SOME POLICY TITLES ARE INCLUDED FOR FUTURE EXPANSION

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DATE ISSUED: 3/27/2015
Note: For complaints of discrimination, harassment, and retaliation on the basis of a protected characteristic, see FFD.

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. and Rem. Code 106.001(a)*

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. and Rem. Code 110.003*

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*
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. 34 C.F.R. 106.40(a)

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 FFD]

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

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

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

An institution’s Clery Act annual security report [see GAC] must include a statement of policy regarding the institution’s programs to prevent dating violence, domestic violence, sexual assault, and stalking and of procedures that the institution will follow when one of these crimes is reported. The statement must include:

1. A description of the institution’s educational programs and campaigns to promote the awareness of dating violence, domestic violence, sexual assault, and stalking, as described below at PROGRAMS TO PREVENT DATING VIOLENCE, DOMESTIC VIOLENCE, SEXUAL ASSAULT, AND STALKING;

2. Procedures victims should follow if a crime of dating violence, domestic violence, sexual assault, or stalking has occurred, including written information about:

   a. The importance of preserving evidence that may assist in proving that the alleged criminal offense occurred or may be helpful in obtaining a protection order;

   b. How and to whom the alleged offense should be reported;
c. Options about the involvement of law enforcement and campus authorities, including notification of the victim's option to:

(1) Notify proper law enforcement authorities, including on-campus and local police;

(2) Be assisted by campus authorities in notifying law enforcement authorities if the victim so chooses; and

(3) Decline to notify such authorities; and

d. Where applicable, the rights of victims and the institution's responsibilities for orders of protection, "no-contact" orders, restraining orders, or similar lawful orders issued by a criminal, civil, or tribal court or by the institution;

3. Information about how the institution will protect the confidentiality of victims and other necessary parties, including how the institution will:

a. Complete publicly available recordkeeping, including Clery Act reporting and disclosures, without the inclusion of personally identifying information about the victim, as defined in the Violence Against Women Act of 1994, 42 U.S.C. 13925(a)(20); and

b. Maintain as confidential any accommodations or protective measures provided to the victim, to the extent that maintaining such confidentiality would not impair the ability of the institution to provide the accommodations or protective measures;

4. A statement that the institution will provide written notification to students and employees about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for victims, both within the institution and in the community;

5. A statement that the institution will provide written notification to victims about options for, available assistance in, and how to request changes to academic, living, transportation, and working situations or protective measures. The institution must make such accommodations or provide such protective measures if the victim requests them and if they are reasonably available, regardless of whether the victim chooses to report the crime to campus police or local law enforcement;
6. An explanation of the procedures for institutional disciplinary action in cases of alleged dating violence, domestic violence, sexual assault, or stalking, as described below at PROCEDURES FOR INSTITUTIONAL DISCIPLINARY ACTION; and

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

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

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;

   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 paragraph 1.

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

34 C.F.R. 668.46(j)
“Awareness programs” 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” 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” 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 paragraph 1 above. 34 C.F.R. 668.46(j)(2)(iii)

“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” means options designed to decrease perpetration and bystander inaction, and to increase empowerment for victims in order to promote safety and to help individuals and communities address conditions that facilitate violence. 34 C.F.R. 668.46(j)(2)(v)

PROCEDURES FOR INSTITUTIONAL DISCIPLINARY ACTION

An institution must include in its annual security report a clear statement of policy that addresses the procedures for institutional disciplinary action in cases of alleged dating violence, domestic violence, sexual assault, or stalking, as defined in 34 C.F.R. 668.46(a), and that:

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 circum-
stances 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 advisor or presence for either the accuser or the accused in any meeting or institutional disciplinary proceeding; however, the institution may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties; and
   e. Require simultaneous notification, in writing, to both the accuser and the accused, of:
      (1) The result of any institutional disciplinary proceeding that arises from an allegation of dating violence, domestic violence, sexual assault, or stalking;
      (2) The institution’s procedures for the accused and the victim to appeal the result of the institutional
disciplinary proceeding, if such procedures are available;

(3) Any change to the result; and

(4) When such results become final.

34 C.F.R. 668.46(k)

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

“PROMPT, FAIR, AND IMPARTIAL PROCEEDING”

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

1. Completed within reasonably prompt timeframes designated by an institution's policy, including a process that allows for the extension of timeframes 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)

“ADVISOR”

“Advisor” 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, factfinding investigations, formal or informal meetings, and hearings. Proceeding does not include communications and meetings between officials and victims concerning accommodations or protective measures to be provided to a victim. 34 C.F.R. 668.46(k)(3)(iii)
“RESULT”
“Result” means any initial, interim, and final decision by any official or entity authorized to resolve disciplinary matters within the institution. The result must include any sanctions imposed by the institution. Notwithstanding FERPA, the result must also include the rationale for the result and the sanctions. 34 C.F.R. 668.46(k)(3)(iv)

DEFINITIONS

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

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

34 C.F.R. 668.46(a)

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

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

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

34 C.F.R. 668.46(a)
"Programs to prevent dating violence, domestic violence, sexual assault, and stalking" 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" 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" 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)

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 national 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)
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

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. 110.012

A recipient is permitted to take an action otherwise prohibited by 34 C.F.R. 110.10 that is based on a factor other than age, even though that action may have a disproportionate effect on persons of different ages. An action may be based on a factor other than age only if the factor bears a direct and substantial relationship to the normal operation of the program or activity or to the achievement of a statutory objective. 34 C.F.R. 110.13

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

Even in the absence of a finding of discrimination, a recipient may take affirmative action to overcome the effects of conditions that resulted in limited participation in the recipient's program or activity on the basis of age. 34 C.F.R. 110.15
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. 42 U.S.C. 12132; 28 C.F.R. 35.130

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

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

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

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

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

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

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 a public entity. 42 U.S.C. 12131(2)
“MAJOR LIFE ACTIVITIES”

“Major life activities” include caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. “Major life activity” also includes the operation of major bodily functions, including functions of the immune system, normal cell growth, and digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions. 42 U.S.C. 12102(2)

REASONABLE MODIFICATION

A public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity. 28 C.F.R. 35.130(b)(7)

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

RESTITUTION

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 he has made a complaint, testified, assisted, or participated 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)
Under the Americans with Disabilities Act (ADA), “service animal” means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition.

The work or tasks performed by a service animal must be directly related to the individual’s disability. Examples of work or tasks include, but are not limited to, assisting individuals who are blind or have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing non-violent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, and helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors.

The crime deterrent effects of an animal’s presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition.

28 C.F.R. 35.104

A public entity, including a college district, shall modify its policies, practices, or procedures to permit the use of a service animal by an individual with a disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity. 28 C.F.R. 35.130(b)(7), .136(a) [See FA(LEGAL)]

Individuals with disabilities shall be permitted to be accompanied by their service animals in all areas of a public entity’s facilities, where members of the public, participants in services, programs or activities, or invitees, as relevant, are allowed to go. 28 C.F.R. 35.136(g)

A public entity may ask an individual with a disability to remove a service animal from the premises if:

1. The animal is out of control and the animal’s handler does not take effective action to control it; or

2. The animal is not housebroken.

28 C.F.R. 35.136(b)
The ADA does not require a public entity to permit an individual to participate in or benefit from the services, programs, or activities of that public entity when that individual poses a direct threat to the health or safety of others. 28 C.F.R. 35.139 [See FAA(LEGAL)]

If a public entity properly excludes a service animal, it shall give the individual with a disability the opportunity to participate in the service, program, or activity without having the service animal on the premises. 28 C.F.R. 35.136(c)

A service animal shall be under the control of its handler. A service animal shall have a harness, leash, or other tether, unless either the handler is unable because of a disability to use a harness, leash, or other tether, or the use of a harness, leash, or other tether would interfere with the service animal’s safe, effective performance of work or tasks, in which case the service animal must be otherwise under the handler’s control (e.g., voice control, signals, or other effective means). 28 C.F.R. 35.136(d)

INQUIRIES

A public entity shall not ask about the nature or extent of a person’s disability, but may make two inquiries to determine whether an animal qualifies as a service animal. A public entity may ask if the animal is required because of a disability and what work or task the animal has been trained to perform.

A public entity shall not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal.

Generally, a public entity may not make these inquiries about a service animal when it is readily apparent that an animal is trained to do work or perform tasks for an individual with a disability (e.g., the dog is observed guiding an individual who is blind or has low vision, pulling a person’s wheelchair, or providing assistance with stability or balance to an individual with an observable mobility disability).

28 C.F.R. 35.136(f)

CARE OR SUPERVISION OF ANIMAL

A public entity is not responsible for the care or supervision of a service animal. 28 C.F.R. 35.136(e)

SURCHARGES

A public entity shall not ask or require an individual with a disability to pay a surcharge, even if people accompanied by pets are required to pay fees, or to comply with other requirements generally not applicable to people without pets.
If a public entity normally charges individuals for the damage they cause, an individual with a disability may be charged for damage caused by his or her service animal.

28 C.F.R. 35.136(h)

The Fair Housing Act (FHA) prohibits discrimination against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a handicap of that person; person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or any person associated with that person.

Discrimination includes a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling.

42 U.S.C. 3604; 24 C.F.R. 100.204

The reasonable accommodation provisions must be considered in situations where persons with disabilities use, or seek to use, assistance animals in housing where the provider forbids residents from having pets or otherwise imposes restrictions or conditions relating to pets and other animals.

An assistance animal is not a pet. It is an animal that works, provides assistance, or performs tasks for the benefit of a person with a disability, or provides emotional support that alleviates one or more identified symptoms or effects of a person's disability. Assistance animals perform many disability-related functions, including but not limited to, guiding individuals who are blind or have low vision, alerting individuals who are deaf or hard of hearing to sounds, providing protection or rescue assistance, pulling a wheelchair, fetching items, alerting persons to impending seizures, or providing emotional support to persons with disabilities who have a disability-related need for such support. While dogs are the most common type of assistance animal, other animals can also be assistance animals.

For purposes of reasonable accommodation requests, the FHA does not require an assistance animal to be individually trained or certified.

| MINIATURE HORSES | REASONABLE MODIFICATIONS | A public entity shall make reasonable modifications in policies, practices, or procedures to permit the use of a miniature horse by an individual with a disability if the miniature horse has been individually trained to do work or perform tasks for the benefit of the individual with a disability. 28 C.F.R. 35.136(i)(1) |
| ASSESSMENT FACTORS | | In determining whether reasonable modifications in policies, practices, or procedures can be made to allow a miniature horse into a specific facility, a public entity shall consider: |
| | 1. | The type, size, and weight of the miniature horse and whether the facility can accommodate these features; |
| | 2. | Whether the handler has sufficient control of the miniature horse; |
| | 3. | Whether the miniature horse is housebroken; and |
| | 4. | Whether the miniature horse’s presence in a specific facility compromises legitimate safety requirements that are necessary for safe operation. 28 C.F.R. 35.136(i)(2) |
| OTHER REQUIREMENTS | | Provisions at 28 C.F.R. 35.136(c) through (h) shall also apply to miniature horses. 28 C.F.R. 35.136(i)(3) |
| STATE LAW | PUBLIC FACILITIES DEFINITIONS | “Assistance animal” or “service animal” means a canine that is specially trained or equipped to help a person with a disability and that is used by a person with a disability. Human Resources Code 121.002(1) |
| “PERSON WITH A DISABILITY” | | “Person with a disability” means a person who has a mental or physical disability; an intellectual or developmental disability; a hearing impairment; deafness; a speech impairment; a visual impairment; post-traumatic stress disorder; or any health impairment that requires special ambulatory devices or services. Human Resources Code 121.002(4) |
| “PUBLIC FACILITY” | | “Public facility” includes a street, highway, sidewalk, walkway, common carrier, airplane, motor vehicle, railroad train, motor bus, streetcar, boat, or any other public conveyance or mode of transportation; a hotel, motel, or other place of lodging; a public building maintained by any unit or subdivision of government; a retail business, commercial establishment, or office building to which the general public is invited; a college dormitory or other educational facility; a restaurant or other place where food is offered for sale to
the public; and any other place of public accommodation, amusement, convenience, or resort to which the general public or any classification of persons from the general public is regularly, normally, or customarily invited.

### ASSISTANCE ANIMAL ACCESS

No person with a disability may be denied admittance to any public facility in the state because of the person's disability or may be denied the use of an assistance animal.

