30 TAC 328.201, .204(c)*

**Agricultural
Products**

A college district that purchases agricultural products shall give preference to those produced, processed, or grown in this state if the cost to the college district is equal and the quality is equal. "Processed" means canning, freezing, drying, juicing, preserving, or any other act that changes the form of a good from its natural state to another form. If agricultural products produced, processed, or grown in this state are not equal in cost and quality to other products, the college district shall give preference to agricultural products produced, processed, or grown in other states of the United States over foreign products if the cost to the college district is equal and the quality is equal.

A college district may not adopt product purchasing specifications that unnecessarily exclude agricultural products produced, processed, or grown in this state.

Education Code 44.042(a)–(b), (f), (g)(1)

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Vegetation for Landscaping	A college district that purchases vegetation for landscaping purposes, including plants, shall give preference to Texas vegetation if the cost to the college district is equal and the quality is not inferior. <i>Education Code 44.042(c)</i>
Dairy Products	A political subdivision, including a college district, may not purchase milk, cream, butter, cheese, or a product consisting largely of one or more of those items, that has been imported from outside the United States. The restriction does not apply to the purchase of milk powder if domestic milk powder is not readily available in the normal course of business. <i>Health and Safety Code 435.021</i>
Imported Beef	A political subdivision, including a college district, may not purchase beef or a product consisting substantially of beef that has been imported from outside the United States. <i>Agriculture Code 150.012(a)</i>
Commodity Items	<p>An eligible entity, including a college district, may purchase commodity items through DIR, and be charged a reasonable administrative fee, as provided by Government Code 2157.068.</p> <p>"Commodity items" means commercial software, hardware, or technology services, other than telecommunications services, that are generally available to businesses or the public and for which the department determines that a reasonable demand exists from an eligible entity, that purchases the items through DIR. The term includes seat management, through which an eligible entity transfers its personal computer equipment and service responsibilities to a private vendor to manage the personal computing needs for each desktop of the eligible entity, including all necessary hardware, software, and support services.</p> <p><i>Gov't Code 2157.068(a), (j)</i></p>
Criminal History	A person or business entity, with the exception of a publicly held corporation, that enters into a contract with a college district must give advance notice to the district if the person or an owner or operator of the business entity has been convicted of a felony. A college district may terminate a contract with a person or business entity if the district determines that the person or business entity failed to give notice or misrepresented the conduct resulting in the conviction. The district must compensate the person or business entity for services performed before the termination of the contract. <i>Education Code 44.034</i>
Right to Work	While engaged in procuring goods or services, awarding a contract, or overseeing procurement or construction for a public work or public improvement, a college district:

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1. May not consider whether a vendor is a member of or has another relationship with any organization; and
2. Shall ensure that its bid specifications and any subsequent contract or other agreement do not deny or diminish the right of a person to work because of the person's membership or other relationship status with respect to any organization.

Education Code 44.043

Impermissible Practices

An officer, employee, or agent of a college district commits an offense if the person with criminal negligence makes or authorizes separate, sequential, or component purchases to avoid the requirements of Education Code 44.031(a) or (b) or otherwise violates Section 44.031(a) or (b). An officer or employee of a college district commits an offense if the officer or employee knowingly violates Education Code 44.031 in any other manner.

"Component purchases" means purchases of the component parts of an item that in normal purchasing practices would be made in one purchase. "Separate purchases" means purchases, made separately, of items that in normal purchasing practices would be purchased in one purchase. "Sequential purchases" means purchases, made over a period, of items that in normal purchasing practices would be purchased in one purchase.

Education Code 44.032(a)–(d) [See BBC]

Injunction

A court may enjoin performance of a contract made in violation of Education Code Chapter 44, Subchapter B. A county attorney, a district attorney, a criminal district attorney, a citizen of the county in which the college district is located, or any interested party may bring an action for an injunction. A party who prevails in an action brought under this provision is entitled to reasonable attorney's fees as approved by the court. *Education Code 44.032(f)*

Purchasing Authority	The Board delegates to the College President or designee the authority to make budgeted purchases for goods and services. Any purchases not included in the budget shall be taken to the Board for approval.
Emergency Exception	In the event of a catastrophe, emergency, or natural disaster affecting the College District, the Board delegates to the College President the authority to contract for the replacement, construction, or repair of College District equipment or facilities in accordance with law if emergency replacement, construction, or repair is necessary for the health and safety of College District students and staff. The College President shall report to the Board at the next regular meeting any contract made under this authority.
Purchasing Procedures	The College President shall develop purchasing procedures to implement the requirements of state and federal law. [See CAA, CAAB, and CH(LEGAL)]
Purchasing Method	The Board delegates to the College President or designee the authority to determine the method of purchasing in accordance with state and federal law.
Competitive Bidding	<p>If competitive bidding is chosen as the purchasing method, the College President or designee shall prepare bid specifications. All bids shall be in accordance with administrative regulations, and the submission of any electronic bids shall also be in accordance with Board-adopted rules. All bidders shall be invited to attend the bid opening. Any bid may be withdrawn prior to the scheduled time for opening. Bids received after the specified time shall not be considered.</p> <p>The College District may reject any and all bids.</p>
Competitive Sealed Proposals	<p>If competitive sealed proposals are chosen as the purchasing method, the College President or designee shall prepare the request for proposals and/or specifications for items to be purchased. All proposals shall be in accordance with administrative regulations, and the submission of any electronic proposals shall also be in accordance with Board-adopted rules. Proposals received after the specified time shall not be considered. Proposals shall be opened at the time specified, and all proposers shall be invited to attend the proposal opening. Proposals may be withdrawn prior to the scheduled time for opening. Changes in the content of a proposal, and in prices, may be negotiated after proposals are opened.</p> <p>The College District may reject any and all proposals.</p>

Electronic Bids or Proposals	Bids or proposals that the College District has chosen to accept through electronic transmission shall be administered in accordance with Board-adopted rules. Such rules shall safeguard the integrity of the competitive procurement process; ensure the identification, security, and confidentiality of electronic bids or proposals; and ensure that the electronic bids or proposals remain effectively unopened until the proper time.
Responsibility for Debts	The Board shall assume responsibility for debts incurred in the name of the College District so long as those debts are for purchases made in accordance with the adopted budget, state law, Board policy, and the College District's purchasing procedures. [See CC] The Board shall not be responsible for debts incurred by persons or organizations not directly under Board control; persons making unauthorized purchases shall assume full responsibility for all such debts.
Purchase Commitments	All purchase commitments shall be made by the College President or designee, in accordance with administrative procedures, including the College District's purchasing procedures.
Personal Purchases	College District employees shall not be permitted to make purchases for personal use through the College District's business office.
Delinquent Franchise Taxes	Each corporation contracting with the College District shall certify that its franchise taxes are current. If the corporation is exempt from payment of franchise taxes or is an out-of-state corporation not subject to Texas franchise tax, it shall certify a statement to that effect. Making a false statement as to corporate franchise tax status shall be considered a material breach of the contract and shall be grounds for cancellation of the contract.

SAFETY PROGRAM
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(LEGAL)**Administration of
Epinephrine**

Definitions

Anaphylaxis

"Anaphylaxis" means a sudden, severe, and potentially life-threatening allergic reaction that occurs when a person is exposed to an allergen. *Education Code 51.881(2); 25 TAC 40.3(1)*

*Authorized
Health-care
Provider*

An "authorized health-care provider" means a physician, as defined in Education Code 51.881, or person who has been delegated prescriptive authority by a physician under Occupations Code Chapter 157 as described in Health and Safety Code 773.0145. *25 TAC 40.3(2)*

Campus

"Campus" means an educational unit under the management and control of an institution of higher education and may include, in addition to the main campus, off-campus and secondary locations, such as branch campuses, teaching locations, regional centers, and where students are housed. *Education Code 51.881(3); 25 TAC 40.3(3)*

*Epinephrine
Auto-Injector*

"Epinephrine auto-injector" means a disposable medical drug delivery device that contains a premeasured single dose of epinephrine that is intended to be used to treat anaphylaxis. *Education Code 51.881(4)*

*Unassigned
Epinephrine
Auto-Injector*

"Unassigned epinephrine auto-injector" means an epinephrine auto-injector prescribed by an authorized health-care provider in the name of the institution of higher education issued with a non-patient-specific standing delegation order for the administration of an epinephrine auto-injector, and issued by an authorized health-care provider. *25 TAC 40.3(6)*

Policy Permitted

An institution of higher education, including a college district, may adopt and implement a written policy regarding the maintenance, storage, administration, and disposal of unassigned epinephrine auto-injectors at each institution's campus. *Education Code 51.882(a); 25 TAC 40.2*

Contents

Each institution of higher education that adopts a policy must require that the institution's campuses have personnel or volunteers authorized and trained to administer an epinephrine auto-injector present.

If a policy is adopted, the policy must provide that personnel or volunteers who are authorized and trained may administer an epinephrine auto-injector to a person who is reasonably believed to be experiencing anaphylaxis on the institution's campus and may provide that personnel or volunteers who are authorized and trained may administer an epinephrine auto-injector to a person who is reasonably believed to be experiencing anaphylaxis at an off-campus location.

pus event or while in transit to or from an off-campus event sponsored by the institution of higher education.

In development of an epinephrine auto-injector policy, an institution shall include:

1. A designated campus department to coordinate and manage policy implementation that includes:
 - a. Conducting an assessment;
 - b. Training of institution personnel;
 - c. Acquiring or purchasing, storing, and using unassigned epinephrine auto-injectors; and
 - d. Disposing of expired unassigned epinephrine auto-injectors;
2. Personnel who can be trained to administer unassigned epinephrine auto-injectors;
3. Locations of unassigned epinephrine auto-injectors;
4. Procedures for notifying local emergency medical services when a person is suspected of experiencing anaphylaxis and when an epinephrine auto-injector is administered; and
5. A plan to replace, as soon as reasonably possible, any unassigned epinephrine auto-injector that is used or close to expiration.

Education Code 51.882(b), (d); 25 TAC 40.5(c)

*Submission to
DSHS*

Each institution of higher education that adopts a policy shall submit to the Department of State Health Services (DSHS) a copy of the policy and any amendment to the policy adopted by the institution. DSHS shall maintain a record of the most recent policy and amendments submitted by each institution and shall make that information available to the public on request. *Education Code 51.882(a)–(d), (f); 25 TAC 40.5(e)*

Publication

Each institution of higher education that adopts a policy shall include the policy in the institution's student handbook or similar publication and publish the policy on the institution's internet website. The policy and the locations of the unassigned epinephrine auto-injector must be publicly available. *Education Code 51.882(d); 25 TAC 40.5(d)*

*Availability of
Epinephrine Auto-
Injectors*

An institution of higher education shall obtain a prescription from an authorized health-care provider each year to stock, possess, and maintain at least one unassigned adult epinephrine auto-injec-

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tor pack (two doses) on each institution's campus as described in Education Code 51.885 and Health and Safety Code 773.0145. The number of additional adult packs may be determined by an individual campus assessment led by an authorized health-care provider, based on available resources. *25 TAC 40.5(a)*

Assessment

An institution performing an assessment may consider:

1. Consultation with campus police, office of risk management, office of food services, office of housing, office of health services, or any department involved with student well-being;
2. Campus geography, including high risk areas; and
3. Student population size.

25 TAC 40.5(b)

Prescription

A physician may prescribe, as described by Education Code 51.885, epinephrine auto-injectors in the name of an institution of higher education that adopts a policy. The physician shall provide the institution with a standing order for the administration of an epinephrine auto-injector to a person reasonably believed to be experiencing anaphylaxis.

Notwithstanding any other provisions of law, supervision or delegation by a physician is considered adequate if the physician periodically reviews the order and is available through direct telecommunication as needed for consultation, assistance, and direction.

Education Code 51.885(a), (c)

Report

Not later than the tenth business day after the date a personnel member or volunteer administers an epinephrine auto-injector in accordance with the policy, the institution of higher education shall report to the physician who prescribed the epinephrine auto-injector and the commissioner of state health services. The report must include the following information:

1. The age of the person who received the administration of the epinephrine auto-injector;
2. Whether the person who received the administration of the epinephrine auto-injector was a student, a personnel member, or a visitor;
3. The physical location where the epinephrine auto-injector was administered;
4. The number of doses of epinephrine auto-injector administered;

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5. The title of the person who administered the epinephrine auto-injector; and
6. Any other information required by the commissioner of state health services.

Notifications to the commissioner of DSHS shall be submitted on the designated electronic form available on [DSHS's School Health Program website](#).¹

Education Code 51.883; 25 TAC 40.7(b)–(c)

Employee Training

Each institution of higher education that adopts a policy is responsible for training personnel or volunteers in the administration of an epinephrine auto-injector. The training must:

1. Include information on:
 - a. Recognizing the signs and symptoms of anaphylaxis;
 - b. Administering an epinephrine auto-injector;
 - c. Implementing emergency procedures, if necessary, after administering an epinephrine auto-injector; and
 - d. Properly disposing of used or expired epinephrine auto-injectors; and
2. Be provided in a formal training session or through online education and be completed annually.

Training shall be consistent with the most recent Voluntary Guidelines for Managing Food Allergies in Schools and Early Care and Education Programs published by the federal Centers for Disease Control and Prevention.

Each institution shall maintain training records and each public institution shall make available upon request a list of those institution personnel or institution volunteers trained and authorized to administer the unassigned epinephrine auto-injector on the campus.

Education Code 51.884; 25 TAC 40.6

Storage

The supply of epinephrine auto-injectors at a campus must be stored in a secure location and be easily accessible to personnel or volunteers authorized and trained to administer an epinephrine auto-injector. The unassigned epinephrine auto-injector must be stored in accordance with the manufacturer's guidelines. *Education Code 51.882(e); 25 TAC 40.5(d)*

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Funding	An institution of higher education may accept gifts, grants, donations, and federal funds to implement this section. <i>Education Code 51.886</i>
Immunity from Discipline	<p>A person who in good faith takes, or fails to take, any action under 25 Administrative Code Chapter 40, Subchapter A, or Education Code Chapter 51, Subchapter Y-1, is immune from civil or criminal liability or disciplinary action resulting from that act or failure to act, including:</p> <ol style="list-style-type: none">1. Issuing an order for epinephrine auto-injectors;2. Supervising or delegating the administration of an epinephrine auto-injector;3. Possessing an epinephrine auto-injector;4. Maintaining an epinephrine auto-injector;5. Storing an epinephrine auto-injector;6. Disposing of an epinephrine auto-injector;7. Prescribing an epinephrine auto-injector;8. Dispensing an epinephrine auto-injector;9. Administering, or assisting in administering, an epinephrine auto-injector;10. Providing, or assisting in providing, training, consultation, or advice in the development, adoption, or implementation of policies, guidelines, rules, or plans; or11. Undertaking any other act permitted or required under Subchapter Y-1. <p>This immunity is in addition to other immunity or limitations of liability provided by law.</p> <p><i>Education Code 51.888(a)–(b); 25 TAC 40.8</i></p>
Records Retention	Records relating to implementing and administering the institution of higher education unassigned epinephrine auto-injector policy shall be retained per the record retention schedule for records of institutions of higher education found in 13 Administrative Code 6.10. [See also CIA] 25 TAC 40.7(a)
Automated External Defibrillator	"Automated external defibrillator" means a heart monitor and defibrillator that:

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1. Has received approval from the U.S. Food and Drug Administration (FDA) of its premarket notification filed under 21 U.S.C. 360(k);
2. Is capable of recognizing the presence or absence of ventricular fibrillation or rapid ventricular tachycardia and is capable of determining, without interpretation of cardiac rhythm by an operator, whether defibrillation should be performed; and
3. On determining that defibrillation should be performed, automatically charges and requests delivery of an electrical impulse to an individual's heart.

Each person or entity, other than a licensed practitioner, that acquires an automated external defibrillator that has not been approved by the FDA for over-the-counter sale shall ensure that the automated external defibrillator has been delivered to that person or entity by a licensed practitioner in the course of his professional practice or upon a prescription or other order lawfully issued in the course of his professional practice.

Health and Safety Code 779.001, .007

Notice of
Acquisition

When a person or entity acquires an automated external defibrillator, the person or entity shall notify the local emergency medical services provider of the existence, location, and type of automated external defibrillator. *Health and Safety Code 779.005*

Notice of Use

A person or entity that provides emergency care to a person in cardiac arrest by using an automated external defibrillator shall promptly notify the local emergency medical services provider. *Health and Safety Code 779.004*

Maintenance and
Inspection

A person or entity that owns or leases an automated external defibrillator shall:

1. Maintain and test the automated external defibrillator according to the manufacturer's guidelines; and
2. Conduct a monthly inspection to verify the automated external defibrillator is placed at its designated location, reasonably appears to be ready for use, and does not reasonably appear to be damaged in a manner that could prevent operation.

Health and Safety Code 779.003

**Coronavirus
Preventative
Measures**

Face Covering

A governmental entity may not implement, order, or otherwise impose a mandate requiring a person to wear a face mask or other face covering to prevent the spread of COVID-19. *Health and Safety Code 81B.002(a)*

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Exception

The limitation does not apply to an order or mandate that relates to a hospital or other health-care facility owned by a governmental entity, including a hospital or other health-care clinic operated by or associated with an institution of higher education subject to any applicable order, ordinance, or guidance prescribed by that governmental entity that conflicts with that limitation. *Health and Safety Code 81B.002(b)*

Vaccine

A governmental entity may not implement, order, or otherwise impose a mandate requiring a person to be vaccinated against COVID-19. *Health and Safety Code 81B.003(a)*

¹ DSHS, Required Reporting of Administered Epinephrine Auto-Injectors to DSHS website: <https://www.dshs.texas.gov/schoolhealth/forms/ReportingForm-Epinephrine.aspx>

KILGORE COLLEGE TASB POLICY CONVERSION

Summary of Policy for Proposed Adoption by the Kilgore College Board of Trustees

LEGAL policies summarize the law on a topic. LEGAL policies are compiled by TASB to provide the legal framework for key areas of college operations and are provided to the Board for foundational and background information only. These are not adopted by the Board.

LOCAL policies outline local Board mandates regarding governance issues. LOCAL policies are developed based on existing TASB model policies and may be customized to meet local needs. LOCAL policies are proposed for adoption by the board.

Procedures will be developed for implementation of policies, as appropriate, and do not require Board adoption. These will be provided for information only.

IN CONSIDERATION OF ADOPTION OF TASB *LEGAL* POLICY

Kilgore College Board Policy and Personnel Committee Meeting Date:

November 10, 2022

Kilgore College Board of Trustees Meeting Date:

December 12, 2022

Proposed *LEGAL* Policy for *INFORMATION ONLY*:

Section: CR TECHNOLOGY RESOURCES

Policy: CRA Website Postings

Summary of *LEGAL* Policy:

NOTE: CRA is a LEGAL policy only. It does not require Board approval. Trustees are being provided with this document for information purposes only.

This LEGAL policy was reviewed by Administration to ascertain compliance. KC is in compliance and has the prescribed postings on the College's website. The College is not required to include the prescribed notice on geospatial data products (maps) based on exemption #1.

Note: The following is an index of website posting requirements that are addressed in the legal reference material of the policy manual. The list is not all-inclusive. The list does not address postings that are required in response to a specific incident, postings required under special circumstances, or postings required under administrative procedures of an agency.

Required Internet Postings

A college district that maintains an internet website shall post the following:

1. The college district's Compact With Texans, under Government Code 2114.006. [See AFA]
2. On the first frame of the homepage and in a font that is larger than the font of the majority of the text on the home page, an accessible link to the college district's online resumes maintained on the Coordinating Board's internet website, under Education Code 51A.003. [See AFA]
3. The cost of attendance for a first-time entering full-time student in accordance with the uniform standards prescribed by the commissioner, under Education Code 61.0777 and 19 Administrative Code 21.2222. [See AFA]
4. In a prominent location that is not more than three hyperlinks from the website's home page, a link to the Coordinating Board's electronic tools or platforms providing information for assessing the value of postsecondary credentials, under Education Code 61.09022. [See AFA]
5. Each elected officer, under Government Code 2051.201. [See BB]
6. The date and location of the next board member election, under Government Code 2051.201. [See BBB]
7. An election notice, under Election Code 85.007. [See BBB, BBBA]
8. For at least one year before the election day, the requirements and deadline for filing for candidacy, under Government Code 2051.201. [See BBBA]
9. Conflicts disclosure statements and questionnaires, under Local Government Code 176.009. [See BBFA, CFE]
10. Not later than the 10th business day after the date the report is received, a campaign finance report filed with the college

district by a candidate, officeholder, or specific-purpose committee, under Election Code 254.0401. [See BBBC]

11. Notice of and the agenda for a board meeting, under Government Code 551.056. [See BD]
12. Any written agenda and related supplemental written materials for a board meeting, as well as a broadcast of the board meeting followed by an archived version of that broadcast, if the junior college district has a total student enrollment of more than 20,000 in any semester of the preceding academic year, under Government Code 551.1282. [See BD]
13. During the 21 days before a debt obligation election, prominently and together with the notice of the election, the contents of the proposition, and any sample ballot prepared for the election, under Election Code 4.003. [See CAD]
14. In a political subdivision with at least 250 registered voters, a voter information document, under Government Code 1251.052. [See CAD]
15. Prominently on the home page in the form prescribed by the comptroller, tax rate, estimated interest and fund balance, and debt obligation information, under Tax Code 26.04. [See CAI]
16. On the home page the prescribed statement if the college district proposes to increase the amount of taxes to fund maintenance and operation expenditures, under Tax Code 26.05. [See CAI]
17. Notice of a required public hearing on a tax rate increase, under Tax Code 26.06 and 26.065. [See CAI]
18. Prominently displayed, the information necessary for proper electronic delivery of communications required or permitted by Tax Code Title 1 to the college district by a property owner or designee, under Tax Code 1.085. [See CAI]
19. Information about the college district, including the board, the budget, and the tax rate, in a format prescribed by the comptroller, under Tax Code 26.18. [See CAI, BB, CC, CDC, and GC]
20. The current version of the guidelines and criteria governing tax abatement agreements, under Tax Code 312.002. [See CAIB]
21. If the website is generally accessible, a link to the state expenditure database, under Government Code 2054.126. [See CDA]

22. A copy of the college district's financial transactions, under Education Code 51.9741. [See CDA]
23. An annual debt obligation report or link to where the information is located and the contact information for the college district's main office, under Local Government Code 140.008. [See CDA]
24. The internal audit plan and annual report, under Government Code 2102.009. [See CDC]
25. If adopted, the college district's policy regarding the maintenance, storage, administration, and disposal of epinephrine auto-injectors on the institution's campus, under Education Code 51.882. [See CGE]
26. A college district shall report its energy usage information on a publicly accessible internet website with an interface designed for ease of navigation, if available, under Government Code 2265.001. [See CH]
27. In a prominent location, the code of conduct for the college district's officers, employees, and agents, under 20 U.S.C. 1094. [See DBD]
28. Information regarding a gift, grant, donation, or other consideration from a person that the person designated to be used as a salary supplement, and related conflict of interest provisions, under Government Code 659.0201. [See DEA]
29. The campus expression policies, under Education Code 51.9315. [See DGC, FLA, and GD]
30. The individual work contact information for the liaison for veterans, military members, and their dependents, under Government Code 657.0046. [See DI]
31. Prominently displayed, the contact information required to be listed for the Title IX coordinator and the notice of nondiscrimination, under 34 C.F.R. 106.8(b)(2). [See DIAA and FFDA]
32. All materials used to train Title IX coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, under 34 C.F.R. 106.45(b)(10). [See DIAA and FFDA]
33. On a web page dedicated solely to the policy that is easily accessible through a clearly identifiable link on the homepage, the policy on sexual harassment, sexual assault, dating violence, and stalking, under Education Code 51.282(b) and 19 Administrative Code 3.4(b). [See DIAA and FFDA]

34. A report concerning the reports of sexual harassment, sexual assault, dating violence, or stalking received by the college district, under Education Code 51.253(c)–(d) and 19 Administrative Code 3.6(c)–(d). [See DIAA and FFDA]
35. The end-of-course student evaluations of faculty according to a plan developed under Education Code 51.974(h) and 19 Administrative Code 4.227(10) and 4.228(e). [See DLA]
36. The International Standard Book Number (ISBN) and retail price information of required and recommended college textbooks and supplemental materials for each course listed in the institution's course schedule used for preregistration and registration purposes, under 20 U.S.C. 1015b. [See EDA]
37. Information about each undergraduate classroom course offered for credit not later than the seventh day after the first day of classes for the semester or other academic term during which the course is offered, under Education Code 51.974 and 19 Administrative Code 4.227 to 4.228. [See EFA]
38. The recommended course sequences for each undergraduate certificate or degree program not later than August 1 of each year, under Education Code 51.96852 and 19 Administrative Code 4.363(c). [See EFB]
39. The college district's policy to grant undergraduate course credit to entering freshmen students who have successfully completed the International Baccalaureate Diploma Program, who have achieved required scores on one or more examinations in the Advanced Placement Program or the College-Level Examination Program, or who have successfully completed one or more courses offered through concurrent enrollment in high school and at an institution of higher education with the application materials, under Education Code 51.968. [See EGA]
40. Guidelines addressing the practices of the college district regarding the transfer of course credit, under Education Code 61.830. [See EGA]
41. A list of work-study employment opportunities accessible through a clearly identifiable link that appears in a prominent place on the financial aid page, under Education Code 56.080 and 19 Administrative Code 22.129(f). [See FEB]
42. The name of and contact information for the college district's liaison officer for students who are or were in foster care and information regarding support services and other resources

available to the students, under Education Code 51.9356.
[See FF]

43. The mental health resources available to students at the college district on a dedicated website, under Education Code 51.9193. [See FFCA]
44. In a prominent location, a report 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]
45. The college district's contact information, under Government Code 2051.201 and Tax Code 26.18. [See GC]

College District
Assessor

The assessor for the college district shall post prominently on the college district's website a notice informing each owner of property located in the appraisal district that the estimated amount of taxes to be imposed on the owner's property by each taxing unit in which the property is located may be found in the property tax database, under Tax Code 26.04. [See CAI]

**Optional Internet
Postings**

A college district that maintains an internet website may broadcast an open meeting over the internet, under Government Code 551.128. [See BD]

**Geospatial Data
Products**

"Geospatial data product" means a document, computer file, or internet website that contains geospatial data, a map, or information about a service involving geospatial data or a map. *Gov't Code 2051.101(1)*

Notice

A governmental entity, including a college district, shall include a notice as provided by Government Code Chapter 2051, Subchapter D on each geospatial data product that:

1. Is created or hosted by the governmental entity;
2. Appears to represent property boundaries; and
3. Was not produced using information from an on-the-ground survey conducted by or under the supervision of a registered professional land surveyor or land surveyor authorized to perform surveys under laws in effect when the survey was conducted.