Regulations relating to the use of public facilities by any designated class of persons from the general public may not prohibit the use of particular public facilities by persons with disabilities who, except for their use of assistance animals, would fall within the designated class.

A service animal in training shall not be denied admittance to any public facility when accompanied by an approved trainer.

*Human Resources Code 121.003(c), (e), (i)*

### HARASSMENT AND HARM PROHIBITED

A person may not assault, harass, interfere with, kill, or injure in any way, or attempt to assault, harass, interfere with, kill, or injure in any way, an assistance animal. *Human Resources Code 121.003(j)*

### TRANSPORTATION

No common carrier, airplane, railroad train, motor bus, streetcar, boat, or other public conveyance or mode of transportation operating within the state may refuse to accept as a passenger a person with a disability because of the person's disability, nor may a person with a disability be required to pay an additional fare because of his or her use of a service animal. *Human Resources Code 121.003(b)*

### HOUSING

A person with a total or partial disability who has or obtains a service animal is entitled to full and equal access to all housing accommodations provided for in this section and may not be required to pay extra compensation or make a deposit for the animal but is liable for damages done to the premises by the animal except for reasonable wear and tear.

### INQUIRIES

A person is not entitled to make demands or inquiries relating to the qualifications or certifications of a service animal for purposes of admittance to a public facility except to determine the basic type of assistance provided by the service animal to a person with a disability.

### EXCEPTION

If a person's disability is not readily apparent, for purposes of admittance to a public facility with a service animal, a staff member or manager of the facility may inquire about:
1. Whether the service animal is required because the person has a disability; and

2. What type of work or task the service animal is trained to perform.

_Human Resources Code 121.003(k)–(l)_

**RESPONSIBILITIES OF PERSONS WITH DISABILITIES**

A person with a disability who uses an assistance animal for assistance in travel is liable for any damages done to the premises or facilities by the animal.

A person with a disability who uses an assistance animal for assistance in travel or auditory awareness shall keep the animal properly harnessed or leashed, and a person who is injured by the animal because of the failure of a person with a disability to properly harness or leash the animal is entitled to maintain a cause of action for damages in a court of competent jurisdiction under the same law applicable to other causes brought for the redress of injuries caused by animals.

_Human Resources Code 121.005_

**PENALTIES**

A person, including a firm, association, or other public or private organization or the agent of the person, who violates a provision of Human Resources Code 121.003 commits an offense. An offense under this section is a misdemeanor punishable by:

1. A fine of not more than $300; and

2. Thirty hours of community service to be performed for a governmental entity or nonprofit organization that primarily serves persons with visual impairments or other disabilities, or for another entity or organization at the discretion of the court, to be completed in not more than one year.

In addition to the penalty provided above, a person, including a firm, association, or other public or private organization or the agent of the person, who violates a provision of Human Resources Code 121.003 is deemed to have deprived a person with a disability of his or her civil liberties. The person with a disability deprived of his or her civil liberties may maintain a cause of action for damages in a court of competent jurisdiction, and there is a conclusive presumption of damages in the amount of at least $300 to the person with a disability.

_Human Resources Code 121.004_
FOOD SERVICE ESTABLISHMENTS AND RETAIL FOOD STORES

"SERVICE ANIMAL"

In this section, "service animal" means a canine that is specially trained or equipped to help a person with a disability. An animal that provides only comfort or emotional support to a person is not a service animal under this section. The tasks that a service animal may perform in order to help a person with a disability must be directly related to the person’s disability and may include:

1. Guiding a person who has a visual impairment;
2. Alerting a person who has a hearing impairment or who is deaf;
3. Pulling a wheelchair;
4. Alerting and protecting a person who has a seizure disorder;
5. Reminding a person who has a mental illness to take prescribed medication; and
6. Calming a person who has post-traumatic stress disorder.

Health and Safety Code 437.023(c)

ACCESS

A food service establishment, retail food store, or other entity regulated under Health and Safety Code Chapter 437 may not deny a service animal admittance into an area of the establishment or store or of the physical space occupied by the entity that is open to customers and is not used to prepare food if the service animal is accompanied and controlled by a person with a disability; or the service animal is in training and is accompanied and controlled by an approved trainer. Health and Safety Code 437.023(a)

INQUIRIES

If a service animal is accompanied by a person whose disability is not readily apparent, for purposes of admittance to a food service establishment, retail food store, or physical space occupied by another entity regulated under this chapter, a staff member of the establishment, store, or entity may only inquire about whether the service animal is required because the person has a disability and what type of work the service animal is trained to perform. Health and Safety Code 437.023(b)
Public junior colleges, public state colleges, and public technical institutes must accept freshman and undergraduate transfer applications using the electronic common admission application form adopted by the Coordinating Board pursuant to Education Code 51.762. *Education Code 51.762; 19 TAC 4.11(a)–(b)*

Unless otherwise prohibited by law, a resident of this state is entitled to apply for admission to and enroll as an undergraduate student in any public institution of higher education, including a college district, under Education Code 51.931.

If an applicant elects to seek admission under this section, a public institution of higher education, in considering the applicant for admission, shall not consider academic course credits or grades earned by the applicant ten or more years prior to the starting date of the semester in which the applicant seeks to enroll. An applicant who makes the election to apply under this section and is admitted as a student may not receive any course credit for courses undertaken ten or more years prior to enrollment.

Nothing in this section prohibits a public institution of higher education from applying standard admissions criteria generally applicable to persons seeking admission to the institution.

*Education Code 51.931(b)–(c), (e)*

“Nontraditional secondary education” means a course of study at the secondary school level in a nonaccredited private school setting, including a home school.

Because the State of Texas considers successful completion of a nontraditional secondary education to be equivalent to graduation from a public high school, an institution of higher education, including a college district, must treat an applicant for admission to the institution as an undergraduate student who presents evidence that the person has successfully completed a nontraditional secondary education according to the same general standards as other applicants for undergraduate admission who have graduated from a public high school.

An institution of higher education may not require an applicant for admission to the institution as an undergraduate student who presents evidence that the person has successfully completed a nontraditional secondary education to:

1. Obtain or submit evidence that the person has obtained a general education development certificate, certificate of high school equivalency, or other credentials equivalent to a public high school degree; or
2. Take an examination or comply with any other application or admission requirement not generally applicable to other applicants for undergraduate admission to the institution.

_Education Code 51.9241_

**VETERANS, SPOUSES, AND DEPENDENTS**

In determining whether to admit a person to any certificate program or professional degree program, an institution of higher education, including a college district, may not consider the fact that the person is eligible for an exemption under Education Code 54.341 (Veterans and Other Military Personnel; Dependents). _Education Code 54.341(j)_

**IMMUNIZATION NOTICE**

An institution of higher education, including a college district, in conjunction with the Texas Department of State Health Services, should provide individual notice to each student applying for admission regarding:

1. The consequences of not being current on immunization for certain diseases;

2. The age groups most vulnerable to these vaccine-preventable diseases; and

3. Local providers of immunization services.

_Education Code 51.933; 25 TAC 97.64(a), (d)_

**Note:** For information regarding immunization requirements that apply to applicants for admission, see FFAA.

**FOREIGN STUDENTS SEVIS SYSTEM**

A school or school system, including a college district, seeking initial or continued authorization for attendance by a nonimmigrant, alien student holding an F visa (academic institutions), J visa (exchange student program), or M visa (vocational and nonacademic institutions), including a “border commuter” student holding an F-3 or M-3 visa (Canadian and Mexican nationals), must apply to the U.S. Attorney General for approval under 8 U.S.C. 1372 and 8 C.F.R. 214.3.

A school must also submit electronic data regarding nonimmigrant students through the Student and Exchange Visitor Information System (SEVIS). A school shall provide the information set forth at 8 U.S.C. 1372(c) and 8 C.F.R. 214.3(g), regarding each student with an F, J, or M visa. Schools must update SEVIS with the current information within 21 days of a change in the information or the occurrence of events described in 8 C.F.R. 214.3(g)(2).

_8 U.S.C. 1372; 8 C.F.R. 214.3(a)(1), (g)–(h)
Not later than 30 days after the deadline for registering for classes for an academic term of an approved institution of higher education or other approved educational institution for which documentation is issued for an alien, or the scheduled commencement of participation by an alien in a designated exchange visitor program, as the case may be, the institution or program, respectively, shall report to the Immigration and Naturalization Service any failure of the alien to enroll or to commence participation. 8 U.S.C. 1372(a)(4); 8 C.F.R. 214.3(g)(2)

An educational agency or institution may not refuse to report information concerning an F or M nonimmigrant student or a J nonimmigrant exchange visitor that the educational agency or institution is required to report under 8 U.S.C. 1372 and 8 C.F.R. 214.3(g) (or any corresponding U.S. Department of State regulation concerning J nonimmigrants) on the basis of the Family Educational Rights and Privacy Act (FERPA) and any regulation implementing FERPA. The waiver of FERPA under this paragraph authorizes and requires an educational agency or institution to report information concerning an F, J, or M nonimmigrant that would ordinarily be protected by FERPA but only to the extent that 8 U.S.C. 1372 and 8 C.F.R. 214.3(g) (or any corresponding U.S. Department of State regulation concerning J nonimmigrants) requires the educational agency or institution to report information. 8 U.S.C. 1372(c)(2); 8 C.F.R. 214.1(h)

READMISSION AFTER MILITARY SERVICE

This section applies only to a student who withdraws from an institution of higher education, including a college district, to perform active military service as a member of the U.S. Armed Forces or the Texas National Guard, except that this section does not apply to a student who withdraws from an institution solely to perform one or more training exercises as a member of the Texas National Guard.

For any academic term that begins after the date a student described above is released from active military service but not later than the first anniversary of that date, the institution of higher education from which the student withdrew shall readmit the student, without requiring reapplication or charging a fee for readmission, if the student is otherwise eligible to register for classes at the institution. On readmission of the student, the institution shall:

1. Provide to the student any financial assistance previously provided by the institution to the student before the student’s withdrawal if the student meets current eligibility requirements for the assistance, other than any requirement directly affected by the student’s services, such as continuous enrollment or another similar timing requirement; and
2. Allow the student the same academic status that the student had before the student’s withdrawal, including any course credit awarded to the student by the institution.

An institution of higher education may adopt rules requiring reasonable proof from a student of the fact and duration of the student’s active military service.

*Education Code 51.9242*

**PERSONS WITH DISABILITIES**

Qualified persons may not, on the basis of disability, be denied admission or be subjected to discrimination in admission or recruitment by a postsecondary education program or activity to which 34 C.F.R. Part 104, Subpart E applies. *34 C.F.R. 104.42(a)*

**NOTICE OF PENALTY FOR FALSE ALARM OR REPORT**

Each institution of higher education, including each college district, and private or independent institution of higher education shall notify all incoming students, as soon as practicable, of the penalty for the offense under Penal Code 42.06 of making a false alarm or report involving a public or private institution of higher education.

*Education Code 51.219(b)*
The College District has adopted an open-door admissions policy that ensures that all persons who can profit from postsecondary education have an opportunity to enroll. The College District and the state of Texas require certain assessment procedures for use in course placement, but the assessment shall not be used to determine admission eligibility to the College District.

Admission to the College District does not guarantee admittance to a particular course or program of study. A student may, in some instances, be required to remedy deficiencies before enrolling in certain courses of study.

The following admission policies have been developed utilizing guidelines by the American Association of Collegiate Registrars and Admissions Officers. A student may be admitted to the College District under any of the following conditions:

1. An applicant who graduates from an accredited high school may be granted qualified admission, and, at the discretion of the Associate Director of Admissions, be permitted to remedy any deficiencies.

2. A student in good standing at another collegiate institution may be admitted by transfer of credits. A student must provide an official transcript of all colleges attended. To be granted admission in good standing, a student must have at least a 2.0 cumulative grade point average (GPA). However, a student with a GPA between 2.0 and 2.09 shall be considered for admission on scholastic probation. Any student on scholastic suspension from another institution may petition the Executive Vice President of Instruction for admission to the College District. A student who is on an enforced disciplinary withdrawal shall not be admitted.

3. A student who is 18 years of age or older may be admitted upon successful completion and receipt of a GED certificate within the first semester of enrollment, or, at the latest, prior to reenrollment for the second semester.