The notice must be in substantially the following form: "This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries."

The notice may include language further defining the limits of liability of a geospatial data product producer; apply to a geospatial data product that contains more than one map; or for a notice that applies to a geospatial data product that is or is on an internet website, be included on a separate page that requires the person accessing the website to agree to the terms of the notice before accessing the geospatial data product.

Gov't Code 2051.102

Exemption

A governmental entity is not required to include the notice on a geospatial data product that:

1. Does not contain a legal description, a property boundary monument, or the distance and direction of a property line;
2. Is prepared only for use as evidence in a legal proceeding;
3. Is filed with the clerk of any court; or
4. Is filed with the county clerk.

Gov't Code 2051.103

KILGORE COLLEGE TASB POLICY CONVERSION

Summary of Policy for Proposed Adoption by the Kilgore College Board of Trustees

LEGAL policies summarize the law on a topic. LEGAL policies are compiled by TASB to provide the legal framework for key areas of college operations and are provided to the Board for foundational and background information only. These are not adopted by the Board.

LOCAL policies outline local Board mandates regarding governance issues. LOCAL policies are developed based on existing TASB model policies and may be customized to meet local needs. LOCAL policies are proposed for adoption by the board.

Procedures will be developed for implementation of policies, as appropriate, and do not require Board adoption. These will be provided for information only.

IN CONSIDERATION OF ADOPTION OF TASB LOCAL POLICY

Kilgore College Board Policy and Personnel Committee Meeting Date:

November 13, 2023

Kilgore College Board of Trustees Meeting Date:

December 11, 2023

Proposed LOCAL Policy for Adoption:

Section: D PERSONNEL

Policy: DIAA Freedom from Discrimination, Harassment and Retaliation:
Sex and Sexual Violence

Summary of LOCAL Policy:

DIAA Local policy outlines the Title IX process at Kilgore College. This incorporates the KC Policy "Employee Nondiscrimination and Grievance" policy approved by the BOT 8/24/2020. The Local policy explains the Title IX process for investigations, hearing and outcomes from reported Title IX complaints.

For Board Approval:

Approval of LOCAL Policy DIAA(BJC)

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

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Section I: Title IX

Definitions

Complainant

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

Respondent

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

*Education
Program or
Activity*

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

*Sexual
Harassment*

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

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

34 C.F.R. 106.30(a)

Formal Complaint

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

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

34 C.F.R. 106.30(a)

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*Actual
Knowledge*

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

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

34 C.F.R. 106.30(a)

*Supportive
Measures*

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

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

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

34 C.F.R. 106.30(a)

Notice of
Nondiscrimination

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

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

Title IX Coordinator

Each recipient must designate and authorize at least one employee to coordinate its efforts to comply with its responsibilities under 34 C.F.R. Part 106, which employee must be referred to as the "Title IX coordinator." *34 C.F.R. 106.8(a)*

Grievance
Procedures

A recipient must adopt and publish grievance procedures that provide for the prompt and equitable resolution of student and employee complaints alleging any action that would be prohibited by 34 C.F.R. Part 106 and a grievance process that complies with 34 C.F.R. 106.45 for formal complaints. These requirements apply only to sex discrimination occurring against a person in the United States. *34 C.F.R. 106.8(c–d); North Haven Bd. of Educ. v. Bell, 456 U.S. 512 (1982)*

*Process for
Formal
Complaints*

Conflict of
Interest
Prohibited

A recipient's grievance process must require that any individual designated by a recipient as a Title IX coordinator, investigator, decision-maker, or any person designated by a recipient to facilitate an informal resolution process, not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. *34 C.F.R. 106.45(b)*

Training

A recipient must ensure that Title IX coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, receive training on the definition of sexual harassment in 34 C.F.R. 106.30, the scope of the recipient's education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

A recipient must ensure that decision-makers receive training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, as set forth in 34 C.F.R. 106.45(b)(6).

A recipient also must ensure that investigators receive training on issues of relevance to create an investigative report that fairly sum-

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marizes relevant evidence, as set forth in 34 C.F.R.
106.45(b)(5)(vii).

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

34 C.F.R. 106.45(b)

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

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

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106.8(a), and by any additional method designated by the recipient. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the recipient with which the formal complaint is filed.

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

34 C.F.R. 106.30(a)

Consolidation of
Complaints

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

Notice of
Allegations

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

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

If, in the course of an investigation, the recipient decides to investigate allegations about the complainant or respondent that are not included in the notice provided pursuant to item 2, above, the re-

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recipient must provide notice of the additional allegations to the parties whose identities are known.

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

Response to Sexual
Harassment

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

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

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

34 C.F.R. 106.44(a)

*Response to
Formal Complaint*

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

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

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

Informal Resolution

A recipient may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment consistent with 34 C.F.R. 106.45. Similarly, a recipient may not require the parties to participate in an informal resolution process under this section and may not offer an informal resolution process unless a

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

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

34 C.F.R. 106.45(b)(9)

Investigation

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

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

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

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

Hearings

For postsecondary institutions, the recipient's grievance process must provide for a live hearing. *34 C.F.R. 106.45(b)(6)(i)*

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*Conduct of
Hearing*

Live hearings pursuant to this section may be conducted with all parties physically present in the same geographic location or, at the recipient's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other.

At the request of either party, the recipient must provide for the live hearing to occur with the parties located in separate rooms with technology enabling the decision-maker(s) and parties to simultaneously see and hear the party or the witness answering questions.

34 C.F.R. 106.45(b)(6)(i)

*Cross-
Examination*

At the live hearing, the decision-maker(s) must permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination at the live hearing must be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally, notwithstanding the discretion of the recipient under 34 C.F.R. 106.45(b)(5)(iv) to otherwise restrict the extent to which advisors may participate in the proceedings.

If a party does not have an advisor present at the live hearing, the recipient must provide without fee or charge to that party, an advisor of the recipient's choice, who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party.

34 C.F.R. 106.45(b)(6)(i)

Relevance

Only relevant cross-examination and other questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a cross-examination or other question, the decision-maker(s) must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.

Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

34 C.F.R. 106.45(b)(6)(i)

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Refusal to Submit to Cross- Examination	If a party or witness does not submit to cross-examination at the live hearing, the decision-maker(s) must not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the decision-maker(s) cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions. 34 C.F.R. 106.45(b)(6)(i)
<i>Recording</i>	Recipients must create an audio or audiovisual recording, or transcript, of any live hearing and make it available to the parties for inspection and review. 34 C.F.R. 106.45(b)(6)(i)
Determination Regarding Responsibility	<p>The decision-maker(s), who cannot be the same person(s) as the Title IX coordinator or the investigator(s), must issue a written determination regarding responsibility. To reach this determination, the recipient must apply the standard of evidence described in 34 C.F.R. 106.45(b)(1)(vii). The written determination must include:</p> <ol style="list-style-type: none">1. Identification of the allegations potentially constituting sexual harassment as defined in 34 C.F.R. 106.30;2. A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;3. Findings of fact supporting the determination;4. Conclusions regarding the application of the recipient's code of conduct to the facts;5. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the recipient imposes on the respondent, and whether remedies designed to restore or preserve equal access to the recipient's education program or activity will be provided by the recipient to the complainant; and6. The recipient's procedures and permissible bases for the complainant and respondent to appeal. <p>The recipient must provide the written determination to the parties simultaneously.</p> <p>The determination regarding responsibility becomes final either on the date that the recipient provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an</p>

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

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

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

Dismissal of
Complaint

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

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

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

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

Appeals

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

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

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

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

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

Confidentiality

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

Retaliation
Prohibited

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

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

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

34 C.F.R. 106.71

Removal or Leave

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

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

34 C.F.R. 106.44(c)–(d)

Publication

*Title IX
Coordinator and
Notice of Non-
discrimination*

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

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

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

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

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

*Grievance
Procedures and
Process*

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

*Training
Materials*

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

Recordkeeping

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

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

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

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recipient in the future from providing additional explanations or detailing additional measures taken.

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

Section II: State Law

Definitions

*Dating Violence,
Sexual Assault,
and Stalking*

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

*Sexual
Harassment*

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

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

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

Employee

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

*Course and
Scope of
Employment*

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

Sexual Assault
Policy

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

1. Definitions of prohibited behavior.
2. Sanctions for violations.
3. Protocol for reporting and responding to reports of sexual harassment, sexual assault, dating violence, and stalking that complies with the electronic reporting requirement in 19 Administrative Code 3.7.
4. Interim measures to protect victims of sexual harassment, sexual assault, dating violence, or stalking pending the institution's disciplinary process, including protection from retaliation.

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tion, and any other accommodations or supportive measures available to those victims at the institution. This section is not intended to limit an institution's ability to implement accommodations to others as needed.

5. A statement regarding:
 - a. The importance of a victim of sexual harassment, sexual assault, dating violence, or stalking going to a hospital for treatment and preservation of evidence, if applicable, as soon as practicable after the incident;
 - b. The right of a victim of sexual harassment, sexual assault, dating violence, or stalking to report the incident to the institution and to receive a prompt and equitable resolution of the report; and
 - c. The right of a victim of a crime to choose whether to report the crime to law enforcement, to be assisted by the institution in reporting the crime to law enforcement, or to decline to report the crime to law enforcement.

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

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

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

Review

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

Distribution

Each postsecondary educational institution shall make its policy on sexual harassment, sexual assault, dating violence, and stalking available to students, faculty, and staff members by:

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1. Including the policy in the student handbook and personnel handbook or the institution's equivalent(s); and
2. Creating and maintaining a web page dedicated solely to the policy that is easily accessible through a clearly identifiable link on the institution's homepage.

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

Responsible
Employee

Each postsecondary educational institution shall designate one or more employees to act as responsible employees for purposes of Title IX of the Education Amendments of 1972, 20 U.S.C. 1681, et seq and inform each student enrolled at the institution of the designated responsible employees. *Education Code 51.290(a); 19 TAC 3.14(a)*

Reporting
*Employee
Reporting
Required*

An employee of a postsecondary educational institution who, in the course and scope of employment, witnesses or receives information regarding the occurrence of an incident that the employee reasonably believes constitutes sexual harassment, sexual assault, dating violence, or stalking and is alleged to have been committed by or against a person who was a student enrolled at or an employee of the institution at the time of the incident shall promptly report the incident to the institution's Title IX coordinator or deputy Title IX coordinator.

The employee is required to report an incident regardless of when or where the incident occurred.

Institutions may establish additional reporting avenues to comply with this section provided that the reports are promptly routed to the Title IX coordinator or deputy Title IX coordinator.

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

Exception from
Reporting

A person is not required to make a report under this section concerning:

1. An incident in which the person was a victim of sexual harassment, sexual assault, dating violence, or stalking;
2. An incident of which the person received information due to a disclosure made at a sexual harassment, sexual assault, dating violence, or stalking public awareness event sponsored by a postsecondary educational institution or by a student organization affiliated with the institution; or
3. A sexual harassment, sexual assault, dating violence, or stalking incident in which the person has either learned of the incident during the course of his or her institution's review or process or has confirmed with the person or office overseeing

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the review or process, that the incident has been previously reported.

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

Contents of Report	The report must include all information concerning the incident known to the reporting person that is relevant to the investigation and, if applicable, redress of the incident, including whether an alleged victim has expressed a desire for confidentiality in reporting the incident. <i>Education Code 51.252(b); 19 TAC 3.5(b)</i>
Limitations on Reporting <i>Designated Confidential Employees</i>	<p>Each postsecondary educational institution shall designate one or more employees as persons to whom students enrolled at the institution may speak confidentially concerning sexual harassment, sexual assault, dating violence, and stalking and inform each student enrolled at the institution of the designated confidential employees.</p> <p>A confidential employee designated under this section may not disclose any communication made by a student to the employee unless the student consents to the disclosure or the employee is required to make the disclosure under 19 Administrative Code 3.5(c), state law, or federal law.</p> <p>Absent consent from the reporting student, an employee designated by the institution as a person with whom students may speak confidentially concerning sexual harassment, sexual assault, dating violence, or stalking shall only state the type of incident reported and may not include any information that would violate a student's expectation of privacy.</p> <p><i>Education Code 51.252(c), .290(a), (c); 19 TAC 3.5(c), .14</i></p>
<i>Confidential Employees Under Other Law</i>	Absent consent from the reporting individual, an employee who receives information regarding an incident of sexual harassment, sexual assault, dating violence, or stalking under circumstances that render the employee's communications confidential or privileged under other law shall only state the type of incident reported and may not include any information that would violate an expectation of privacy. <i>Education Code 51.252(c); 19 TAC 3.5(c)</i>
<i>Medical Providers</i>	Absent consent from the victim(s), an employee who receives information regarding an incident of sexual harassment, sexual assault, dating violence, or stalking in the course and scope of employment as a health-care provider, mental health-care provider, or other medical provider shall only state the type of incident reported and may not include any information that would violate an expectation of privacy. <i>Education Code 51.291(d); 19 TAC 3.5(c)</i>