4. The Registrar may grant individual approval if a student is 18 years of age or older. A student granted individual approval:
   a. May be required to take the GED examination at the earliest possible date following admission to the College District;
   b. Shall be required to take the Texas Higher Education Assessment (THEA) test or an approved alternative test before enrolling in courses;
c. Shall be advised by a counselor to determine proper course selections, initiate a degree plan, and discuss career and academic opportunities; and

d. Shall, if necessary, enroll in developmental courses, as determined by scores on the THEA or the approved alternative test, which may be taken along with the appropriate courses in the student’s area of interest.

5. The Registrar may grant individual approval for concurrent enrollment to a student who has completed his or her sophomore year in high school and who submits written permission from the student’s high school principal or designee. To be considered for admission under this provision, the student shall have at least a “B” average in all high school courses and must continue to maintain progress toward high school graduation. A high school transcript must be provided to the College District. A student admitted under this provision shall not exceed two College District courses per semester, unless waived by the Executive Vice President of Instruction.

6. A student from a nontraditional high school program who seeks concurrent enrollment shall meet the following conditions to be considered for individual approval:

a. Has completed the equivalent of sophomore year in high school (12 units);

b. Has provided a notarized record of subjects completed consistent with TEA minimum requirements;

c. Has complied with institutional testing requirements documenting readiness for college-level coursework; and

d. Has agreed to the limitations and conditions of admission established by the College District, which shall include a maximum of seven semester credit hours each semester.

7. A student who is 18 years of age or older and who is a graduate of a nonaccredited or nontraditional program may be admitted by individual approval if the student:

a. Presents a notarized record of the completion of all high school-equivalent work and the date completed;

b. Complies with all College District testing requirements; and

c. Agrees to the limitations and conditions of admission established by the College District.
8. An international student may be admitted into the College District by individual approval. If admitted, the student must be assessed using the assessment instrument approved by the Coordinating Board or an approved alternate test; the scores on such test will determine the courses for which the student may register. In addition, the student must purchase health and accident insurance coverage specified by the College District while in attendance at the College District. The student must submit the following documents within 30 days prior to the beginning of the semester in which the student intends to enroll:

a. An application for admission.
b. A score of at least 550 on the Test of English as a Foreign Language (TOEFL). An applicant who is entering from an educational system that utilized English as the primary language shall not be required to submit evidence of TOEFL scores.
c. A certified English translation of grades and credits for the final four years of secondary school.
d. The medical report form that accompanies the application for admission.
e. An official transcript documenting a cumulative GPA of at least 2.0 from all previous colleges, universities, or intensive English language schools attended in the United States.
f. Certified proof of financial support showing a source of income and the amount available to the student while attending the College District.
g. A letter in the student’s handwriting indicating his or her educational and vocational plans.
Credit for courses in which a passing grade of D or better has been earned may be transferred to the College District from colleges and universities accredited through the eight recognized U.S. regional accrediting associations. The College District may not accept transfer credits from any institution not so accredited. Coursework completed at colleges and universities outside of the U.S. shall be considered on an individual basis.

On receipt of an official transcript from an accredited college or university, the Admissions Coordinator shall complete a course-by-course evaluation as needed for the student’s degree plan or program of study. In cases of repeated courses, only the higher grade shall be computed in the grade point average (GPA).

The College District, through the leadership of the Coordinating Board, shall provide for the transferability of general academic courses offered during the first two years of collegiate study to all public institutions of higher education in Texas that are members of recognized accrediting agencies on the same basis as if the work had been done at the receiving institution. A student should be aware of and become familiar with the limits and requirements established by the Coordinating Board. Prior to registration, the student shall be responsible for determining if the desired courses will transfer.

The College District catalog shall contain adopted procedures that address the transferability of lower-division course credit among institutions of higher education. In addition, the catalog shall publish the Coordinating Board rules and regulations for resolving disputes concerning transferability of lower-division courses to a Texas institution of higher education. Advisement services shall be available to students who want more information about transferring to another institution.
### EXCUSED ABSENCES

Each institution of higher education, including each college district, shall develop and include in its official bulletins, catalogs, and other appropriate publications a statement regarding its policies and procedures for all excused absences.  

*19 TAC 4.4(b)*

### “RELIGIOUS HOLY DAYS”

A “religious holy day” means a holy day observed by a religion whose places of worship are exempt from property taxation under Tax Code 11.20.

An institution of higher education, including a college district, shall excuse a student from attending classes or other required activities, including examinations, for the observance of a religious holy day, including travel for that purpose. A student whose absence is excused under this section may not be penalized for that absence and shall be allowed to take an examination or complete an assignment within a reasonable time after the absence.

Policies and procedures for absences due to religious holy days shall be consistent with (or no more arduous than) the institution’s policies and procedures relating to other excused absences.

If a student and an instructor disagree about the nature of the absence being for the observance of a religious holy day as defined above, or if there is a similar disagreement about whether the student has been given a reasonable time to complete any missed assignments or examinations, either the student or the instructor may request a ruling from the chief executive officer of the institution or his or her designee. The student and the instructor shall abide by the decision of the chief executive officer or his or her designee.

A student who is excused under this section may not be penalized for the absence, but the instructor may appropriately respond if the student fails to satisfactorily complete the assignment or examination.

*Education Code 51.911; 19 TAC 4.4, 9.24*

### MILITARY SERVICE

This section applies only if a student enrolled in an institution of higher education, including a college district, fails to attend classes or engage in other required activities because the student is called to active military service that is of a reasonably brief duration, as determined by rule adopted by the Coordinating Board, and the student chooses not to withdraw as authorized by Education Code 54.006(f). *Education Code 51.9111(b)* [See EGA(LEGAL)]

### “ACTIVE MILITARY SERVICE”

“Active military service” includes active service in the Armed Forces of the United States or in the National Guard or the Texas State Guard. *Education Code 51.9111(a)(2); 19 TAC 4.3(1)*
Upon notice from a student, an institution of higher education shall excuse a student from attending classes or engaging in other required activities, including examinations, in order for the student to participate in active military service to which the student is called, including travel associated with the service. A student whose absence is excused may not be penalized for that absence and shall be allowed to complete an assignment or take an examination from which the student is excused within a reasonable time after the absence. An instructor may appropriately respond if the student fails to satisfactorily complete the assignment or examination within a reasonable time after the absence. *Education Code 51.9111(c); 19 TAC 4.9(a)–(b)*

Each institution shall adopt a policy that includes:

1. The retention of a student’s coursework completed during the portion of the course prior to the student being called to active military service;

2. The course syllabus or other instructional plan, so that the student will be able to complete the course without prejudice and under the same course requirements that were in effect when the student enrolled in the course;

3. A definition of a reasonable time after the absence for the completion of assignments and examinations;

4. Procedures for failure of a student to satisfactorily complete the assignment or examination within a reasonable time after the absence; and

5. A dispute resolution process regarding the policy.

Institutions are directed to develop and publish policies and procedures to ensure that students enrolled in distance learning, self-paced, correspondence, and other asynchronous courses receive equivalent consideration for the purposes of determining acceptable duration of excused absences and time limits for the completion of coursework following an excused absence under this section. *19 TAC 4.9(c), (e)*

The maximum period for which a student may be excused under this section shall be no more than 25 percent of the total number of class meetings or the contact hour equivalent (not including the final examination period) for the specific course or courses in which the student is currently enrolled at the beginning of the period of active military service. *Education Code 51.9111(d); 19 TAC 4.9(d)*
A public institution of higher education, including an institution of higher education that is certified by the U.S. Secretary of Homeland Security to enroll a foreign student admitted into the United States under a nonimmigrant F or M visa shall promptly notify the federal Student and Exchange Visitor Information System (SEVIS) or a successor program if:

1. A student enrolled under an F or M visa withdraws from the institution or withdraws from all courses in which the student is enrolled; or

2. The institution dismisses a student enrolled under an F or M visa for nonattendance or takes any other official administrative action in regard to the student as a result of the student's nonattendance.

*Education Code 51.9091*
Regular and punctual attendance at all scheduled classes shall be expected of students. Attendance is necessary for successful completion of coursework. In addition to the excused absences required by law or state rule [see FC(LEGAL)], additional excused absences may be permitted at the discretion of the instructor for illness, official activities of the College District, or personal emergencies. The student shall be responsible for initiating the process to complete makeup work. All coursework missed, regardless of reason, shall be completed to the satisfaction of the instructor.

An instructor may drop a student for excessive absences in a course in accordance with policies clearly stated in the course syllabus.
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, except that a tuition rate set 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 Education Code 54.051 applies, as the governing board considers appropriate to reflect course costs or to promote efficiency or another rational purpose. Education Code 130.084(b)

To be eligible for and to receive a proportionate share of state appropriations, a public junior college must, among other requirements, collect, from each full-time and part-time student enrolled, matriculation and other session 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; and grant, when properly applied for, the scholarships and tuition exemptions provided for in the Education Code. Education Code 130.003(b)

Students attending a college district may qualify for a tuition and fee exemption or waiver, including a waiver of nonresident tuition, as allowed by law. [See Education Code Chapter 54, Subchapter D; Education Code 51.9112, 54.010, 54.5025, 54.5035, 130.0032, 130.008, 130.0081, 130.085, 130.0851] [See FD(EXHIBIT)]

Notwithstanding any other law, a mandatory or discretionary exemption or waiver from the payment of tuition or other fees under this Education Code Chapter 54, Subchapter D or another provision of the Education Code applies only to courses for which an institution of higher education receives formula funding. Education Code 54.2002

Notwithstanding any other law but subject to Education Code 54.2001(f), after initially qualifying under Education Code Chapter 54, Subchapter D for a mandatory or discretionary exemption or waiver from the payment of all or part of the tuition or other fees for enrollment during a semester or term at an institution of higher education, a person may continue to receive the exemption or waiver for a subsequent semester or term only if the person:

1. As a graduate or undergraduate student, maintains a grade point average that satisfies the institution's grade point average requirement for making satisfactory academic progress toward a degree or certificate in accordance with the institution's policy regarding eligibility for financial aid; and
2. As an undergraduate student, has not completed as of the beginning of the semester or term a number of semester credit hours that is considered to be excessive under Education Code 54.014, unless permitted to complete those hours by the institution on a showing of good cause. In determining whether a person has completed a number of semester credit hours that is considered to be excessive, semester credit hours completed include transfer credit hours that count toward the person's undergraduate degree or certificate program course requirements but exclude:

a. Hours earned exclusively by examination;

b. Hours earned for a course for which the person received credit toward the person's high school academic requirements; and

c. Hours earned for developmental coursework that an institution of higher education required the person to take under Education Code 51.3062 [see EI] or under the former provisions of Education Code 51.306.

If on the completion of any semester or term a person fails to meet any requirement set out above, for the next semester or term in which the person enrolls, the person may not receive the exemption or waiver as described above. A person may become eligible to receive an exemption or waiver in a subsequent semester or term if the person completes a semester or term during which the person is not eligible for an exemption or waiver and meets each requirement set out above, as applicable.

*Education Code 54.2001(a)–(c)*

**POLICY**

Each institution of higher education shall adopt a policy to allow a student who fails to maintain a grade point average as required by this section to receive an exemption or waiver in any semester or term on a showing of hardship or other good cause, including:

1. A showing of a severe illness or other debilitating condition that could affect the student's academic performance;

2. An indication that the student is responsible for the care of a sick, injured, or needy person and that the student's provision of care could affect the student's academic performance;

3. The student's active duty or other service in the United States armed forces or the student's active duty in the Texas National Guard; or

4. Any other cause considered acceptable by the institution.
An institution of higher education shall maintain documentation of each exception granted to a student.

*Education Code 54.2001(d)–(e)*

**CONFLICTS**

If a requirement imposed by this section for the continued receipt of a specific exemption or waiver conflicts with another requirement imposed by statute for that exemption or waiver, the stricter requirement prevails. *Education Code 54.2001(f)*

**EXCEPTIONS**

This section does not apply to:

1. The waiver provided by Education Code 54.216 or any other reduction in tuition provided to a high school student for enrollment in a dual credit course or other course for which the student may earn joint high school and college credit;

2. The exemption provided by Education Code 54.341(a-2)(1)(A), (B), (C), or (D) or (b)(1)(A), (B), (C), or (D);

3. The exemption provided by Education Code 54.342 or 54.366; or

4. Any provision of the Education Code that authorizes or requires the payment of tuition or fees at the rates provided for residents of this state by a person who is not a resident of this state for purposes of Education Code Chapter 54, Subchapter B.