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<i>Campus Peace Officers</i>	<p>A campus peace officer employed by a postsecondary educational institution who receives information regarding an incident described by Education Code 51.252(a) from an alleged victim who chooses to complete a pseudonym form described by Code of Criminal Procedure Article 58.102, 58.152, 58.202, or 58.252 shall, in making a report, state only the type of incident reported and may not include the victim's name, phone number, address, or other information that may directly or indirectly reveal the victim's identity. <i>Education Code 51.252(c-1)</i></p>
<i>Multiple Confidential Employees</i>	<p>When multiple confidential employees receive information about the same incident (e.g., student health center or counseling center), only a single report stating the type of incident is required. <i>19 TAC 3.5(c)</i></p>
<i>Reporting Under Other Law</i>	<p>These limitations on disclosure do not affect the employee's duty to report an incident under any other law, including but not limited to, the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, 20 U.S.C. 1092(f), Family Code 261.101, or Health and Safety Code 611.004. <i>Education Code 51.290(c); 19 TAC 3.5(c)</i></p>
Failure to Report or False Report	<p>A person commits an offense if the person is required to make a report under Education Code 51.252 and knowingly fails to make the report or with the intent to harm or deceive, knowingly makes a report under Section 51.252 that is false.</p> <p>A postsecondary educational institution shall terminate the employment of an employee whom the institution determines in accordance with the institution's disciplinary procedure to have committed the offense.</p> <p><i>Education Code 51.255(a), (c); 19 TAC 3.8</i></p>
<i>Electronic Reporting</i>	<p>Each postsecondary educational institution, including each college district, shall provide an option for electronic reporting to the institution by an enrolled student or an employee of the institution of an allegation of sexual harassment, sexual assault, dating violence, or stalking committed against or witnessed by the student or employee, regardless of the location at which the alleged offense occurred. The electronic reporting option must:</p> <ol style="list-style-type: none">1. Allow for anonymous reporting; and2. Be easily accessible through a clearly identifiable link on the institution's website home page. <p>A protocol for reporting sexual assault adopted under Education Code 51.282 must comply with this section.</p>

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

*Reporting on
Reports*

Title IX
Coordinator

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

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

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

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

Chief Executive
Officer

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

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

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

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

Investigations

*Request Not to
Investigate*

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

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

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

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

*Notice of
Decision*

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

Confidentiality

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

1. Persons employed by or under contract with the postsecondary educational institution to which the report is made who are necessary to conduct an investigation or the report or any related hearings;
2. A law enforcement officer as necessary to conduct a criminal investigation of the report;

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

The protections provided by this section apply to:

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

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

Retaliation
Prohibited
Employees

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

Exception

The prohibition does not apply to an employee who:

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

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

Any Person

A person acting in good faith who reports or assists in the investigation of a report of an incident described by 19 Administrative Code 3.5 or who testifies or otherwise participates in a disciplinary process or judicial proceeding arising from a report of such an inci-

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dent may not be subjected to any disciplinary action by the postsecondary educational institution at which the person is enrolled or employed for any violation by the person of the institution's policy or code of conduct reasonably related to the incident for which suspension or expulsion from the institution is not a possible punishment. This provision does not apply to a person who perpetrates or assists in the perpetration of the incident reported under Section 3.5. *Education Code 51.254; 19 TAC 3.5(e)–(f)*

Awareness

*Orientation on
Policy*

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

*Prevention and
Outreach
Program*

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

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

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

Equal Access

In implementing the requirements under 19 Administrative Code Chapter 3, Subchapter A, a postsecondary educational institution shall, to the greatest extent practicable, ensure equal access for students enrolled at or employees of the institution who are persons with disabilities. The institution shall make reasonable efforts to consult with a disability services office of the institution, advo-

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	<p>cacy groups for people with disabilities, and other relevant stakeholders to assist the institution with complying with the institution's duties under this section. <i>Education Code 51.293; 19 TAC 3.16</i></p>
Memoranda of Understanding	<p>To facilitate effective communication and coordination regarding allegations of sexual harassment, sexual assault, dating violence, and stalking at the institution, a postsecondary educational institution shall enter into one or more memoranda of understanding with an entity from one or more of the following categories:</p> <ol style="list-style-type: none">1. Local law enforcement agencies;2. Sexual harassment, sexual assault, dating violence, or stalking advocacy groups; and3. Hospitals or other medical resource providers. <p><i>Education Code 51.289; 19 TAC 3.13</i></p>
Compliance	<p>The chief executive officer of each postsecondary educational institution shall annually certify in writing to the Coordinating Board, not later than October 31 of each year, that the institution is in substantial compliance with Education Code Chapter 51, Subchapter E-2. The Coordinating Board shall make available to institutions a required template for the certification, which satisfies the requirements of this section. <i>Education Code 51.258(a); 19 TAC 3.19(a)</i></p>
<i>Certification by Institution</i>	
<i>Failure to Timely and Accurately File</i>	<p>A postsecondary educational institution's failure to timely and accurately file the certification of substantial compliance not later than October 31 of each year shall result in a penalty of \$2,000 per day of violation.</p> <p>A postsecondary educational institution may cure the violation by filing its report not later than November 30 of the year the report was due. If the postsecondary educational institution cures the violation, the Coordinating Board shall not assess a penalty. If the postsecondary educational institution fails to cure the violation, the Coordinating Board shall assess the full penalty owed beginning on November 1 of the year the report was due.</p> <p>If a postsecondary educational institution files a good faith correction to a previously filed certification of substantial compliance within a reasonable time of discovering an unintentional error, but not later than February 1 following the due date of the report, the Coordinating Board shall not assess a penalty.</p> <p><i>19 TAC 3.19(e)</i></p>
<i>Coordinating Board Review</i>	<p>In addition to annually reviewing the reporting under Education Code 51.258 and 19 Administrative Code 3.19, the Coordinating Board shall conduct risk-based compliance monitoring of Subchapter E-2 and Education Code Chapter 51, Subchapter E-3. The Co-</p>

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

DIAA
(LEGAL)

ordinating Board will determine the basis for reviews based on risk factors such as time since last review, stakeholder feedback, prior findings or complaints, and other factors. The Coordinating Board shall make available to the institutions a report template which satisfies the requirements of this section. *19 TAC 3.19(b)*

Substantial
Compliance

In evaluating whether an institution or system is in substantial compliance in accordance with 19 Administrative Code 3.3, the Coordinating Board will determine the institution's or system's good faith effort by evaluating the following factors:

1. The nature and seriousness of the compliance error;
2. The extent to which the institution complied with the statutory requirements and to what extent it did not;
3. The number of any institutional compliance errors;
4. Whether the institution had actual notice of the error;
5. Whether the institution made any effort to rectify any compliance errors or agrees to rectify any violations going forward;
6. The extent to which the institution has relevant policies and/or practices;
7. The institution's intent;
8. Severity of the error's effect;
9. Any previous compliance errors of a similar kind and the time lapse since those error(s);
10. Institutional efforts to prevent compliance errors, including the extent to which the institution provided training to employees and/or acted after learning about the error;
11. The explanation for the cause of the compliance error, including a good-faith mistake; a differing, reasonable interpretation of the law; a conflict between two provisions, or a conflict with another legal or governmental requirement (such as Title IX regulations or a mandatory report to the National Institutes of Health);
12. Any prevention and/or response efforts of the institution, made in good faith, to address a possible compliance error;
13. The degree of cooperation of the institution with the Coordinating Board in remedying a potential compliance error; and
14. Any other fact or circumstance as justice may require.

19 TAC 3.19(d)

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Administrative
Penalty

If the Coordinating Board determines that a postsecondary educational institution is not in substantial compliance with Subchapter E-2 or Subchapter E-3, the Coordinating Board may assess an administrative penalty against the institution in an amount not to exceed \$2 million annually. Compliance errors committed by an institution or system that are in substantial compliance with Subchapters E-2 and E-3 will not result in a penalty. The Coordinating Board will not find an institution is out of substantial compliance with the provisions in Subchapter E-2 and Subchapter E-3 based on a determination that the Coordinating Board would have taken different action after an independent evaluation of evidence.

The Coordinating Board may assess an administrative penalty, up to a total of \$2 million annually, if a postsecondary educational institution has failed to maintain substantial compliance with Subchapter E-2 or E-3. In determining the total penalty to assess, the Coordinating Board shall consider the number of students at the institution, the penalty matrix in 19 Administrative Code 3.19, apply mitigating and aggravating factors, and any other factor justice may require. Mitigating factors may result in a reduction of the administrative penalty. Aggravating factors may result in an increased administrative penalty, up to \$2 million annually.

Mitigating factors may include:

1. The inability of the postsecondary educational institution to meet the requirement of law due to:
 - a. A disaster declared under Government Code Chapter 418;
 - b. A technology failure rendering compliance impossible; or
 - c. A severe medical impairment of a person responsible for compliance with a requirement under Texas Education Code Chapter 51, Subchapter E-2 or E-3.
2. Evidence that the postsecondary educational institution properly reported an incident to another state or federal agency with law enforcement or regulatory authority;
3. Any actual notice from the institution of the compliance error;
4. Institutional efforts to prevent compliance errors, including the extent to which the institution provided training to employees and/or acted after learning about the error;
5. The explanation for the cause of the compliance error, including a good-faith mistake; a differing, reasonable interpretation of the law; a conflict between two provisions, or a conflict with another legal or governmental requirement (such as Title IX

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regulations or a mandatory report to the National Institutes of Health);

6. The lack of harm to any individual; and
7. The extent to which the institution or system complied with Subchapters E-2 and E-3.

Aggravating factors shall include:

1. Harm to an individual caused by, or directly related to, the postsecondary educational institution's failure to comply with Subchapters E-2 and E-3;
2. Any evidence of a postsecondary educational institution's failure to act on a prior substantially similar complaint;
3. Any evidence of multiple incidents of similar failures or length of time of failure by the postsecondary institution;
4. Any evidence that the postsecondary educational institution or its chief executive officer knowingly provided a false certification under Education Code 51.258(a);
5. That the postsecondary educational institution attempted to conceal or cause others to conceal information relevant to a determination of violation under Subchapters E-2 and E-3; and
6. The extent to which the institution or system failed to comply with Subchapters E-2 and E-3.

If the Coordinating Board assesses an administrative penalty against a postsecondary educational institution, the Coordinating Board shall provide to the institution written notice of the Coordinating Board's reason for assessing the penalty.

A postsecondary educational institution may not pay the administrative penalty using state-appropriated or federal money.

Education Code 51.258(b)–(c), (e) .292(a)–(b), (d); 19 TAC 3.19(c), (f)–(g), (i)

Appeal

A postsecondary educational institution assessed an administrative penalty may appeal the penalty in the manner provided by Government Code Chapter 2001. *Education Code 51.258(d), .292(c); 19 TAC 3.19(h)*

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

**Statement of
Nondiscrimination**

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

Definitions

Employee

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

Discrimination

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

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

Sexual Harassment

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

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

Sexual Violence

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

Dating Violence “Dating violence” means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party’s statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

Domestic Violence “Domestic violence” means violence committed by:

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

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

For the purposes of this definition:

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

Examples Examples of sexual harassment of an employee may include sexual advances; touching intimate body parts; coercing or forcing a sexual act on another; jokes or conversations of a sexual nature; sexual assault as defined by law; offensive or derogatory language

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

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

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

Complainant In this policy, the term "complainant" refers to an employee who is alleged to have experienced prohibited conduct.

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

Confidential Employee A "confidential employee" is a person who holds a professional license requiring confidentiality, such as a counselor or medical provider, who is supervised by such a person, or a person who is a nonprofessional counselor or advocate designated in administrative procedures as a confidential source.

Reporting Procedures

**Reporting by
Alleged Victim**

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

An employee who believes that he or she has experienced prohibited conduct may report the alleged acts to his or her immediate supervisor, to the Title IX coordinator, or to the College President or designee.

Reports against the Title IX coordinator may be directed to the College President. A report against the College President may be made directly to the Board. If a report is made directly to the Board, the Board shall appoint an appropriate person to conduct an investigation. An employee shall not be required to report prohibited conduct to the person alleged to have committed the conduct.

Alternatively, the employee may report electronically through the College District's website.