*Education Code 54.2001(g)*

**TUITION RATES**

Tuition for a resident student registered in a public junior college is determined by the governing board of each institution, but the tuition may not be less than $8 for each semester credit hour and may not total less than $25 for a semester. Tuition for a nonresident student is determined by the governing board of each institution, but the tuition may not be less than $200 for each semester. *Education Code 54.051(n)*

**"NONRESIDENT TUITION"**

"Nonresident tuition" means the amount of tuition paid by a person who is not a resident of this state and who is not entitled or permitted to pay resident tuition under Education Code Chapter 54, Subchapter B. *Education Code 54.0501(4); 19 TAC 21.22(19)*

The governing board of a junior college district shall establish the rate of tuition and fees charged to a student who resides outside the district by considering factors such as:

1. The sufficiency of the rate to promote taxpayer equity by encouraging areas benefiting from the educational services of
the district to participate in financing the education of students from that area;

2. The extent to which the rate will ensure that the cost to the district of providing educational services to a student who resides outside the district is not financed disproportionately by the taxpayers residing within the district; and

3. The rate that would generate tuition and fees equal to the total amount of tuition and fees charged to a similarly situated student who resides in the district plus an amount per credit hour determined by dividing the total amount of ad valorem taxes imposed by the district in the tax year preceding the year in which the academic year begins by the total number of credit hours for which the students who were residents of the district enrolled in the district in the preceding academic year.

_Education Code 130.0032(d)_

If an institution of higher education erroneously classifies a person as a resident of this state and the person is not entitled or permitted to pay resident tuition, the institution of higher education shall charge nonresident tuition to the person beginning with the first academic term that begins after the date the institution discovers the error. Not earlier than the first day of that term, regardless of whether the person is still enrolled at the institution, the institution may request the person to pay the difference between resident and nonresident tuition for an earlier term as permitted by Education Code 54.057. For nonpayment of the amount owed, the institution may impose sanctions only as provided by that section. The institution may not require payment as a condition for any subsequent enrollment by the person in the institution.

Regardless of the reason for the error, if an institution of higher education erroneously classifies a person as a nonresident of this state, the institution shall charge resident tuition to the person beginning with the academic term in which the institution discovers the error. The institution immediately shall refund to the person the amount of tuition the person paid in excess of resident tuition.

_Education Code 54.056_

An institution of higher education may charge a resident undergraduate student tuition at a higher rate than would otherwise be charged for certain repeated courses or excessive hours, as allowed by law. _Education Code 54.014, 130.0034; 19 TAC Ch. 13, Subch. F_

The institution shall publish information in the catalog about the limitation provided by law on the number of hours or types of
courses that a Texas resident is entitled to complete while paying tuition at the rate provided for Texas residents and the tuition rate that will be charged to affected students. Until this material is included in its catalog, the institution shall inform in writing each new undergraduate student enrolling at the institution of the limitation on formula funding and the tuition rate that will be charged to affected students. *Education Code 54.014(e); 19 TAC 13.109(b)*

**FEES**

**Fees for Extraordinary Costs**

The governing board of a public junior college may establish a fee for extraordinary costs associated with a specific course or program and may provide that the exemptions provided by *Education Code 54.341* do not apply to this fee. *Education Code 54.341(g)*

**Individualized Courses**

Resident students or nonresident students registered for a course or courses in art, architecture, drama, speech, or music, where individual coaching or instruction is the usual method of instruction, shall pay a fee, in addition to the regular tuition, set by the governing board of the institution. *Education Code 54.051(l)*

**Laboratory Fees**

An institution of higher education, including a college district, shall set and collect a laboratory fee in an amount sufficient to cover the general cost of laboratory materials and supplies used by a student. A public junior college may charge a laboratory fee in an amount that does not exceed the lesser of $24 per semester credit hour of laboratory course credit for which the student is enrolled or the cost of actual materials and supplies used by the student. *Education Code 54.501(a)*

**Aerospace Mechanics Certification Course Fee**

The governing board of a public junior college may set and collect a fee per contact hour, not to exceed $4, for each person registered in an aerospace mechanics certification course where the fee is required to offset that portion of the cost of the course, including the cost of equipment and of professional instruction or tutoring, that is not covered by state funding or by laboratory fees. *Education Code 54.501(c)*

**Use Fees**

The governing board of each junior college district shall be authorized to fix and collect rentals, rates, charges, and/or fees, including student union fees and technology 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. *Education Code 130.123; Dallas County Cmty Coll. Dist. v. Bolton, 185 S.W.3d 868 (Tex. 2005)*

**General Deposits**

An institution of higher education may collect a reasonable deposit in an amount not to exceed $100 from each student to insure the institution against any losses, damages, and breakage for which the student is responsible and to cover any other amounts owed by
the student to the institution. The institution shall return to the student the deposit, less any such amounts owed to the institution by the student. The deposit must be returned within a reasonable period after the date of the student’s withdrawal or graduation from the institution, not to exceed 180 days, that provides the institution with sufficient time to identify all amounts owed and to determine that the student does not intend to enroll at the institution in the semester or summer session immediately following the student’s withdrawal or graduation or, if the student withdraws or graduates in the spring semester, in the next fall semester. Education Code 54.502(a)

The student deposit fund consists of the income from the investment or time deposits of general deposits and of forfeited general deposits. Any general deposit that remains without call for refund for a period of four years from the date of last attendance of the student making the deposit shall be forfeited and become a part of the student deposit fund. Education Code 54.5021 does not prohibit refund of any balance remaining in a general deposit when made on proper demand and within the four-year limitation period. The governing board of the institution may require that no student withdraw the student’s deposit until the student has graduated or has apparently withdrawn from school.

The student deposit fund shall be used, at the discretion of the institution’s governing board, for making scholarship awards to needy and deserving students of the institution and making grants under Education Code Chapter 56, Subchapter C to the students of the institution.

The Coordinating Board shall administer the scholarship awards for the institution, including the selection of recipients and the amounts and conditions of the awards. The recipients of the scholarships must be residents of the state as defined for tuition purposes.

Not later than August 31 of each fiscal year, each institution of higher education that has an unobligated and unexpended balance in its student deposit fund that exceeds 150 percent of the total deposits to that fund during that year shall remit to the Coordinating Board the amount of that excess. The Coordinating Board shall allocate on an equitable basis amounts received to institutions of higher education that do not have an excess described by this subsection for deposit in their student deposit fund. The amount allocated may be used only for making grants under Education Code Chapter 56, Subchapter M (TEXAS grants).

Education Code 54.5021
### VEHICLE REGISTRATION / PARKING AND TRAFFIC FEES

The governing board of each institution of higher education may charge a reasonable fee for registration of a vehicle under Education Code 51.202. The governing board may fix and collect a reasonable fee or fees for the provision of facilities and the enforcement and administration of parking and traffic regulations approved by the board for an institution; provided, however, that no such fee may be charged to a student, unless the student desires to use the facilities. *Education Code 54.505*

### INTERNATIONAL EDUCATION FEE

The governing board of an institution of higher education may charge and collect from students registered at the institution a fee in an amount not less than $1 and not more than $4 for each semester or summer session. The amount of the fee may be increased only if the increase is approved by a majority vote of the students at the institution participating in an election called for that purpose.

Fees collected shall be deposited in an international education financial aid fund outside the state treasury. Money in the fund may be used only to assist students participating in international student exchange or study programs.

The international education financial aid fund shall be used in accordance with guidelines jointly developed by the student governing body of the institution and the administration of the institution. If an institution does not have a student governing body, the president may appoint a Committee of Students to assist with the development of the guidelines.

The fee imposed under this section may not be considered in determining the maximum student services fee that may be charged students enrolled at the institution under Education Code 54.503(b).

*Education Code 54.5132*

### CONTINUING EDUCATION COURSE FEES

The governing board of an institution of higher education shall charge a reasonable fee to each person registered in a continuing education course at the institution. The board shall set the fee in an amount sufficient to permit the institution to recover the costs to the institution of providing the course.

This section applies only to a course for which the institution does not collect tuition or receive formula funding, including an extension course, correspondence course, or other self-supporting course.

Education Code Chapter 54, Subchapters B and D do not apply to a fee charged under this section, except to a fee for a correspondence course taken by a student who would qualify for an exemption from tuition under Education Code 54.341 if the correspondence
course applies towards the student’s degree plan. The governing board of an institution of higher education may grant an exemption provided by Section 54.341 for continuing education courses.

*Education Code 54.545*

**ROTC PROGRAM FEES**

The governing board of an institution of higher education may not charge a student enrolled in a Reserve Officers’ Training Corps (ROTC) course any amount for the course in excess of the fee as determined by the Coordinating Board under Education Code 51.9112(a).

**EXCEPTION**

If the governing board of an institution of higher education offers course credit toward a student’s degree for a course in which the student enrolls for the purposes of an ROTC program, the Coordinating Board may charge the student tuition for that course as otherwise provided by Education Code Chapter 54 after subtracting any reimbursement or other amount the institution receives from the applicable military service or other source for offering the course.

*Education Code 51.9112(a)–(b)*

**ENVIRONMENTAL SERVICE FEE**

The governing board of an institution of higher education may charge each student enrolled at the institution an environmental service fee, if the fee has been approved by a majority vote of the students enrolled at the institution who participate in a general student election called for that purpose. *Education Code 54.5041(a)*

**AMOUNT**

Unless increased as set out below, the amount of the fee may not exceed:

1. $5 for each regular semester or summer term of more than six weeks; or
2. $2.50 for each summer session of six weeks or less.

The amount of the fee may not be increased unless the increase has been approved by a majority vote of the students enrolled at the institution who participate in a general student election called for that purpose. The fee may not be increased if the increase would result in a fee in an amount that exceeds:

1. $10 for each regular semester or summer term of more than six weeks; or
2. $5 for each summer session of six weeks or less.

*Education Code 54.5041(b)(d)*

**USE**

The fee may be used only to:
1. Provide environmental improvements at the institution through services related to recycling, energy efficiency and renewable energy, transportation, employment, product purchasing, planning and maintenance, or irrigation; or

2. Provide matching funds for grants to obtain environmental improvements described above.

An institution that imposes the environmental service fee may not use the revenue generated by the fee to reduce or replace other money allocated by the college district for environmental projects.

Any fee revenue that exceeds the amount necessary to cover current operating expenses for environmental services and any interest generated from that revenue may be used only for purposes provided above.

The fee is not considered in determining the maximum amount of student services fees that the institution of higher education may charge.

*Education Code 54.5041(c), (e)–(g)*

The fee may not be charged after the fifth academic year in which the fee is first charged unless, before the end of that academic year, the institution has issued bonds payable in whole or in part from the fee, in which event the fee may not be charged after the academic year in which all such bonds, including refunding bonds for those bonds, have been fully paid. *Education Code 54.5041(h)*

The governing board of an institution of higher education may charge and collect from students registered in the institution fees to cover the cost of student services. The fee or fees may be either voluntary or compulsory as determined by the governing board. The total of all compulsory student fees collected from a student at an institution of higher education for any one semester or summer session shall not exceed $250. No portion of the compulsory fees collected may be expended for parking facilities or services, except as related to providing shuttle bus services. *Education Code 54.503(b)*

“Student services” means activities that are separate and apart from the regularly scheduled academic functions of the institution and directly involve or benefit students, including textbook rentals, recreational activities, health and hospital services, medical services, intramural and intercollegiate athletics, artists and lecture series, cultural entertainment series, debating and oratorical activities, student publications, student government, the student fee advisory committee, student transportation services other than services under Education Code 54.504, 54.511, 54.512, and 54.513,
and any other student activities and services specifically authorized and approved by the governing board of the institution of higher education. The term does not include services for which a fee is charged under another section of the Education Code. *Education Code 54.503(a)(1)*

Whether a particular service falls within the definition of a student services fee is normally a determination to be made in the first instance by the institution’s governing board, subject ultimately to judicial review. *Atty. Gen. Op. DM-450 (Sept. 2, 1997)*

**DUAL ENROLLMENT**

If a student registers at more than one institution of higher education within a college or university system under concurrent enrollment provisions of joint or cooperative programs between institutions, the student shall pay all compulsory student services fees to the institution designated as the home institution under the joint or cooperative program. The governing board of the college or university system may waive the payment of all compulsory student services fees at the other institution or institutions. *Education Code 54.503(g)*

**INCIDENTAL FEES**

The governing board of an institution of higher education may fix the rate of incidental fees to be paid to an institution under its governance by students and prospective students and may make rules for the collection of the fees and for the distribution of the funds, such funds to be accounted for as other designated funds. The rate of an incidental fee must reasonably reflect the actual cost to the university of the materials or services for which the fee is collected. In fixing the rate, the governing board may consult with a student fee advisory committee, which the governing board may establish if such student committee does not presently exist.

The board shall publish in the general catalog of the university a description of the amount of each fee to be charged.

Incidental fees include, without limitation, such fees as late registration fees, library fines, microfilming fees, thesis or doctoral manuscript reproduction or filing fees, bad check charges, application processing fees, and laboratory breakage charges, but does not include a fee for which the governing board makes a charge under the authority of any other provision of law.

*Education Code 54.504*

Whether a particular fee falls within the scope of the incidental fees statute is a determination to be made by the institution’s governing board in the first instance, subject to review by a court. *Atty. Gen. Op. DM-450 (1997)*
CREDIT CARD FEES
An institution of higher education may charge a fee or other amount in connection with a payment of tuition, a fee, or another charge to an institution of higher education that is made or authorized in person, by mail, by telephone call, or through the Internet by means of an electronic funds transfer or a credit card, in addition to the amount of the tuition, fee, or other charge being paid, including:

1. A discount, convenience, or service charge for the transaction; or

2. A service charge in connection with a payment transaction that is dishonored or refused for lack of funds or insufficient funds.

A fee or other charge under Education Code 54.5011 must be in an amount reasonable and necessary to reimburse the institution for the expense incurred by the institution in processing and handling the payment or payment transaction.

Before accepting a payment by credit card, the institution shall notify the student of any fee to be charged.

Education Code 54.5011

STUDENT FEE ADVISORY COMMITTEE
Before recommending the student fee budget to the governing board of the institution, the president of the institution shall consider the report and recommendations of the student fee advisory committee. Education Code 54.5031(g)

MEMBERSHIP
Each committee is composed of the following nine members:

1. Five student members who are enrolled for not less than six semester credit hours at the institution and who are representative of all students enrolled at the institution, selected by one of the following methods:

   a. If the institution has a student government, the student government shall appoint three students to serve two-year terms on the committee and two students to serve one-year terms on the committee.

   b. If the institution does not have a student government, the students enrolled at the institution shall elect three students to serve two-year terms on the committee and two students to serve one-year terms on the committee. A candidate for a position on the committee must designate whether the position is for a one-year or two-year term.
2. Four members who are representative of the institution, appointed by the president of the institution.

*Education Code 54.5031(b)–(c)*

A student member of the committee who withdraws from the institution must resign from the committee. *Education Code 54.5031(d)*

A vacancy in an appointive position on the committee shall be filled for the unexpired portion of the term in the same manner as the original appointment. A vacancy in an elective position on the committee shall be filled for the unexpired portion of the term by appointment by the president of the institution. *Education Code 54.5031(e)*

**DUTIES**

The committee shall:

1. Study the type, amount, and expenditure of compulsory fees under Education Code 54.503; and

2. Meet with appropriate administrators of the institution, submit a written report on the study, and recommend the type, amount, and expenditure of a compulsory fee to be charged for the next academic year.

*Education Code 54.5031(f)*

**MEETINGS**

A student fee advisory committee shall conduct meetings at which a quorum is present in a manner that is open to the public and in accordance with procedures prescribed by the president of the institution.

The procedures prescribed by the president of the institution must:

1. Provide for notice of the date, hour, place, and subject of the meeting at least 72 hours before the meeting is convened; and

2. Require that the notice be:

   a. Posted on the Internet; and

   b. Published in a student newspaper of the institution, if an issue of the newspaper is published between the time of the Internet posting and the time of the meeting.

The final recommendations made by a student fee advisory committee must be recorded and made public.

*Education Code 54.5033*
RECOMMENDATIONS

If the president’s recommendations to the governing board are substantially different from the committee’s recommendations to the president, the administration of the institution shall notify the committee not later than the last date on which the committee may request an appearance at the board meeting. On request of a member of the committee, the administration of the institution shall provide the member with a written report of the president’s recommendations to the board. *Education Code 54.5031(g)*

COLLECTION

For billing and catalogue purposes, each governing board shall accumulate all the tuition that it charges under Education Code Chapter 54 into one tuition charge. *Education Code 54.015*

Unless a student's payment due date has been postponed due to pending disbursements of financial aid as described in 19 Administrative Code 21.4(b), the following conditions shall apply in the collection of tuition and/or tuition and fees at institutions of higher education, including college districts, and in the conducting of enrollment audits.

On or before the dates for reporting official enrollments each semester to the Coordinating Board each enrollment period, each community college shall collect in full from each student who is to be counted for formula funding purposes the amounts set as tuition by the respective governing boards. Valid contracts with the U.S. government for instruction of eligible military personnel, approved financial assistance, and valid contracts with private business and public service organizations or institutions such as hospitals, may be considered as collected tuition and fees; the amount of collected tuition and fees may be adjusted pursuant to terms of the contract once actual collections are made.

*19 TAC 21.4(a)(1), (3)*

INSTALLMENT PLAN

The governing board of each institution of higher education, including each college district, shall provide for the payment of tuition and mandatory fees for a semester or term of ten weeks or longer through one of the following alternatives:

1. Full payment of tuition and mandatory fees not later than the date established by the institution; or

2. Payment in installments under one or more payment plan options that requires the first payment to be made not later than the date established by the institution. In providing for the payment of tuition and mandatory fees by installment, the institution of higher education must also establish subsequent dates at periodic intervals within the applicable semester or term by which subsequent installment payments are due.
For a term of less than ten weeks, the governing board of each institution of higher education shall provide for the payment of tuition and mandatory fees by requiring full payment of tuition and mandatory fees not later than the date established by the institution, and the governing board may provide for the payment of tuition and mandatory fees by requiring payment in installments under one or more payment plan options that require the first payment to be made not later than the date established by the institution.

A date established by an institution of higher education for purposes of making a full payment of tuition and fees or the first installment payment may not be later than the date established by the Coordinating Board for certifying student enrollment for the semester or term for purposes of formula funding.

*Education Code 54.007(a)–(b–1)*

**UNPAID BALANCES**

An institution of higher education may collect on a due date subsequent to a due date for a full payment of tuition and fees or the first installment payment:

1. Unpaid tuition and mandatory fee balances resulting from an adjustment to a student’s enrollment status or an administrative action; or

2. Unpaid residual balances of tuition and mandatory fees constituting less than five percent of the total amount of tuition and mandatory fees charged to the student by the institution for that semester or term.

*Education Code 54.007(b–2)*

**INCIDENTAL FEE**

The governing board of an institution of higher education may assess and collect incidental fees for students utilizing the installment payment option and for students delinquent in payments. The fees must reasonably reflect the cost to the institution of handling those payments. *Education Code 54.007(c)*

**FAILURE TO PAY TUITION AND FEES**

A student who fails to make full payment of the required amount of tuition and mandatory fees, including any incidental fees, by the applicable due date may be prohibited from registering for classes until full payment is made. A student who fails to make a full payment prior to the end of the semester or term may be denied credit for the work done that semester or term. The governing board of an institution of higher education may not impose on a student any sanction authorized by Education Code 54.007(d) unless the governing board includes in any written or electronic agreement authorized by the student the following statement printed in boldfaced type or in capital letters:
A student who fails to make full payment of tuition and mandatory fees, including any incidental fees, by the due date may be prohibited from registering for classes until full payment is made. A student who fails to make full payment prior to the end of the semester or term may be denied credit for the work done that semester or term.

The governing board shall notify a student of any delinquent tuition or fee payment as soon as practicable. The institution’s records may be adjusted to reflect the student’s failure to have properly enrolled for that semester or term.

*Education Code 54.007(d)*

A student may elect to pay the tuition and mandatory fees of the institution of higher education by installment under this section regardless of whether the student intends to apply a financial aid award administered by the institution toward the tuition and mandatory fees, except that a student whose financial aid award or awards are available to cover the total amount of tuition and mandatory fees may not pay by installment under this section.

On receipt of notice of a student’s election to pay tuition and mandatory fees by installment, the governing board of the institution shall apply any financial aid award administered for the student toward the amount of tuition and fees due for that semester or term until the tuition and mandatory fees are paid in full and shall immediately release any remaining amount of the award to the student, except that the institution is not required to apply the award or awards toward the total amount of tuition and mandatory fees in exigent circumstances as determined by the institution.

*Education Code 54.007(f)*

The governing board of an institution of higher education shall require a student who elects to pay tuition and mandatory fees by installment under Education Code 54.007 to enter into a written or electronic agreement reflecting the terms and conditions required by this section for the installment plan provided for the student by the governing board. *Education Code 54.007(g)*

If an institution’s financial aid office has awarded aid to a student but the institution, including a college district, has not received the relevant disbursements by the date that tuition and fees must be paid, the student’s aid is delayed. If the student agrees to assign to the institution a portion of the awards equal to the amount of tuition and fees to be met with financial aid payments, the governing board may postpone the due date for the portion of the tuition...
and/or tuition and fee payment that will be met through financial aid funds, and the hours to be paid for with the financial aid may be counted for formula funding purposes.

If, after the student's due date is postponed, the student becomes ineligible to receive one or more of the pending financial aid awards or the award amount is less than the amount of tuition and fees due, the governing board is to grant the student a repayment period for the unpaid amount that does not exceed 30 days, allows for multiple payments, if necessary, and entails a processing fee not to exceed five percent of the total amount to be collected.

An institution may deny academic credits for hours completed in the semester or term if the student fails to pay the full tuition and fee amount by the end of the 30-day repayment period.

*Education Code 54.0071(a); 19 TAC 21.4(b)*

A student paying tuition and fees by installments shall be granted the options of delayed payment if he or she is awaiting the disbursement of financial aid. *19 TAC 21.4(c)*

A community/junior college, as soon as practicable, shall at a minimum refund mandatory fees and tuition in excess of the minimum tuition collected for courses from which the students drop or withdraw, according to the following schedule. For courses that meet on what the college considers a regular schedule, class days refer to the number of calendar days the institution normally meets for classes, not the days a particular course meets. For courses that meet on an unusual or irregular schedule, the college may exercise professional judgment in defining a class day. The indicated percentages are to be applied to the tuition and mandatory fees collected for each course from which the student is withdrawing. The college may not delay a refund on the grounds that the student may withdraw from the institution or unit later in the semester or term. The institution may assess a nonrefundable $15 matriculation fee if the student withdraws from the institution before the first day of classes.

Coordinating Board-approved semester-length courses for which semester credit hours are awarded:

1. A 100 percent refund is to be made for courses dropped prior to the first class day.

2. During the fall or spring semester or comparable trimester:
   a. During the first 15 class days, 70 percent.
   b. During the 16th through 20th class days, 25 percent.
c. After the 20th class day, none.

3. Six-week summer semester:
   a. During the first five class days, 70 percent.
   b. During the sixth and seventh class days, 25 percent.
   c. After the seventh class day, none.

For flex entry and nonsemester-length courses with a census date other than the 12th class day (fourth class day for a six-week summer semester):

1. Prior to the first class day, 100 percent.
2. After classes begin (see the table below).

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<tr>
<th>Length of Class Term in Weeks</th>
<th>Last Day For 70 Percent Refund</th>
<th>Last Day For 25 Percent Refund</th>
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<tbody>
<tr>
<td>2 or less</td>
<td>2</td>
<td>N/A</td>
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<td>14</td>
<td>19</td>
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<td>16 or longer</td>
<td>15</td>
<td>20</td>
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A community/junior or technical college must follow the applicable refund policy outlined above for courses associated with any
program that is approved for Title IV federal funding. The institution may determine a refund policy for any other program.

Prior to the census date, community and technical colleges may allow hours to be dropped and re-added without penalty to the student if the exchange is an equal one. When the charges for dropped hours are greater than for the hours added, the refund policy outlined above is to be applied to the net charges being dropped. If the charges for hours being added exceed the charges for hours being dropped, the student must pay the net additional charges.

Separate withdrawal refund schedules may be established for optional fees such as intercollegiate athletics, cultural entertainment, parking, and yearbooks.