	<p>A victim of a crime has the right to choose whether to report the crime to law enforcement, to be assisted by the College District in reporting the crime to law enforcement, or to decline to report the crime to law enforcement.</p> <p>It is important that a victim of prohibited conduct go to a hospital for treatment and preservation of evidence, if applicable, as soon as practicable after the incident.</p>
Reporting by Other Employees	<p>Any employee who believes that another employee has experienced prohibited conduct, regardless of when or where the incident occurred, shall immediately report the alleged acts to the Title IX coordinator. Additionally, the employee may report to the College President or designee.</p> <p>A report against the College President must also be made directly to the Board. If a report is made directly to the Board, the Board shall appoint an appropriate person to conduct an investigation.</p>
<i>Exceptions</i>	
Disclosure at Event	<p>A person who received the information solely from a disclosure at a sexual harassment, sexual assault, dating violence, or stalking public awareness event sponsored by a postsecondary educational institution or by an employee organization affiliated with the institution is not required to report the prohibited conduct unless the person has authority to institute corrective measures on behalf of the College District.</p>
Employee Subject to Confidentiality Rules	<p>Absent the employee's consent, or unless required by law, a confidential employee shall only be required to disclose the type of incident reported and may not disclose information that would violate the employee's expectation of privacy. If multiple confidential employees receive information about the same alleged incident, then only one report disclosing the type of incident must be submitted.</p>
Prior Report	<p>A person who has either learned of an incident of prohibited conduct during the course of the College District's review or process, or has confirmed with the person or office overseeing the review or process that the incident has been previously reported, is not required to report the prohibited conduct.</p>
Title IX Coordinator	<p>Reports of discrimination based on sex, including sexual harassment, may be directed to the Title IX coordinator. The College District designates the following person to coordinate its efforts to comply with Title IX of the Education Amendments of 1972, as amended, and related state and federal laws:</p> <p>Title IX Coordinator: Bindy Tice</p>

Address: 1100 Broadway, Kilgore, TX 75665
Telephone: 903-988-7590
Email: btice@kilgore.edu
Webpage: <https://www.kilgore.edu/additional-resources/title-ix/>

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

Initial Assessment	<p>Upon receipt or notice of a report, the Title IX coordinator shall determine whether the allegations, if proven, would constitute prohibited conduct as defined by this policy. If so, the Title IX coordinator shall promptly offer supportive measures to the complainant. The Title IX coordinator shall explain the process for filing a formal complaint and assess any request not to investigate. If the College District moves forward with the investigation, the Title IX coordinator shall immediately provide notice to the known parties to the complaint.</p> <p>If the Title IX coordinator determines that the allegations, if proven, would not constitute prohibited conduct as defined by this policy but may constitute a violation of other College District rules or regulations, the Title IX coordinator shall refer the complaint for consideration under the appropriate policy.</p>
<i>Request Not to Investigate</i>	<p>The complainant may request that the College District not investigate the allegations. If the complainant requests that the allegations not be investigated, in deciding whether to initiate the investigation, the College District must consider the factors described by law and any other factors the College District considers relevant.</p> <p>The College District shall promptly notify the complainant of the decision regarding whether it will conduct the investigation. If the College District decides not to investigate the allegations, the College District shall take reasonable steps to protect the health and safety of the College District community.</p>
Formal Complaint	<p>To be considered a formal complaint under Title IX, the complainant or the Title IX coordinator must sign the written report. The Title IX coordinator or designee shall determine if the complaint constitutes a formal complaint under Title IX.</p> <p>If the complaint is a formal complaint, the Title IX coordinator or designee shall send a notice to the parties as set forth below.</p> <p>If the complaint is not a formal complaint, the Title IX coordinator or designee shall offer support measures to the extent possible but shall not conduct a formal investigation or proceed with the formal procedures set forth herein. Informal resolution is not available if there is not a formal complaint.</p>
Notice to Parties	<p>The notice to the parties must describe the allegations and the formal and informal options for resolution of the complaint. The notice must state that the respondent is presumed not responsible until a determination regarding responsibility is made. The notice must also include information regarding the option to select an advisor, the opportunity to inspect and review evidence, and the prohibition</p>

on knowingly making false statements or submitting false information during the investigation and any ensuing proceedings.

If the allegations are subsequently amended, the College District shall provide an updated notice reflecting the new allegations.

Informal Resolution	The College District may offer to the parties a process for the informal resolution of a formal complaint as defined by law. If the parties voluntarily agree in writing to participate in informal resolution of a formal complaint, the Title IX coordinator shall determine if informal resolution is appropriate for the complaint based on the facts and federal laws/guidelines. If the Title IX coordinator determines that informal resolution is appropriate, then the Title IX coordinator or designee may facilitate that resolution. If the Title IX coordinator does not determine informal resolution to be appropriate, then the formal complaint will be subject to the formal resolution process. This informal resolution process is not available in situations where an employee is alleged to have sexually harassed a student.
Formal Resolution	If the complaint is not subject to the informal resolution process, the Title IX coordinator shall authorize or undertake an investigation.
Supportive Measures	If appropriate and regardless of whether a criminal or regulatory investigation regarding the alleged conduct is pending, the Title IX coordinator shall promptly provide supportive measures intended to prevent prohibited conduct, protect the safety of the parties and others, and protect the parties from retaliation prior to the completion of the investigation. Examples of possible supportive measures include work accommodations, such as leaves of absence and administrative leave; mutual restrictions on contact between the parties; counseling and health services; and increased security and monitoring of certain areas of the campus.
College District Investigation	<p>The investigation of a formal complaint may be conducted by the Title IX coordinator or a designee or by a third party designated by the College District, such as an attorney. When appropriate, the supervisor shall be involved in or informed of the investigation.</p> <p>The investigation may consist of personal interviews with the complainant, respondent, and others with knowledge of the circumstances surrounding the allegations. The investigation may also include analysis of other information or documents related to the allegations.</p> <p>The parties shall be provided an equal opportunity to present witnesses and evidence obtained by the College District and to inspect and review any directly related evidence so that the parties</p>

may meaningfully respond during the investigation process. The parties expected to participate in an investigative interview or other meeting shall be provided written notice in enough time to prepare to participate.

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

Concluding the Investigation

The investigation shall be completed within a reasonable time, generally not to exceed 90 days from the date of the report, though exceptions may be made if necessary.

The investigator shall prepare a written report of the investigation. The investigation report shall be filed with the Title IX coordinator within five days following the completion of the investigation.

Notification of the Report

The Title IX coordinator shall provide the investigation report, within the extent permitted by law, to the complainant and the respondent promptly following receipt. The parties shall be given ten days to respond to the report.

College District Action

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

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Title IX Hearing

The hearing panel or designee shall schedule the Title IX hearing within a reasonable time, that is at least ten days following the receipt of the investigation report. The hearing shall be conducted by a hearing panel in accordance with law and College District procedures. The hearing panel will consist of a minimum of three trained College employees selected from faculty and staff. One member of the hearing panel will serve as chair.

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

following the hearing and submit the determination to the parties simultaneously.

Hearing ProceduresThe College District will provide equal opportunity to both sides to present evidence and witnesses, and will provide equal access to any such evidence. Failure of complainant to appear may result in dismissal of the complaint or the College District may conduct the hearing without the complainant, in its discretion. Dismissal does not apply in instances where the Title IX coordinator filed the formal complaint. Reasonable time limits shall be imposed by the College District and the College District will impose and apply reasonable procedural rules that will be made available to the parties in advance.

The party will represent themselves. An advisor's role is limited to advising the party and cross-examination. Only relevant questions may be asked in cross-examination. The hearing panel will make relevance determinations during cross-examination. Cross-examination is allowed but must be conducted by a third-party advisor or representative; it may not be conducted by the respondent or complainant. If a party refuses to be cross-examined, the panel cannot infer guilt. As a general rule, no questions regarding the complainant's sexual history will be allowed. Some limited statutory exceptions shall apply. A preponderance of the evidence burden of proof will apply, and the respondent will be presumed innocent. Expert witnesses are allowed. The Title IX coordinator and/or investigator may provide evidence, testimony or clarify any aspect of the written report to the panel at the live hearing. Upon request by either party in advance of the hearing, the parties will be put in separate rooms for the hearing with technology available to hear the other side. The hearing is not public. The hearing will be recorded by the College District and no other recording devices are allowed.

The panel shall announce its decision in writing simultaneously to both sides and such determination shall explain the rationale for the decision and assign sanctions, if any. This decision shall be reduced to writing within five (5) days of the hearing and provided to both parties simultaneously.

Disciplinary or
Corrective Action

If the hearing panel determines that prohibited conduct occurred, the College District shall promptly respond by taking appropriate disciplinary or corrective action reasonably calculated to address the conduct.

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

Examples of disciplinary or corrective action may include (as examples only) but not limited to:

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

Exception

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

Improper Conduct

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

Dismissal of Complaint

Mandatory Dismissal

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

Permissive Dismissal

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

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

A complaint may be dismissed as described at "Formal Complaint" above.

Notice of Dismissal Upon dismissal of a complaint, the Title IX coordinator or designee shall provide the parties written notice of the dismissal.

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

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

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

Examples Examples of retaliation may include termination, refusal to hire, demotion, and denial of promotion. Retaliation may also include threats, unjustified negative evaluations, unjustified negative references, or increased surveillance.

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

Appeal
Discipline or
Corrective Action Either the complainant or respondent may appeal (a) a dismissal of a formal complaint or (b) a determination of responsibility on the following bases, if those bases affected or could affect the outcome:

1. a procedural irregularity that affects the outcome;
2. new evidence not reasonably available at the time of the determination regarding responsibility or dismissal; and

3. a conflict of interest or bias on the part of the Title IX coordinator, investigator, or decision maker against a party.

An appeal must be filed in writing with the Title IX coordinator within three days from the determination of responsibility or dismissal or it is invalid and is waived. Notice of the filing of the appeal must be given to both parties, and both parties must have a reasonable opportunity to submit a written statement supporting or challenging the outcome.

The appeal will be considered by a Vice President of the College District. A Vice President will issue a written decision to both parties at the same time that includes the result and basic rationale for same. This decision is final, and there is no further appeal or right to grieve, except as set forth specifically below.

Employees

Suspension
Without Pay or
Termination of
Contract
Employees

If a term/contractual employee is the respondent and suspension without pay or termination of employment is the final decision, then the appropriate College District policy and procedure related to termination of a term/contractual employee will apply to the extent respondent invokes same. There is no automatic appeal or application of these policies. If not timely invoked by respondent, according to the applicable policy/procedure, then the final decision stands.

Complaints Filed
with State or
Federal Agencies

A party shall be informed of any right to file a complaint with appropriate state or federal agencies.

Records Retention

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

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

Information regarding this policy and any accompanying procedures, as well as relevant educational and resource materials concerning the topics discussed in this policy, shall be distributed to applicants for admission and employment and annually to College District employees, students, and parents or guardians of dual credit students in compliance with law and in a manner calculated to provide easy access and wide distribution, such as through electronic distribution and inclusion in the employee and student handbooks and other major College District publications. Information regarding the policy, procedures, and related materials and any materials used to train a person designated as the Title IX coordinator, a deputy Title IX coordinator, an investigator, a decision-

maker, or a facilitator shall also be prominently published on the College District's website on a dedicated page accessible through a clear link on the homepage, taking into account applicable legal requirements. Copies of the policy and procedures shall be readily available at the College District's administrative offices and shall be distributed to an employee who makes a report.

Proposed changes to dual credit rates.**Background:**

State has increased the maximum amount paid for Dual Credit SCH.
 The maximum allowable rate will likely be changed outside of KC rate adoption.
 Prior 40% discount for dual credit was established to increase DC enrollment.
 With the adoption of HB8, DC enrollment has increased significantly.

Rate per Credit Hour	Original	Revised	Future Actions
<i>Public & Charter Schools:</i>			
In-District	55.00	56.87	Will automatically adjust to state approved maximum.
Out-District	55.00	56.87	
<i>Non-Public Non-Charter Schools:</i>			
In-District	54.00	72.00	Will be adopted by the board in February, board action needed to change.
Out-District	101.40	135.20	

MICHELLE TERRY, PCAC
TAX ASSESSOR-COLLECTOR



COLLECTIONS

903/237-2552

VEHICLE REGISTRATION

903/236-8417

**OFFICE OF
TAX ASSESSOR-COLLECTOR**

GREGG COUNTY

POST OFFICE BOX 1431
LONGVIEW, TEXAS 75606-1431

May 1, 2024

Kilgore College
Dr. Brenda Kays, President
1100 Broadway
Kilgore TX 75662

Re: Waiver of Penalty and Interest

Dear Dr. Kays,

According to Sec. 33.011 of the Texas Property Tax Code, the governing body of a taxing unit shall waive penalties and may provide for the waiver of interest on a delinquent tax if an act or omission of an officer, employee, or agent of the taxing unit or appraisal district caused or resulted in the taxpayer's failure to pay the tax before the delinquency date.

Mr. Kevin Ray is requesting a waiver of penalties and interest in the amount of \$68.23 on taxes paid on May 1, 2024, on Account 31775. I have included a copy of his request and additional documentation to support it.

The Gregg Appraisal District did not update the account properly which caused the bill to go to the wrong address. The account also had the wrong situs address which made it difficult for our office to locate the account when Mr. Ray came to ask about not receiving a bill.

For the above stated reasons, it is my recommendation that the penalty and interest should be waived. Please present this request to your governing body at the next available meeting. Once a decision is made, please inform me of their preference by email to michelle.terry@co.gregg.tx.us.

Thank you,

A handwritten signature in blue ink that reads "Michelle Terry".

Michelle Terry, PCAC
Gregg County Tax Assessor-Collector

Michelle Terry

From: Kevin Ray <kevin@heartandsoulpropertieslp.com>
Sent: Wednesday, May 1, 2024 12:20 PM
To: Michelle Terry
Subject: Account #31775

Michelle,

Thank you again for taking the time to listen to my concerns and for having Joanie and Candace as wonderful staff that took the time to listen and assistance with my issue.

On May 15, 2023 Heart and Soul Properties LP, purchased 355 E Pacific Ave (legal description: Lots 1-4 & 6-11 NCB 2 Gladewater and alley) from L&S Real Estate Investments LLC (Larry Seery of 365 E Pacific Ave). The deed was properly recorded with the Gregg County Clerk's office with the changes made at the title company (name and situs address correction to 355 E Pacific Ave per ETCOG letter).

In December of 2023 I went into Gladewater ISD tax office and spoke with Trecia Turner about no property tax bill being received by me. I explained the purchase and she even called the Gregg County Tax office and spoke with someone there. The conclusion was it would be a new property in 2024 and no taxes were due for 2023.

When I received my 2024 Notice of Appraised Value there were two errors on it. I called Cheri Queen on April 22, 2024 and explained that the DBA needed to be removed (no longer Crafters Mall) and the situs address needed to be changed from 365 E Pacific Ave (Larry Seery's home address) to 355 E Pacific Ave (per ETCOG letter). She asked that I email her the letter and then she updated the address and corrected the property for me. This is reflected on Property ID 1596838.