A community/junior or technical college shall refund tuition and fees paid by a sponsor, donor, or scholarship to the source rather than directly to the student who has withdrawn if the funds were made available through the institution.

19 TAC 21.5(a)–(e)

If a student withdraws from an institution of higher education because the student is called to active military service, the institution, at the student's option, shall refund the tuition and fees paid by the student for the semester in which the student withdraws. Education Code 54.006(f); 19 TAC 21.5(g) [See EGA for grading and credit options]

An institution of higher education, including a college district, that is required by Education Code Chapter 56, Subchapter B to set aside a portion of a student's tuition payments to provide financial assistance for students enrolled in the institution shall provide to each student of the institution who pays tuition from which a portion is required to be set aside for that purpose a notice regarding the specific amount that is required to be set aside by the institution.

The institution shall provide the notice to the student in a prominently printed statement that appears on or is included with:

1. The student's tuition bill or billing statement, if the institution provides the student with a printed bill or billing statement for the payment of the student's tuition; or

2. The student's tuition receipt, if the institution provides the student with a printed receipt evidencing the payment of the student's tuition.
If for any semester or other academic term the institution does not provide the student with a printed tuition bill, tuition billing statement, or tuition receipt, the institution shall include the notice for that semester or other term in a statement prominently displayed in an e-mail sent to the student. The notice may be included in any other e-mail sent to the student in connection with the student's tuition charges for that semester or other term.

The institution shall conform to the uniform standards prescribed by the commissioner.

*Education Code 56.014; 19 TAC 21.2232*

REPORTING

Each institution, including each 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. In reporting the types and amounts of tuition and fees charged to students, all institutions shall classify the tuition and fees according to the definitions of those terms provided in 19 Administrative Code 13.142. *19 TAC 13.143*

REPORT OF CERTAIN EXEMPTIONS

Until September 2013, the governing board of each institution of higher education shall electronically report to the Coordinating Board the information required by Education Code 61.0516 relating to each individual receiving an exemption from fees and charges under Education Code 54.341(a), (a–2), or (b). The institution shall report the information not later than December 31 of each year for the fall semester, May 31 of each year for the spring semester, and September 30 of each year for the summer session. *Education Code 54.341(h)*
TUITION AND FEES PSED PRIOR TO ATTENDING CLASSES

Admission of students to classes or laboratories shall be permissible only after a student’s tuition, fees, and deposits are paid in full or payment is approved under an installment plan or by a valid contract. Payment of tuition, fees, and deposits may be made by cash, check, and credit cards authorized by the College District.

Checks shall be accepted subject to final payment by the bank upon which the check is drawn. A fee to be determined by the administration shall be charged for all returned checks. Reimbursement for returned checks shall be made by cash or money order only.

A student failing to make payment or exercise his or her due process rights within ten days of notification or attempted notification by the business office may be dropped from all classes, official records may be restricted, and prosecution may be initiated.

Textbooks and other required instructional materials shall not be included in the tuition and fee schedule.

TUITION AND FEE SCHEDULE

A student enrolling in the College District for any number of credit hours during the fall and spring semesters may pay tuition and fees according to the schedule posted in the business office and as stipulated by state requirements.

FINANCIAL AID / INSTALLMENT PLAN

If a student receiving financial aid or a scholarship chooses an installment plan, he or she shall be required to sign a promissory note upon payment of the first installment. A processing fee shall be assessed at this time. Late fees and reinstatement fees may also be charged if future installment payments are not made.

ADULT 65 YEARS OLD OR OLDER

An adult citizen who is 65 years of age or older may enroll, at no tuition cost, in any six hours of credit courses per semester on a space-available basis. Other fees and instructional materials shall still be required.

WAIVER OF NONRESIDENT TUITION

As authorized by law, the Board shall allow a person who resides outside of the College District and who owns property subject to ad valorem taxation by the College District to pay resident tuition rather than nonresident tuition rates.

A high school student enrolled in dual credit courses who attends high school in an independent school district outside the three-county taxing district (Camp, Morris, and Titus) shall pay resident tuition rather than nonresident tuition rates. Residency status shall be verified by a letter generated from official letterhead of the high school the student attends.
TUITION AND FEE EXEMPTIONS AND WAIVERS

State statutes include several required or optional tuition and fee exemptions and waivers, including:

- **Education Code 51.9112**: Reserve Officers’ Training Corps (ROTC) Program: Fees
- **Education Code 54.010**: Reduction in Tuition to Increase Course Loads or Retention and Graduation Rates
- **Education Code 54.2031**: Dependent Children of Residents Who are Members of Armed Forces Deployed on Combat Duty
- **Education Code 54.206**: Foreign Service Officers
- **Education Code 54.211**: Faculty and Dependents
- **Education Code 54.212**: Teaching or Research Assistant
- **Education Code 54.213**: Scholarship Student
- **Education Code 54.216**: Students Enrolled in Course for Concurrent High School and College-Level Credit; Optional Waiver
- **Education Code 54.217**: Students Enrolled in Fully Funded Courses; Optional Waiver
- **Education Code 54.218**: Distance Learning or Off-Campus Courses; Optional Waiver
- **Education Code 54.222**: Economic Development and Diversification
- **Education Code 54.223**: Tuition Rates for Olympic Athletes at Texas Southmost College
- **Education Code 54.225**: Students Enrolled in Non-Semester-Length Developmental Education Interventions
- **Education Code 54.231**: Resident of Bordering State or Nation or Participant in Student Exchange Program: Tuition
- **Education Code 54.232**: NATO Agreement
- **Education Code 54.241**: Military Personnel and Dependents
- **Education Code 54.261**: Designated Tuition; Hardship; Optional Waiver
- **Education Code 54.262**: Student Services Fees; Optional Waiver
- **Education Code 54.263**: Students 55 Years of Age or Older; Optional Waiver
- **Education Code 54.301**: Highest Ranking High School Graduates; Optional Exemption
- **Education Code 54.331**: Students from Other Nations of the American Hemisphere
- **Education Code 54.341**: Veterans and Other Military Personnel; Dependents
- **Education Code 54.342**: Prisoners of War
<table>
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<tr>
<th>Education Code</th>
<th>Description</th>
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<tr>
<td>54.343</td>
<td>Children of Prisoners of War or Persons Missing in Action</td>
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<tr>
<td>54.344</td>
<td>Participants in Military Funerals</td>
</tr>
<tr>
<td>54.345</td>
<td>Assistance for Tuition and Fees for Members of State Military Forces</td>
</tr>
<tr>
<td>54.351</td>
<td>Children of Disabled Firefighters and Law Enforcement Officers</td>
</tr>
<tr>
<td>54.352</td>
<td>Disabled Peace Officers, Optional Exemption</td>
</tr>
<tr>
<td>54.353</td>
<td>Firefighters Enrolled in Fire Science Courses</td>
</tr>
<tr>
<td>54.3531</td>
<td>Peace Officers Enrolled in Certain Courses</td>
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<tr>
<td>54.354</td>
<td>Education Benefits for Certain Survivors</td>
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<tr>
<td>54.355</td>
<td>Children of Professional Nursing Program Faculty</td>
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<td>54.356</td>
<td>Preceptors for Professional Nursing Education Programs</td>
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<td>54.361</td>
<td>One-Year Exemption for Certain TANF Students</td>
</tr>
<tr>
<td>54.363</td>
<td>Educational Aides</td>
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<tr>
<td>54.364</td>
<td>Blind, Deaf Students</td>
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<tr>
<td>54.365</td>
<td>Senior Citizens; Optional Benefit</td>
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<tr>
<td>54.366</td>
<td>Exemptions for Students Under Conservatorship of Department of Family and Protective Services</td>
</tr>
<tr>
<td>54.367</td>
<td>Exemptions for Adopted Students Formerly in Foster or Other Residential Care</td>
</tr>
<tr>
<td>54.368</td>
<td>Interinstitutional Academic Programs; Optional Exemption</td>
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<tr>
<td>54.5025</td>
<td>Proration of Fees</td>
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<tr>
<td>54.5035</td>
<td>Waiver of Fees</td>
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<td>130.0032</td>
<td>Tuition for Students Residing Outside of the College District</td>
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<td>130.008</td>
<td>Courses for Joint High School and Junior College Credit</td>
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<td>130.0081</td>
<td>Agreement with Junior College District</td>
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<tr>
<td>130.085</td>
<td>Tuition Exemption</td>
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<tr>
<td>130.0851</td>
<td>Tuition Exemption for College District Employees</td>
</tr>
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</table>
Each institution, including each college district, shall designate an individual who is employed by the institution as a Residence Determination Official who shall be knowledgeable of the requirements set out in 19 Administrative Code Chapter 21, Subchapter B and the applicable statutes. 19 TAC 21.29

“Census date” means the date in an academic term on which an institution of higher education, including a college district, is required to certify a student’s enrollment to the Coordinating Board for purposes of determining formula funding for the institution. Education Code 54.0501(1); 19 TAC 21.22(1)

“Clear and convincing evidence” means that degree of proof that will produce a firm conviction or a firm belief as to the facts sought to be established. The evidence must justify the claim both clearly and convincingly. 19 TAC 21.22(2)

“Dependent” means a person who:

1. Is less than 18 years of age and has not been emancipated by marriage or court order; or
2. Is eligible to be claimed as a dependent of a parent of the person for purposes of determining the parent’s income tax liability under the Internal Revenue Code of 1986.

Education Code 54.0501(2); 19 TAC 21.22(5)

“Domicile” means a person’s principal, permanent residence to which the person intends to return after any temporary absence. Education Code 54.0501(3); 19 TAC 21.22(6)

“Established domicile in Texas” means physically residing in Texas with the intent to maintain domicile in Texas for at least the 12 consecutive months immediately preceding the census date of the term of enrollment, allowing for documented temporary absences. 19 TAC 21.22(10)

“Maintain domicile” means to physically reside in Texas such that the person intends to always return to the state after a temporary absence. The maintenance of domicile is not interrupted by a temporary absence from the state, as provided in 19 Administrative Code 21.22(30). 19 TAC 21.22(16)

“Parent” means a natural or adoptive parent, managing or possessory conservator, or legal guardian of a person. The term would not otherwise include a step-parent. Education Code 54.0501(5); 19 TAC 21.22(21)

“Regular semester” means a fall or spring semester, typically consisting of 16 weeks. 19 TAC 21.22(25)
“RESIDENCE”  “Residence” means a person’s home or other dwelling place. Education Code 54.0501(6); 19 TAC 21.22(26)

“TEMPORARY ABSENCE”  “Temporary absence” means an absence from the state of Texas by a person who has established domicile in the state, with the intention to return, generally for a period of less than five years.

For example, the temporary absence of a person or a dependent’s parent from the state for the purpose of service in the U.S. Armed Forces, U.S. Public Health Service, U.S. Department of Defense, U.S. Department of State, as a result of an employment assignment, or for educational purposes, shall not affect a person’s ability to continue to claim that Texas is his or her domicile.

19 TAC 21.22(31)

RESIDENTS  Subject to the other applicable provisions of Education Code Chapter 54, Subchapter B governing the determination of resident status, the following persons are considered residents of this state for purposes of Education Code Title 3:

1.  A person who:
   a.  Established a domicile in this state not later than one year (12 months) before the census date of the academic term in which the person is enrolled in an institution, including a college district; and
   b.  Maintained that domicile continuously in the state for the year (12 months) immediately preceding the census date of the academic semester in which the person enrolls in an institution.

Education Code 54.052(a); 19 TAC 21.24(a)(2)

If a person applies for resident status under this provision, the person shall submit the following information to an institution of higher education to establish resident status under Education Code Chapter 54, Subchapter B:

a.  A statement of the dates and length of time the person has resided in this state, as relevant to establish resident status; and
b.  A statement by the person that the person’s presence in this state for that period was for a purpose of establishing and maintaining a domicile.

Education Code 54.053(1)

2.  A dependent whose parent:
a. Established a domicile in this state not later than one year (12 months) before the census date of the academic term in which the dependent is enrolled in an institution of higher education; and

b. Maintained that domicile continuously for the year (12 months) immediately preceding the census date of the academic semester in which the person enrolls in an institution.

_Education Code 54.052(a)(2); 19 TAC 21.24(a)(3)_

If a person applies for resident status under this provision, the person shall submit the following information to an institution of higher education to establish resident status under Education Code Chapter 54, Subchapter B:

c. A statement of the dates and length of time any parent of the person has resided in this state, as relevant to establish resident status; and

d. A statement by the parent or, if the parent is unable or unwilling to provide the statement, a statement by the person that the parent’s presence in this state for that period was for a purpose of establishing and maintaining a domicile.