Also, in April 2024 I was seeking an SBA loan and their third-party company discovered that property taxes had not been paid on Property 31775. When I inquired at your office by phone, Joanie researched and couldn't find anything in my name or my company's name for 2023. I came into your office today and Candace took my emails from Cheri and verified my story. Advised that I needed to pay the taxes with penalties and then appeal the penalty. I did so.

It is my theory that Gregg County Appraisal District office did not make the corrections to my property (situs address and name and address) in May of 2023 and therefore I did not receive a tax bill for 2023 in October of 2023. The bill was still in Larry Seery's name with his situs address (which was his mailing address at his house) of 365 E Pacific Ave. This error caused the tax offices to mail a bill to Larry instead of me and the taxes went unpaid. Proof of error is Cheri's email showing corrections made on April 22, 2024.

I am requesting a refund of the late fees/penalties. Thank you for your consideration.

Kevin Ray
Limited Partner
Heart and Soul Properties LP
355 E Pacific Ave
Gladewater TX 75647-2700

PROPERTY APPRAISAL INFORMATION 2024

OWNER ID
477406
OWNERSHIP
100.00%

PROPERTY 1596838
R 10/02/2023

Legal Description
LTS 1 THRU 4 & 6 THRU 11 NCB 2 GLADEWATER & ALLEY

HEART & SOUL PROP LMTD PARTN
1212 GREENWAY ST
GILMER, TX 75644

Entities	Values
CAD	100%
CGW	100%
GGG	100%
KJC	100%
RDB	100%
SGW	100%
IMPROVEMENTS	338,300
LAND MARKET	17,200
MARKET VALUE	355,500
PRODUCTIVITY LOSS	0
APPRAISED VALUE	355,500
CAP LOSS	0
ASSESSED VALUE	355,500

ACRES:
EFF. ACRES:

Ref ID1: 652829
070000002-001-00-01

Ref ID2: R31775
Map ID 0700-02

SITUS 355 E PACIFIC AVE GLADEWATER, TX 75647

APPR VAL METHOD: Cost

GENERAL

UTILITIES
TOPOGRAPHY
ROAD ACCESS
ZONING
BUILDER
NEXT REASON
REMARKS

LAST APPR. YR 2024

LAST INSP DATE 10/20/2023

NEXT INSP. DATE

PRCD OUT LAND & MVD IMPS FROM 31775 '24

KD/O 10/20/23-

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PROPERTY APPRAISAL INFORMATION 2024
HEART & SOUL PROP LIMITED PARTN
1212 GREENWAY ST
GILMER, TX 75644

OWNER ID
477406

OWNERSHIP
100.00%

Ref ID: 652829
0700000002-001-00-01

Ref ID: R31775
Map ID 0700-02

SITUS 355 E PACIFIC AVE GLADEWATER, TX 75647

UTILITIES
TOPOGRAPHY
ROAD ACCESS
ZONING
BUILDER
NEXT REASON
REMARKS

LAST APPR. YR 2024
LAST INSP. DATE 10/20/2023
NEXT INSP. DATE

PRCD OUT LAND & MVD IMPS FROM 31775 '24
KD/LO 10/20/23.

Values	Entities
IMPROVEMENTS	CAD 100%
LAND MARKET	CGW 100%
MARKET VALUE	GGG 100%
PRODUCTIVITY LOSS	KJC 100%
APPROXIMATED VALUE	RDB 100%
CAP LOSS	SGW 100%
ASSESSED VALUE	
EXEMPTIONS	

338,300	+	17,200	=	355,500
355,500	-		=	355,500
0				
355,500				
0				
355,500				

APPR VAL METHOD: Cost
No Sketch Available

ACRES:
EFF. ACRES:

ISSUE DT PERMIT TYPE PERMIT AREA ST PERMIT VAL

SALE DT PRICE GRANTOR DEED INFO
05/15/2023 ***** SEERY LARRY WDWL 202306744

Values		
IMPROVEMENTS		
LAND MARKET	338,300	
	+	17,200
MARKET VALUE	=	355,500
PRODUCTIVITY LOSS		

TAX RECEIPT



MICHELLE TERRY, PCAC
GREGG COUNTY TAX ASSESSOR-COLLECTOR
PO BOX 1431, LONGVIEW, TX 75606

Certified Owner:

SEERY LARRY
365 E PACIFIC AVE
GLADEWATER, TX 75647

Legal Description:

LTS 1 THRU 11 NCB 2 GLADEWATER & ALLEY

Parcel Address: 365 E PACIFIC AVE

Legal Acres: 1.6900

Deposit No: 05012024CF
Validation No: 900000069871814
Account No: 31775
Operator Code: CANDICEF

Remit Seq No: 56946426
Receipt Date: 05/01/2024
Deposit Date: 05/01/2024
Print Date: 05/01/2024 10:21 AM
Printed By: CANDICEF

Year	Tax Unit Name	Rec Type	Tax Value	Tax Rate	Levy Paid	Discount	P&I	Coll Fee Paid	Total
2023	Gregg County	TL	299,900	0.274073	821.94	0.00	106.85	0.00	928.79
2023	Special-Rd & Bridge	TL	299,900	0.003993	11.98	0.00	1.56	0.00	13.54
2023	Gladewater City	TL	299,900	0.626978	1,880.31	0.00	244.44	0.00	2,124.75
2023	Kilgore College	TL	299,900	0.175000	524.83	0.00	68.23	0.00	593.06
					\$3,239.06	\$0.00	\$421.08	\$0.00	\$3,660.14

> - -

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Check Number(s):

1034

PAYMENT TYPE:

Checks:

\$3,660.14

Exemptions on this property:

Total Applied:	\$3,660.14
Total Tendered:	\$3,660.14
(for accounts paid on 05/01/2024)	
Change Paid:	\$0.00

Account No: 31775

PAYER:

HEART AND SOUL PROPERTIES LP
1212 GREENWAY ST
GILMER, TX 75644



FLSA Changes Proposal

Final Ruling:

- Effective July 1, 2024, the salary threshold will increase to annual salary of \$43,888 (*pending litigation*)
- Effective January 1, 2025 it will increase to \$58,656 (*pending litigation*)

Scope:

Kilgore College must take action on employees who are Exempt and currently making less than the new threshold, \$43,888 by either:

1. Reclassifying employees to Non-Exempt (Hourly) employees, making them eligible for overtime
2. Increase employees to the new threshold, \$43,888

Costs:

1. Increase employees to the new threshold

- 28 total positions
- Cost \$141,115
 - Grant cost \$29,226 – Covered by the grant
 - **KC Cost \$111,889 (*for implementation and moving forward, annual*)**
 - Fringe ~\$5,000 (life fringe is dependent upon age and difficult to calculate)

2. Overtime Predictions

Potential overtime for 24 new hourly employees

- Assuming 8 hours of OT for 6 weeks of the year est. OT cost: \$35,048 (48 hrs)
- **Assuming 8 hours of OT for 8 weeks of the year est. OT cost: \$64,255 (88 hrs)**
- Assuming 8 hours of OT for 23 weeks of the year est. OT cost: \$139,226 (184 hrs)

3. Anticipated Net Impact

- \$60,942 + ~\$5,000 fringe = \$66,000
- Current year costs covered by salary savings and potential OT offset
- Future annualized costs will be built into future budgets

Kilgore College would like to move the identified employees to the new threshold of \$43,888. This ensures:

- no variable of unknown overtime costs
- increased or stable moral within employee group that will be affected
- keeping professional level positions classified as Exempt
- maintains integrity and fits within existing salary schedule
 - brings employees near midpoint of pay grade

Entrepreneurial Community College Spotlight



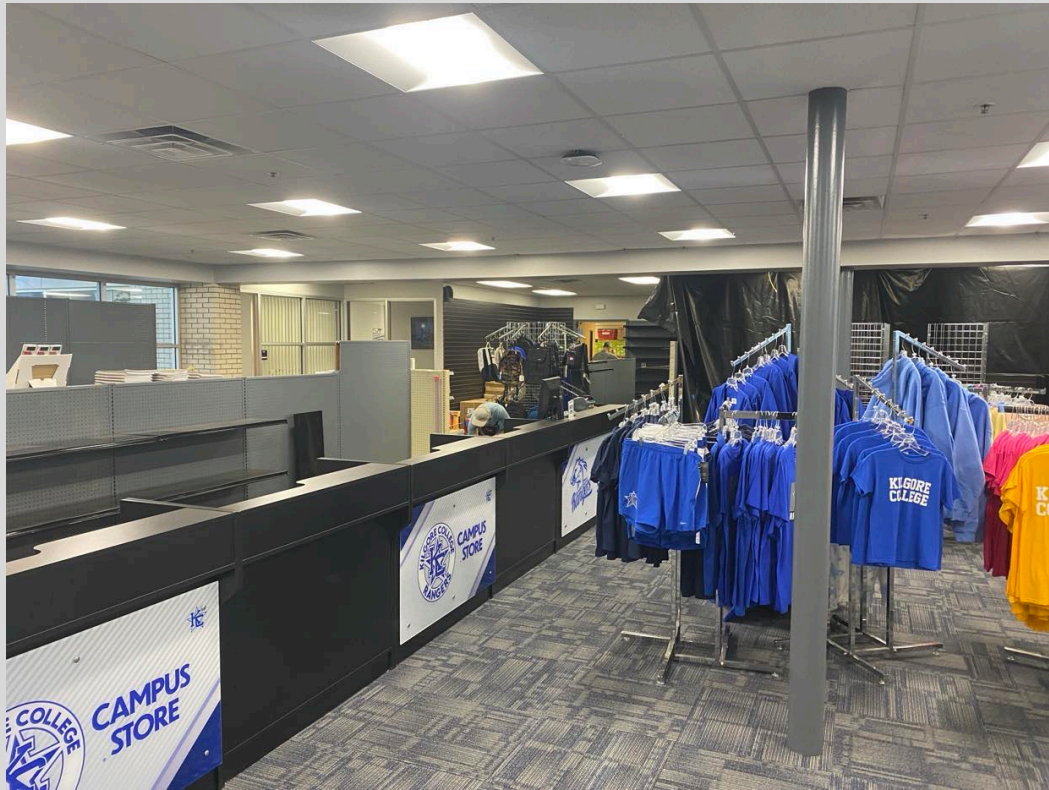
INNOVATION - AUTOMATION - IMPROVEMENT - INNOVATION - AUTOMATION - IMPROVEMENT - INNOVATION - AUTOMATION -

KC BOOKSTORE 2012 - 2022



This space has now been devoted to general merchandise.

INNOVATION - AUTOMATION - IMPROVEMENT - INNOVATION - AUTOMATION - IMPROVEMENT - INNOVATION - AUTOMATION -



**FALL 2022
Remodel**



INNOVATION - AUTOMATION - IMPROVEMENT - INNOVATION - AUTOMATION - IMPROVEMENT - INNOVATION - AUTOMATION -

Campus Store





Recent Updates

- Cleaner more modern environment
- Increased space for General Merchandise
- Frozen options for students/faculty
- Shopper friendly environment

INNOVATION - AUTOMATION - IMPROVEMENT - INNOVATION - AUTOMATION - IMPROVEMENT - INNOVATION - AUTOMATION -

Customized For Our Customer



Tailored to Consumer Needs



Meeting Market Demand



INNOVATION - AUTOMATION - IMPROVEMENT - INNOVATION - AUTOMATION - IMPROVEMENT - INNOVATION - AUTOMATION -

What do students think?



"I enrolled at Kilgore College back in 2019, but had to take a break to welcome my daughter into the world. When I returned, I was pleasantly surprised by the amazing changes in the Bookstore(Campus Store). The recent remodel is simply fantastic and adds a whole new vibe to the place. I'm thrilled with the new additions and benefits they've included – I never expected to find microwaves available! Not to mention, as I browsed through, I couldn't help but notice that many prices are now more budget-friendly than before. Big shoutout to the Bookstore team for such an incredible job!"

-Savannah Christopher

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What do students think?

Going back to college right before my 75th birthday was a very overwhelming event for me. On that very first day upon walking into the campus bookstore, I found a friend. The new manager could see the fear and bewilderment on my face. He introduced himself. He said his name was Jason, and he and his wife had returned to college later in their lives. He encouraged me. He helped me with purchasing a laptop and my books. Before I left that total disarray store, he gave me his cell phone number. He encouraged me to call him anytime I needed help. I took him up on that several times. I believe having such a caring person truly made my first semester a success. Jason takes his job very seriously. The store looks great and I know I can always count on him to assist me with any new task.

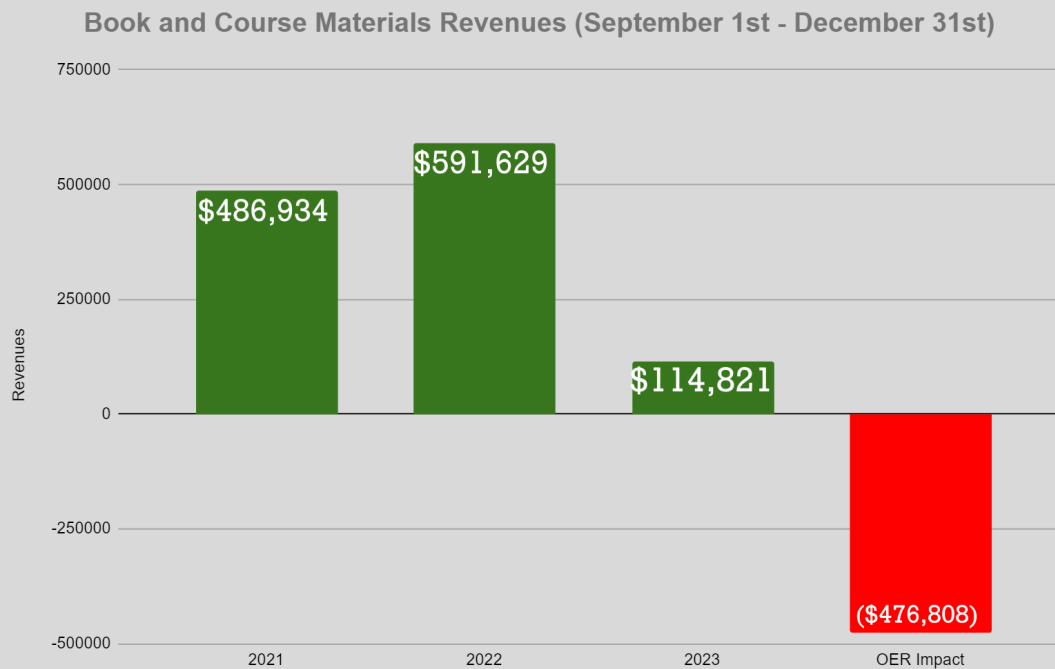
Thank you Kilgore College for giving me just the encouragement I needed.

- Brenda Beal



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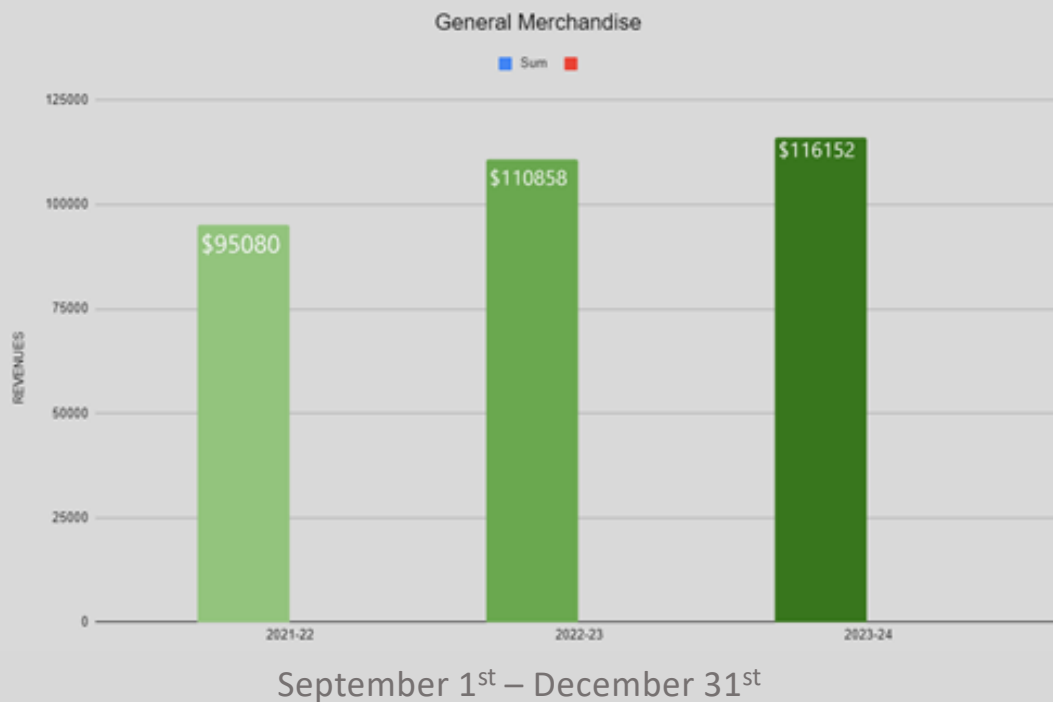
Challenges



OER Impact
POS Technology
Website

INNOVATION - AUTOMATION - IMPROVEMENT - INNOVATION - AUTOMATION - IMPROVEMENT - INNOVATION - AUTOMATION -

Strategy



Expand GM
New Revenue Streams
Campus Cloud
KCCampusStore.com

INNOVATION - AUTOMATION - IMPROVEMENT - INNOVATION - AUTOMATION - IMPROVEMENT - INNOVATION - AUTOMATION -

Coming Soon!



ATM

locations on
both campuses

Merchandise Locker Pick-Up



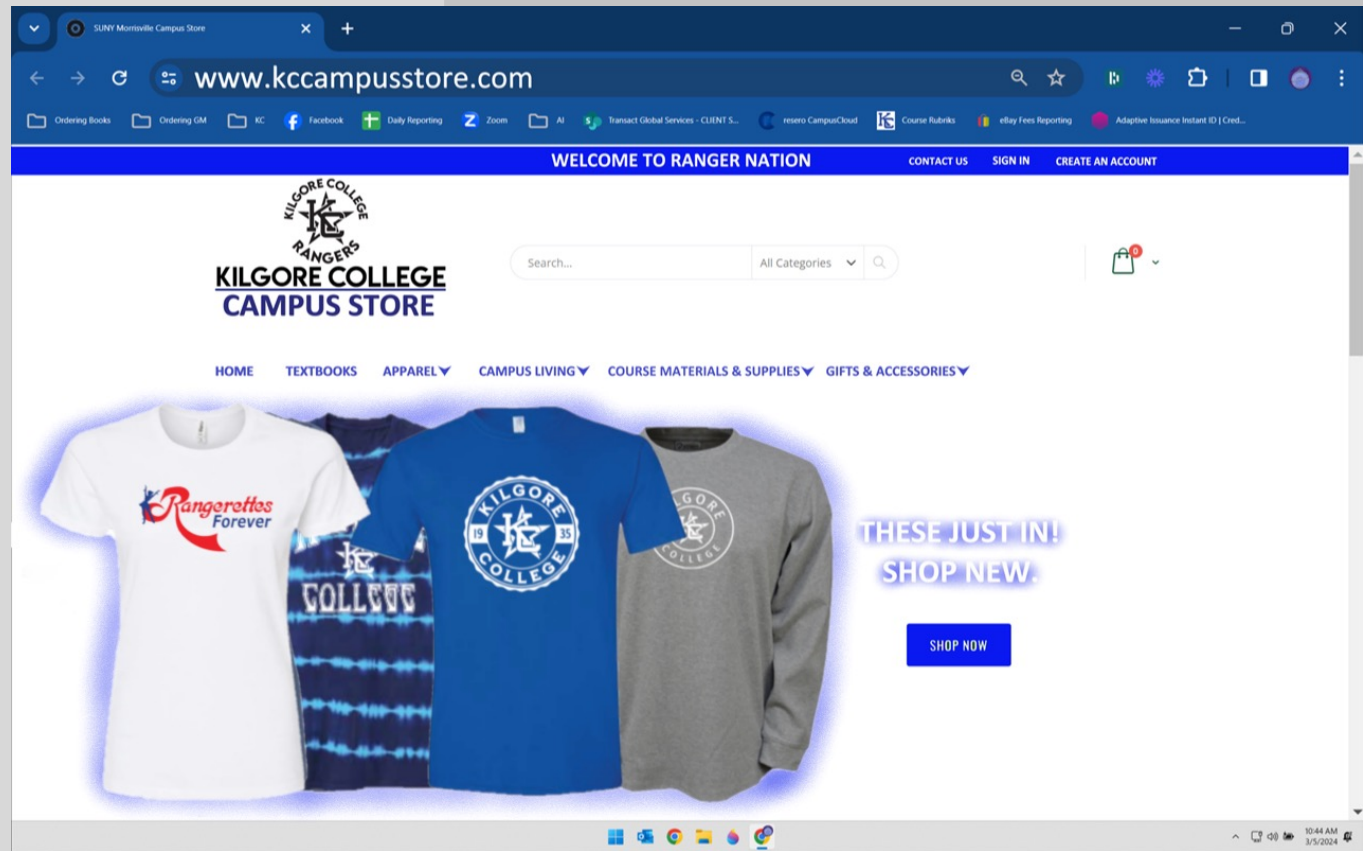
Pop Up Storefront



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www.KCCampusStore.com

90% of GM available online
BOPIL for Hendrix
Links to third party digital content
Streamlined user-interface



INNOVATION - AUTOMATION - IMPROVEMENT - INNOVATION - AUTOMATION - IMPROVEMENT - INNOVATION - AUTOMATION -





Kilgore College
March Financial Snapshot

Fiscal Year 2024 (September 1, 2023 to August 31, 2024)
Revenues and Expenses from Operations - Excludes Auxillary

	FY 2023 Actual	3/31/2024	Budget Variance	FY 2024 Budget	% of Annual Budget
Credit Tuition					
In-District Tuition	\$1,085,231	\$858,327	(\$356,673)	\$1,215,000	71%
Out of District Tuition	\$2,560,230	\$2,060,506	(\$949,494)	\$3,010,000	68%
Out of State Tuition (Texas Non-Resident)	\$320,471	\$216,849	(\$148,151)	\$365,000	59%
Early Admission/Dual Credit	\$1,836,587	\$1,094,911	\$321,211	\$773,700	142%
Total Credit Tuition:	\$5,802,519	\$4,230,593	(\$1,133,107)	\$5,363,700	79%
Course and Special Fees					
General Education Fee	\$2,860,708	\$2,466,925	(\$873,076)	\$3,340,000	74%
Out of District Fee	\$4,328,825	\$3,802,951	(\$847,049)	\$4,650,000	82%
Course Fees	\$1,825,608	\$2,140,152	(\$179,848)	\$2,320,000	92%
All Other Fees	\$988,042	\$1,592,235	(\$180,185)	\$1,772,420	90%
Total Course and Special Fees:	\$10,003,183	\$10,002,263	(\$2,080,157)	\$12,082,420	83%
State Appropriations					
State Appropriations - Performance Based Funding		\$7,659,812	(\$2,553,271)	\$10,213,083	75%
State Appropriations - Base Tier Funding	\$9,654,902	\$2,674,235	(\$891,412)	\$3,565,647	75%
State Appropriations - Dual Credit FAST Funding	\$0	\$554,153	\$177,853	\$376,300	147%
State Appropriations - Teacher Retirement System TRS/ORP	\$102,514	\$54,574	(\$35,426)	\$90,000	61%
Total State Appropriations:	\$9,757,416	\$10,942,775	(\$3,302,255)	\$14,245,030	77%
District Ad-Valorem Property Taxes					
Property Tax Revenues M&O	\$6,808,372	\$6,870,043	(\$450,349)	\$7,320,392	94%
Property Tax Revenues I&S	\$1,010,169	\$1,696,006	(\$141,318)	\$1,837,324	92%
Delinquent Tax Collections	\$178,560	\$100,177	\$177	\$100,000	100%
Total Ad-Valorem Tax Collections:	\$7,997,100	\$8,666,225	(\$591,491)	\$9,257,716	94%
Other Revenue from Operations					
Indirect Cost Recovery (from grants/contracts)	\$90,297	\$42,099	(\$7,901)	\$50,000	84%
Interest/Investment Income	\$1,496,267	\$1,079,255	\$20,656	\$1,058,599	102%
Continuing Education	\$2,238,075	\$1,410,025	(\$1,116,375)	\$2,526,400	56%
Other Revenue from Operations	\$3,303,296	\$241,631	\$8,631	\$233,000	104%
KC Plant Fund Reserves for Capital Improvements	\$11,367,450	\$500,000	\$0	\$500,000	100%
Total Other Revenue from Operations:	\$18,495,384	\$3,273,010	(\$1,094,989)	\$4,367,999	75%
Total Revenues	\$52,055,602	\$37,114,866	(\$8,202,000)	\$45,316,865	82%
Operating Expenses					
Salaries & Wages	\$18,569,213	\$11,603,200	\$9,918,011	\$21,521,211	54%
Employee Benefits	\$4,024,429	\$1,414,923	\$1,209,427	\$2,624,349	54%
Other Operating Expenses	\$14,529,697	\$7,306,119	\$8,479,073	\$15,785,192	46%
Debt Service - SECO Loans	\$1,049,898	\$467,406	\$1,369,918	\$1,837,324	25%
Capital Budget	\$12,005,450	\$3,299,299	\$0	\$3,299,299	100%
Employee Raises	\$0	\$0	\$0	\$0.00	
Total Expenses	\$50,178,688	\$24,090,946	\$20,976,429	\$45,067,375	53%
Net Income/(Loss)	\$1,876,914	\$13,023,919	\$12,774,429	\$249,490	



Kilgore College
March Financial Snapshot
Fiscal Year 2024 (September 1, 2023 to August 31, 2024)
Revenues and Expenses from Auxiliary Enterprises (Grouped)