_Education Code 54.053(2)_

3. A person who:

a. Graduated from a public or accredited private high school in this state or, as an alternative to high school graduation, received the equivalent of a high school diploma in this state, including the successful completion of a nontraditional secondary education; and

b. Maintained a residence continuously in this state for:

(1) The three years (36 months) immediately preceding the date of graduation or receipt of the diploma equivalent, as applicable; and

(2) The year (12 months) preceding the census date of the academic term in which the person is enrolled in an institution.

_Education Code 54.052(a)(3); 19 TAC 21.24(a)(1)_

If a person applies for resident status under this provision, the person shall submit the following information to an institution of higher education to establish resident status under Education Code Chapter 54, Subchapter B:
c. A statement of the dates and length of time the person has resided in this state, as relevant to establish resident status; and

d. If the person is not a citizen or permanent resident of the United States, an affidavit stating that the person will apply to become a permanent resident of the United States as soon as the person becomes eligible to apply. An affidavit signed by a person enrolled and classified during any part of the 2011–12 academic year or later must be retained in a paper or electronic format permanently by the institution or until the student (current and former) provides proof that the student has applied for permanent resident status.

Education Code 54.053(3); 19 TAC 21.25(a)(1)(B), (c), .30(a), (c)

For purposes of this section, the domicile of a dependent’s parent is presumed to be the domicile of the dependent unless the person establishes eligibility for resident status under the third option. Education Code 54.052(b); 19 TAC 21.24(d)

NON-CITIZENS

Non-U.S. citizens are eligible to establish and maintain domicile in this state for the numbered provisions above in accordance with 19 Administrative Code 21.24(c). 19 TAC 21.24(c)

A public or independent institution of higher education that enrolls and classifies a person who is not a Citizen or Permanent Resident of the United States as a resident under provision 3 during any part of the 2011–12 academic year or later shall instruct such students upon admission, annually while the students are enrolled, and upon graduation of their obligation to apply for Permanent Resident status as soon as eligible to do so and refer students to the appropriate federal agency for instructions on how to achieve such status. 19 TAC 21.30(b)–(c)

PRESUMPTION OF RESIDENT STATUS

A member of the U.S. Armed Services whose home of record with the military is Texas is presumed to be a Texas resident, as are his or her spouse and dependent children. A member whose home of record is not Texas but who provides the institution leave and earnings statements that show the member has claimed Texas as his or her place of residence for the 12 consecutive months prior to enrollment is presumed to be a Texas resident, as are his or her spouse and dependent children. 19 TAC 21.24(h)

EVIDENCE OF RESIDENT STATUS

To initially establish resident status under 19 Administrative Code 21.24, a person who qualifies for residency shall provide the institution with a completed set of Core Residency Questions. A
person who qualifies for residency under 19 Administrative Code 21.24(a)(1) and who is not a Citizen of the United States or a Permanent Resident of the United States shall, in addition to the other requirements of this section, provide the institution, including a college district, with a signed affidavit in the form provided in 19 Administrative Code 21.25 Chart I stating that the person will apply to become a Permanent Resident of the U.S. as soon as the person becomes eligible to apply.

An institution may request that a person provide documentation to support or clarify the answers to the Core Residency Questions. Appropriate documents are not limited to those listed in 19 Administrative Code 21.25 Chart II. In addition, the institution may request documents that support the information the student may provide in the Core Residency Questions, Section H.

An institution shall not impose any requirements in addition to the requirements established in this section for a person to establish resident status.

*Education Code 54.075(b); 19 TAC 21.25*

Although not conclusive or exhaustive, the following factors occurring throughout at least 12 consecutive months immediately preceding the census date of the semester in which a person seeks to enroll may lend support to a claim regarding the person’s intent to establish and maintain domicile in Texas:

1. Sole or joint marital ownership of residential real property in Texas by the person seeking to enroll or the dependent’s parent, having established and maintained domicile at that residence;

2. Ownership and customary management of a business, by the person seeking to enroll or the dependent’s parent, in Texas that is regularly operated without the intention of liquidation for the foreseeable future;

3. Gainful employment in Texas by the person seeking to enroll or the dependent’s parent; and

4. Marriage, by the person seeking to enroll or the dependent’s parent, to a person who has established and maintained domicile in Texas.

An individual whose initial purpose for moving to Texas is to attend an institution of higher education as a full-time student will be presumed not to have the required intent to make Texas his or her domicile; however, the presumption may be overruled by clear and convincing evidence.
An individual shall not ordinarily be able to establish domicile by performing acts that are directly related to fulfilling educational objectives or that are required or routinely performed by temporary residents of the state.

19 TAC 21.24(e)–(g)

**BURDEN OF PROOF**

The student has the burden of proof to show by clear and convincing evidence that residence or domicile, as appropriate, has been established and maintained.  19 TAC 21.24(b)

**CONTINUING RESIDENT STATUS**

A person classified by an institution of higher education, including a college district, as a resident of this state under Education Code Chapter 54, Subchapter B is entitled, without submitting the information required by Education Code 54.053, to be classified as a resident by that institution in each subsequent academic term in which the person enrolls.

A person classified by an institution of higher education as a resident is entitled, without submitting the information required by Education Code 54.053 to the subsequent institution, to be classified as a resident by another institution of higher education in which the person subsequently enrolls.

*Education Code 54.054(a)–(b)*

A person who was enrolled in an institution for any part of the previous state fiscal year and who was classified as a resident of this state under Education Code Chapter 54, Subchapter B in the last academic period of that year for which the person was enrolled is considered to be a resident of this state for purposes of Subchapter B, as of the beginning of the following fall semester. If an institution acquires documentation that a person is a continuing student who was classified as a residence at the previous institution, no additional documentation is required. The person is not required to complete a new set of Core Questions.

A person who has established resident status under Subchapter B is entitled to pay resident tuition in each subsequent academic semester in which the person enrolls at any institution.

19 TAC 21.26(a)–(b)

**BREAK IN ENROLLMENT**

To be classified as a resident on that enrollment, a person who enrolls in an institution of higher education after two or more consecutive regular semesters during which the person is not enrolled in an institution of higher education must submit the information required by Education Code 54.053 and 19 Administrative Code 21.25 and satisfy all applicable requirements to establish resident status for that enrollment. If the person is
classified as a resident on that enrollment, Education Code 54.054(a) and (b) apply to the person in a subsequent academic term.  *Education Code 54.054(c); 19 TAC 21.26(c)*

**ADDITIONAL OR CHANGED INFORMATION**

If a person is initially classified as a nonresident based on information provided through the set of Core Residency Questions, the person may request reclassification by providing the institution, including a college district, with supporting documentation as described in 19 Administrative Code 21.25 Chart II. A person shall provide the institution with any additional or changed information that may affect his or her resident or nonresident tuition classification.

An institution may reclassify a person who had previously been classified as a resident or nonresident based on additional or changed information provided by the person. Any change made under this section shall apply to the first succeeding semester in which the person is enrolled, if the change is made on or after the census date of that semester. If the change is made prior to the census date, it will apply to the current semester.  

*Education Code 54.055; 19 TAC 21.27*

**ERRORS IN CLASSIFICATION**

If an institution of higher education, including a college district, erroneously classifies a person as a resident of this state and the person is not entitled or permitted to pay resident tuition under Education Code Chapter 54, Subchapter B, the institution of higher education shall charge nonresident tuition to the person beginning with the first academic term that begins after the date the institution discovers the error. *Education Code 54.056; 19 TAC 21.28 [See FD(LEGAL)]*

If an institution erroneously classified a person as a resident of this state and the person is entitled or permitted to pay resident tuition, that person is not liable for the difference between resident and nonresident tuition under this section.  *19 TAC 21.28(d)*
The College District shall include residency questions and an oath of residency in its student application process.

The Board shall designate a residence determination official for the College District. The legal residence of each applicant, for tuition purposes, shall be determined by the residence determination official in accordance with procedures adopted for that purpose to comply with state law.

The residence classification of a student shall be determined by the student’s legal residence as defined by the state of Texas. Legal residence in the College District cannot be established by moving into the College District for the specific purpose of attending the College District. Under the provisions of state law, a student shall be classified as follows:

1. In-District— a student who is a legal resident of the state of Texas and qualifies as a legal resident of the College District. The student must be a legal resident of the state and must have lived in the College District’s boundaries for 90 days prior to the beginning of the semester. Proof of residence shall be required.

2. Out-of-District— a student who is a legal resident of the state but who lives outside of the College District’s boundaries.

3. Out-of-State— a student who is a U.S. citizen but who is not a legal resident of the state of Texas.

4. International— a student who is a non-immigrant alien.

To qualify as a resident for tuition purposes, a student shall provide documents indicating that he or she has lived in Texas for the 12 consecutive months immediately prior to registration and must indicate that residence in Texas is for purposes other than completing an education.

If a student is claimed by his or her parents as a dependent for federal income tax purposes, the student’s residence shall be considered the same as the student’s parents. In this case, the student shall provide copies of income tax returns for the last two years showing the student as a dependent, along with other documentation of the parents’ residence in Texas for the last 12 months.

Information on documents acceptable for verification of resident status shall be available from the Office of Recruitment and Admissions.
An individual may not receive a loan, grant, scholarship, or other financial assistance funded by state revenue, including federal funds or gifts and grants accepted by this state, or receive a student loan guaranteed by this state or the Texas Guaranteed Student Loan Corporation, unless the individual files a statement of the individual’s selective service status with the institution or other entity granting or guaranteeing the financial assistance as required by this section.

This section does not apply to:

1. A female individual if females are not subject to general selective service registration under federal law; or
2. An individual older than the maximum age at which an individual is required to be registered with the selective service system under federal law.

The statement of an individual’s selective service status required by this section must require the individual to certify that the individual:

1. Has registered with the selective service system as required by federal law; or
2. Is exempt from selective service registration under federal law.

If an individual files a statement indicating that the individual is registered with the selective service system as required by federal law, the individual is not required to file a statement of the individual’s selective service status the next time the individual makes an application to the same entity for financial assistance or a student loan guarantee. If an individual files a statement indicating that the individual is not required to register with the selective service system, the institution or other entity shall require the individual to file a new statement of the individual’s selective service status the next time the individual makes an application to the entity for financial assistance or a student loan guarantee.

*Education Code 51.9095(a)–(d)*

A person is not eligible to receive a scholarship originating from and administered by an institution of higher education, including a college district, or university system if the person is related to a current member of the governing board of the institution or system, unless:
1. The scholarship is granted by a private organization or third party not affiliated with the institution of higher education or university system;

2. The scholarship is awarded exclusively on the basis of prior academic merit;

3. The scholarship is an athletic scholarship; or

4. The relationship is not within the third degree by consanguinity or the second degree by affinity, as determined under Government Code Chapter 573, Subchapter B [see DBE].

*Education Code 51.969(b)*

Before receiving a scholarship originating from and administered by an institution of higher education or university system, a person must file a written statement with the institution or system indicating whether the person is related within the third degree by consanguinity or the second degree by affinity to a current member of the governing board of the institution or system.

A person commits a Class B misdemeanor if the person knowingly files a false statement.

*Education Code 51.969(c), (e)–(f)*

Each institution of higher education, including each college district, shall ensure that one or more persons employed by the institution is trained:

1. In understanding state and federal student financial assistance programs available to military veterans or their family members, especially programs specifically applicable to military veterans or their family members; and

2. In assisting military veterans and eligible family members in understanding and obtaining the benefits available under those programs.

The employee must be available to assist military veterans and eligible family members during regular business hours at the financial aid or other office to which the person is assigned.

*Education Code 56.006*

Each institution of higher education, including each college district, that receives federal funds under 20 U.S.C. Chapter 28, Subchapter IV and 42 U.S.C. Chapter 34, Subchapter I, Part C shall make publicly available on the institution's Web site a net price calculator to help current and prospective students, families, and other consumers estimate a student's individual net price at such institution.
of higher education. Such calculator may be a net price calculator developed by the U.S. Department of Education; or by the institution of higher education, if the institution’s calculator includes, at a minimum, the same data elements included in the calculator developed under 20 U.S.C. 1015a(h)(1).