	FY 2023 Actual	3/31/2024	Budget Variance	FY 2024 Budget	% of Annual Budget
Campus Life Revenues	\$2,438,271	\$2,439,430	(\$202,876)	\$2,642,306	92.3%
Campus Life Expenses	\$1,704,530	\$1,068,311	\$687,262	\$1,755,573	60.9%
Net Student Housing Activity	\$733,741	\$1,371,119	\$484,386	\$886,733	
Campus Store Revenues	\$1,731,260	\$752,059	(\$1,826,041)	\$2,578,100	29.2%
Campus Store Expenses	\$1,626,184	\$681,898	\$1,366,393	\$2,048,291	33.3%
Net Bookstore Activity	\$105,076	\$70,161	(\$459,648)	\$529,809	
Rangerette Showcase Revenues	\$86,460	\$41,179	(\$115,621)	\$156,800	26.3%
Rangerette Showcase Expenses	\$57,070	\$102,909	\$32,849	\$135,758	75.8%
Net Rangerette Showcase Activity	\$29,391	(\$61,730)	(\$82,772)	\$21,042	
KCEXCEL Health Club Revenues	\$39,360	\$35,059	(\$226,841)	\$261,900	13.4%
KCEXCEL Health Club Expenses	\$176,735	\$103,113	\$109,387	\$212,500	48.5%
Net Parks Fitness Center Activity	(\$137,374)	(\$68,054)	(\$117,454)	\$49,400	
East Texas Oil Museum Revenues	\$166,079	\$66,381	(\$126,128)	\$192,509	34.5%
East Texas Oil Museum Expenses	\$167,771	\$102,074	\$80,194	\$182,268	56.0%
Net East Texas Oil Museum Activity	(\$1,692)	(\$35,693)	(\$45,934)	\$10,241	
RangerPRINT Revenues	\$225,004	\$121,616	(\$668,384)	\$790,000	15.4%
RangerPRINT Expenses	\$831,006	\$544,636	\$229,365	\$774,000	70.4%
Net Printshop Activity	(\$606,002)	(\$423,019)	(\$439,019)	\$16,000	
Athletics Revenues	\$78,494	\$73,712	(\$41,442)	\$115,154	64.0%
Athletics Expenses	\$1,771,945	\$1,537,008	\$340,861	\$1,877,869	81.8%
Net Athletics Activity	(\$1,693,450)	(\$1,463,296)	\$299,419	(\$1,762,715)	
Total Net Auxiliary Services Activity:	(\$1,570,311)	(\$610,513)	(\$361,023)	(\$249,490)	



Kilgore College
April Financial Snapshot

Fiscal Year 2024 (September 1, 2023 to August 31, 2024)
Revenues and Expenses from Operations - Excludes Auxillary

	FY 2023 Actual	4/30/2024	Budget Variance	FY 2024 Budget	% of Annual Budget
Credit Tuition					
In-District Tuition	\$1,085,231	\$933,335	(\$281,665)	\$1,215,000	77%
Out of District Tuition	\$2,560,230	\$2,263,933	(\$746,067)	\$3,010,000	75%
Out of State Tuition (Texas Non-Resident)	\$320,471	\$232,711	(\$132,289)	\$365,000	64%
Early Admission/Dual Credit	\$1,836,587	\$1,108,664	\$334,964	\$773,700	143%
Total Credit Tuition:	\$5,802,519	\$4,538,643	(\$825,057)	\$5,363,700	85%
Course and Special Fees					
General Education Fee	\$2,860,708	\$2,720,857	(\$619,143)	\$3,340,000	81%
Out of District Fee	\$4,328,825	\$4,206,724	(\$443,276)	\$4,650,000	90%
Course Fees	\$1,825,608	\$2,344,258	\$24,258	\$2,320,000	101%
All Other Fees	\$988,042	\$1,760,106	(\$12,314)	\$1,772,420	99%
Total Course and Special Fees:	\$10,003,183	\$11,031,944	(\$1,050,476)	\$12,082,420	91%
State Appropriations					
State Appropriations - Performance Based Funding		\$7,659,812	(\$2,553,271)	\$10,213,083	75%
State Appropriations - Base Tier Funding	\$9,654,902	\$2,674,235	(\$891,412)	\$3,565,647	75%
State Appropriations - Dual Credit FAST Funding	\$0	\$554,153	\$177,853	\$376,300	147%
State Appropriations - Teacher Retirement System TRS/ORP	\$102,514	\$54,574	(\$35,426)	\$90,000	61%
Total State Appropriations:	\$9,757,416	\$10,942,775	(\$3,302,255)	\$14,245,030	77%
District Ad-Valorem Property Taxes					
Property Tax Revenues M&O	\$6,808,372	\$7,004,000	(\$316,392)	\$7,320,392	96%
Property Tax Revenues I&S	\$1,010,169	\$1,726,275	(\$111,049)	\$1,837,324	94%
Delinquent Tax Collections	\$178,560	\$131,449	\$31,449	\$100,000	131%
Total Ad-Valorem Tax Collections:	\$7,997,100	\$8,861,724	(\$395,992)	\$9,257,716	96%
Other Revenue from Operations					
Indirect Cost Recovery (from grants/contracts)	\$90,297	\$45,148	(\$4,852)	\$50,000	90%
Interest/Investment Income	\$1,496,267	\$1,105,474	\$46,875	\$1,058,599	104%
Continuing Education	\$2,238,075	\$1,624,679	(\$901,721)	\$2,526,400	64%
Other Revenue from Operations	\$3,303,296	\$271,392	\$38,392	\$233,000	116%
KC Plant Fund Reserves for Capital Improvements	\$11,367,450	\$500,000	\$0	\$500,000	100%
Total Other Revenue from Operations:	\$18,495,384	\$3,546,694	(\$821,305)	\$4,367,999	81%
Total Revenues	\$52,055,602	\$38,921,780	(\$6,395,085)	\$45,316,865	86%
Operating Expenses					
Salaries & Wages	\$18,569,213	\$13,339,540	\$8,181,671	\$21,521,211	62%
Employee Benefits	\$4,024,429	\$1,626,656	\$997,693	\$2,624,349	62%
Other Operating Expenses	\$14,529,697	\$8,475,618	\$7,309,574	\$15,785,192	54%
Debt Service - SECO Loans	\$1,049,898	\$467,406	\$1,369,918	\$1,837,324	25%
Capital Budget	\$12,005,450	\$3,299,299	\$0	\$3,299,299	100%
Employee Raises	\$0	\$0	\$0	\$0.00	
Total Expenses	\$50,178,688	\$27,208,519	\$17,858,856	\$45,067,375	60%
Net Income/(Loss)	\$1,876,914	\$11,713,261	\$11,463,771	\$249,490	



Kilgore College
April Financial Snapshot
Fiscal Year 2024 (September 1, 2023 to August 31, 2024)
Revenues and Expenses from Auxiliary Enterprises (Grouped)

	FY 2023 Actual	4/30/2024	Budget Variance	FY 2024 Budget	% of Annual Budget
Campus Life Revenues	\$2,438,271	\$2,433,693	(\$208,613)	\$2,642,306	92.1%
Campus Life Expenses	\$1,704,530	\$1,295,588	\$459,985	\$1,755,573	73.8%
Net Student Housing Activity	\$733,741	\$1,138,105	\$251,372	\$886,733	
Campus Store Revenues	\$1,731,260	\$810,280	(\$1,767,820)	\$2,578,100	31.4%
Campus Store Expenses	\$1,626,184	\$752,484	\$1,295,807	\$2,048,291	36.7%
Net Bookstore Activity	\$105,076	\$57,796	(\$472,013)	\$529,809	
Rangerette Showcase Revenues	\$86,460	\$83,985	(\$72,815)	\$156,800	53.6%
Rangerette Showcase Expenses	\$57,070	\$112,530	\$23,228	\$135,758	82.9%
Net Rangerette Showcase Activity	\$29,391	(\$28,544)	(\$49,586)	\$21,042	
KCEXCEL Health Club Revenues	\$39,360	\$80,975	(\$180,925)	\$261,900	30.9%
KCEXCEL Health Club Expenses	\$176,735	\$121,916	\$90,584	\$212,500	57.4%
Net Parks Fitness Center Activity	(\$137,374)	(\$40,941)	(\$90,341)	\$49,400	
East Texas Oil Museum Revenues	\$166,079	\$85,866	(\$106,643)	\$192,509	44.6%
East Texas Oil Museum Expenses	\$167,771	\$121,107	\$61,161	\$182,268	66.4%
Net East Texas Oil Museum Activity	(\$1,692)	(\$35,241)	(\$45,482)	\$10,241	
RangerPRINT Revenues	\$225,004	\$187,745	(\$602,255)	\$790,000	23.8%
RangerPRINT Expenses	\$831,006	\$693,530	\$80,470	\$774,000	89.6%
Net Printshop Activity	(\$606,002)	(\$505,786)	(\$521,786)	\$16,000	
Athletics Revenues	\$78,494	\$74,534	(\$40,620)	\$115,154	64.7%
Athletics Expenses	\$1,771,945	\$1,590,676	\$287,193	\$1,877,869	84.7%
Net Athletics Activity	(\$1,693,450)	(\$1,516,142)	\$246,573	(\$1,762,715)	
Total Net Auxiliary Services Activity:	(\$1,570,311)	(\$930,753)	(\$681,263)	(\$249,490)	



Kilgore College
April Capital Update
Fiscal Year 2024 (September 1, 2023 to August 31, 2024)

Project	Posted Balance	Encumbrances	Budget	Total Cost	(Over) Under Budget	% Spent	% Unavailable	% Available	% Completion	Phase
Public Safety										
KCPD Squad Vehicle	40,716	-	46,000	40,716	5,284	89%	89%	11%	100%	Received \$ 27,500 Grant 4/29/24
Program Expansion										
Laird FFE & Parking Lot	1,000,000	-	1,000,000	1,000,000	-	100%	100%	0%	100%	In Process
Laird FFE (HEGI)	1,000,000	-	1,000,000	720,539	279,461	100%	100%	28%	95%	In Process
CDL Track & Facility	2,089,656	-	3,352,674	2,089,656	1,263,018	62%	62%	38%	45%	In Process
Capital Items										
Quads Demo - Ranger Village Study	-	-	868,000	-	868,000	0%	0%	100%	0%	
Campus Improvements	4,500	-	265,000	4,500	260,500	2%	2%	98%	2%	In Process
Golf Carts	23,458	-	25,000	23,458	1,542	94%	94%	6%	100%	Complete
Box Truck	57,233	-	60,000	57,233	2,767	95%	95%	5%	100%	Complete
LV Reno Machining	175,621	-	400,000	175,621	224,379	44%	44%	56%	100%	Complete
ATC Chiller	156,624	-	175,000	156,624	18,376	89%	89%	11%	100%	Complete
PE Complex Chiller	110,871	-	150,000	110,871	39,129	74%	74%	26%	100%	Complete
Buildings & Structures										
Old Main Class Upgrades	565,269	-	710,000	565,269	144,731	80%	80%	20%	100%	Complete
Print Shop HVAC/Siding	92,941	-	300,000	92,941	207,059	31%	31%	69%	100%	Complete
Pedestrian Bridge	5,173,418	-	5,305,450	5,173,418	132,032	98%	98%	2%	99%	Renovation in process
Student One-Stop Space Study	-	-	35,000	-	35,000	0%	0%	100%	0%	
ATC Roof	307,610	-	323,000	307,610	15,390	95%	95%	5%	100%	Complete
Stark Hall Renovations	2,609,327	-	2,538,625	2,609,327	(70,702)	103%	103%	-3%	100%	Complete
Total	\$ 13,407,245	\$ -	\$ 16,553,749	\$ 13,127,784	\$ 3,425,965					
Debt Funded										
Buildings & Structures										
Roof Repair/Replacement	111,788	823,758	1,525,000	935,546	589,454	7%	61%	39%	61%	In Process
HVAC Repair/Replacement	74,250	-	1,500,000	74,250	1,425,750	5%	5%	95%	5%	In Process
Deferred Maintenance	67,408	86,718	650,000	154,126	495,874	10%	24%	76%	24%	In Process
Unassigned Deferred Maintenance	-	-	457,000	-	457,000					
Roof Repair/ Maint Old Main	123,550	-	595,000	123,550	471,450	21%	21%	79%	20%	In Process
Nolan Fire Alarm	69,130	-	148,000	69,130	78,870	47%	47%	53%	47%	In Process
Carpet Gym Floor	110,626	-	125,000	110,626	14,374	89%	89%	11%	80%	In Process
Total	\$ 556,752	\$ 910,476	\$ 5,000,000	\$ 1,467,228	\$ 3,532,772					

Kilgore College Foundation

June 10, 2024

Merlyn Holmes,
Executive Director of the Kilgore College
Foundation and Community Relations

April 8, 2024 – June 10, 2024

New Gifts/Donations

\$141,100.



KILGORE COLLEGE

Grants/Donations

Lane Johnson Fieldhouse Reno Matching Campaign
Up to \$200,000.

Fire Academy Fire Truck
\$5,000.

National Science Advanced Technological Education Grant
\$349,818.

Lineman Program
\$5,000.

Phillips 66 – Corrosion Scholarships
\$10,000.

RIBBON CUTTING COMMUNITY CELEBRATION

Please join us to celebrate the opening of the

**KILGORE COLLEGE
HEALTH SCIENCE EDUCATION CENTER**

CHRISTUS GOOD SHEPHERD HEALTHPARK - KILGORE

JULY 22, 2024 • 10 – 11 A.M.

Tours from 11 a.m. – 1 p.m.

Kilgore College ***Alumni and Friends*** ***Golf Tournament***

October 11, 2024
Tempest Golf Club



**Title Sponsor
Energy Weldfab**

**Hole-In-One Sponsor
Patterson of Kilgore**

**4 - Cook Teams on the Course
7 - Sponsors
12 – Teams
Auction Items Coming In**



Save The Date



AN EVENING CELEBRATING KILGORE COLLEGE STUDENT SUCCESS

2 0 2 4

March 22, 2025

Maude Cobb Convention Center