Estimates of an individual net price determined using the net price calculator shall be accompanied by a clear and conspicuous notice:

1. Stating that the estimate does not represent a final determination or actual award of financial assistance; shall not be binding on the U.S. Secretary of Education, the institution of higher education, or the state; and may change;

2. Stating that the student must complete the Free Application for Federal Student Aid (FAFSA) in order to be eligible for, and receive, an actual financial aid award that includes federal grant, loan, or work-study assistance under 20 U.S.C. Chapter 28, Subchapter IV and 42 U.S.C. Chapter 34, Subchapter I, Part C; and

3. Including a link to the Web site of the U.S. Department of Education that allows students to access the FAFSA.

20 U.S.C. 1015a(h)(3)–(4)

An institution of higher education, including each college district, that receives federal funding, or an institution-affiliated organization of such covered institution, that participates in a preferred lender arrangement shall disclose the information described in 20 U.S.C. 1019a.

An institution of higher education that receives federal funding, or an institution-affiliated organization of such covered institution, that provides information regarding a private education loan from a lender to a prospective borrower shall provide the information described in 20 U.S.C. 1019a.

20 U.S.C. 1019(2), 1019a(a)

In providing financial assistance to qualified disabled persons, a recipient of federal financial assistance may not:

1. On the basis of disability, provide less assistance than is provided to nondisabled persons, limit eligibility for assistance, or otherwise discriminate; or

2. Assist any entity or person that provides assistance to any of
the recipient's students in a manner that discriminates against qualified disabled persons on the basis of disability.

34 C.F.R. 104.46(a)(1)

A recipient may administer or assist in the administration of scholarships, fellowships, or other forms of financial assistance established under wills, trusts, bequests, or similar legal instruments that require awards to be made on the basis of factors that discriminate or have the effect of discriminating on the basis of disability only if the overall effect of the award of scholarships, fellowships, and other forms of financial assistance is not discriminatory on the basis of disability. 34 C.F.R. 104.46(a)(2)

DISCRIMINATION ON THE BASIS OF SEX

Except as provided in 34 C.F.R. 106.37(b) and (c), in providing financial assistance to any of its students, a recipient shall not:

1. On the basis of sex, provide different amounts or types of such assistance, limit eligibility for such assistance that is of any particular type or source, apply different criteria, or otherwise discriminate;

2. Through solicitation, listing, approval, provision of facilities or other services, assist any foundation, trust, agency, organization, or person that provides assistance to any of such recipient's students in a manner that discriminates on the basis of sex; or

3. Apply any rule or assist in application of any rule concerning eligibility for such assistance that treats persons of one sex differently from persons of the other sex with regard to marital or parental status.

34 C.F.R. 106.37(a)

The College District shall offer a comprehensive program of financial aid to eligible College District students. Information regarding available financial aid programs, program requirements, student eligibility, application procedures, and other relevant information shall be published in the College District catalog or other College District publications as appropriate.
LIST OF WORK-STUDY EMPLOYMENT OPPORTUNITIES

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

1. Establish and maintain an online list of work-study employment opportunities, sorted by department as appropriate, available to students on the institution’s campus.

2. Ensure that the list is easily accessible to the public through a clearly identifiable link that appears in a prominent place on the financial aid page of the institution’s Internet Web site.

Education Code 56.080; 19 TAC 4.229

DISCRIMINATION ON THE BASIS OF SEX

A recipient of federal funding that assists any agency, organization, or person in making employment available to any of its students shall assure itself that such employment is made available without discrimination on the basis of sex; and shall not render such services to any agency, organization, or person that discriminates on the basis of sex in its employment practices.

A recipient that employs any of its students shall not do so in a manner that violates 34 C.F.R. Part 106, Subpart E.

34 C.F.R. 106.38
The College District shall not offer health services and shall not assume responsibility for costs of hospitalization or special health care, such as consultations with specialists, nursing care, surgical operations, or dental treatments. The next of kin may be notified in uncertain or emergency situations or in the case of serious illness. Students may be transported to a general hospital or transported by ambulance at their own expense when, in the opinion of College District officials, such action is necessary.
GENERALLY

An institution of higher education, including a college district, may require applicants for admission to be immunized against diphtheria, rubella, rubella, mumps, tetanus, and poliomyelitis.

The Texas Department of State Health Services (DSHS) may require immunizations against the diseases listed above. As described below, DSHS requires immunizations against additional diseases for students at any institution of higher education who are pursuing a course of study in a human or animal health profession.

An institution of higher education shall comply with any modifications or deletions in this requirement that may be made by DSHS.

Education Code 51.933; 25 TAC 97.64(a), (d)

EXCEPTIONS

No form of immunization is required for a person's admission to an institution of higher education if the person applying for admission:

1. Submits to the admitting official:

   a. An affidavit or a certificate signed by a physician (M.D. or D.O.) duly registered and licensed to practice medicine in the United States who has examined the student, in which it is stated that, in the physician's opinion, the immunization required is medically contraindicated or poses a significant risk to the health and well-being of the student or any member of the student's household. Unless it is written in the statement that a lifelong condition exists, the exemption statement is valid for only one year from the date signed by the physician; or

   b. An affidavit signed by the student or, if a minor, the student's parent or guardian stating that the student declines immunization for reasons of conscience, including a religious belief. The affidavit will be valid for a two-year period.

      The affidavit must be on a form provided by DSHS as described by Health and Safety Code 161.0041 and must be submitted to the admitting official not later than the 90th day after the date the affidavit is notarized.

      This exception does not apply in a time of emergency or epidemic declared by the commissioner of state health services; or

2. Is a member of the armed forces of the United States and is on active duty.

   Education Code 51.933(d)–(e); Health and Safety Code 161.0041; 25 TAC 97.62
Notwithstanding the other requirements in 25 Administrative Code 97.64, a student may be provisionally enrolled in the health-related courses if the student has received at least one dose of each specified vaccine prior to enrollment and goes on to complete each vaccination series on schedule in accordance with the Centers for Disease Control and Prevention's Recommended Adult Immunization Schedule as approved by the Advisory Committee on Immunization Practices (ACIP), American College of Obstetricians and Gynecologists (ACOG), the American Academy of Family Physicians (AAFP), and the American College of Physicians. However, the provisionally enrolled student may not participate in coursework activities involving the contact described in 25 Administrative Code 97.64(a) and/or 25 Administrative Code 97.64(d) until the full vaccination series has been administered.

Students who claim to have had the complete series of a required vaccination, but have not properly documented them, cannot participate in coursework activities involving the contact described in 25 Administrative Code 97.64(a) and/or 25 Administrative Code 97.64(d) until such time as proper documentation has been submitted and accepted.

The immunization requirements in 25 Administrative Code 97.64(b) and 25 Administrative Code 97.64(d) [see REQUIRED IMMUNIZATIONS OF CERTAIN STUDENTS, STUDENTS IN HEALTH-RELATED COURSES and VETERINARY STUDENTS, below] are not applicable to individuals who can properly demonstrate proof of serological confirmation of immunity. Vaccines for which this may be potentially demonstrated, and acceptable methods for demonstration, are found in 25 Administrative Code 97.65 (relating to EXCEPTIONS TO IMMUNIZATION REQUIREMENTS (VERIFICATION OF IMMUNITY/HISTORY OF ILLNESS)). Such a student cannot participate in coursework activities involving the contact described in 25 Administrative Code 97.64(a) until such time as proper documentation has been submitted and accepted.

25 TAC 97.64(c)


Vaccines administered after September 1, 1991, shall include the month, day, and year each vaccine was administered. Documentation of vaccines administered that include the signature or stamp of the physician or his or her designee, or public health personnel, is acceptable.
An official immunization record generated from a state or local health authority is acceptable.

An official record received from school officials including a record from another state is acceptable.

All schools are required to maintain immunization records sufficient for a valid audit to be completed.

25 TAC 97.67–.68

ANNUAL REPORT OF IMMUNIZATION STATUS

Schools shall submit annual reports of the immunization status of students, in a format prescribed by DSHS, to monitor compliance with these requirements. 25 TAC 97.71

REQUIRED IMMUNIZATIONS OF CERTAIN STUDENTS

Students enrolled in health-related higher education courses that will involve direct patient contact with potential exposure to blood or bodily fluids in educational, medical, or dental care facilities must have all the following vaccinations before they may engage in the course activities described in 25 Administrative Code 97.64(a):

1. One dose of a tetanus-diphtheria toxoid (Td) is required within the last ten years. The booster dose may be in the form of a tetanus-diphtheria-pertussis containing vaccine (Tdap).

2. Students born on or after January 1, 1957, must show, prior to patient contact, acceptable evidence of vaccination of two doses of a measles-containing vaccine administered since January 1, 1968, preferably MMR vaccine.

Students born on or after January 1, 1957, must show, prior to patient contact, acceptable evidence of vaccination of one dose of a mumps vaccine.

Students must show, prior to patient contact, acceptable evidence of one dose of rubella vaccine.

3. Students are required to receive a complete series of hepatitis B vaccine prior to the start of direct patient care or show serologic confirmation of immunity to hepatitis B virus.

4. Each student is required to have received one dose of varicella (chicken pox) vaccine on or after the student's first birthday or, if the first dose was administered on or after the student's 13th birthday, two doses of varicella (chicken pox) vaccine are required. A written statement from a parent, legal guardian, managing conservator, school nurse, or physician attesting to a child's positive history of varicella disease (chicken pox) or varicella immunity is acceptable in lieu of a vaccine record for
that disease. [See the form on DSHS’s website at http://www.dshs.state.tx.us/immunize/docs/c-9.pdf]

**Education Code 51.933; 25 TAC 97.64(a)–(b), .65(b)**

**VETERINARY STUDENTS**

**Rabies Vaccine**

Students enrolled in schools of veterinary medicine whose coursework involves direct contact with animals or animal remains shall receive a complete primary series of rabies vaccine prior to such contact. Serum antibody levels must be checked every two years, with a booster dose of rabies vaccine administered if the titer is inadequate according to current Centers for Disease Control and Prevention guidance.

**Hepatitis B Vaccine**

A complete series of hepatitis B vaccine prior to such contact. This requirement only applies to students enrolled in a course of study that involves potential exposure to human or animal blood or bodily fluids.

*Education Code 51.933; 25 TAC 97.64(d)*

**ADDITIONAL REQUIREMENTS**

Under Health and Safety Code Chapter 81, Subchapter E, additional vaccinations may be required by DSHS and/or the local health authority in specific situations under the mechanism of a control order containing control measures. *25 TAC 97.72*

**Bacterial Meningitis**

This section applies only to an entering student at an institution of higher education or private or independent institution of higher education. “Entering student” includes:

1. **New student**—a first-time student of an institution of higher education or private or independent institution of higher education, including a student who transfers to the institution from another institution of higher education. A student who was previously exempt under 19 Administrative Code 21.614(a)(2)–(5) will be treated as a new student, should the exception no longer apply.

2. **Returning student**—a student who previously attended an institution of higher education or private or independent institution of higher education before January 1, 2012, and who is enrolling in the same or another institution of higher education or private or independent institution of higher education following a break in enrollment of at least one fall or spring semester.

*Education Code 51.9192(b); 19 TAC 21.612(1)*

**DEFINITIONS**

“Health practitioner” means any person authorized by law to administer an immunization. *Education Code 51.9192(a)(1); 19 TAC 21.612(3)*
“Online and other distance education course” means a course in which the instructor and students are not in the same location. An online course typically involves web-based instruction but might also include correspondence instruction. An online or other distance education course that includes a face-to-face component, including meeting in a testing laboratory with other students, or meeting in a classroom to receive interactive video instruction, does not qualify as an online or other distance education course.  

19 TAC 21.612(6)

A student to whom this section applies or a parent or guardian of the student must provide to the institution a certificate signed by a health practitioner or an official immunization record evidencing that the student has received a bacterial meningitis vaccination dose or booster during the five-year period preceding and at least ten days prior to the first day of the first semester in which the student initially enrolls at an institution, or following a break in enrollment of at least one fall or spring semester at the same or another institution.

A student is not required to submit evidence of receiving the vaccination against bacterial meningitis or evidence of receiving a booster dose if:

1. The student is 22 years of age or older by the first day of the start of the semester;
2. The student is enrolled only in online or other distance education courses;
3. The student is enrolled in a continuing education course or a program that is less than 360 contact hours or continuing education corporate training;
4. The student is enrolled in a dual credit course that is taught at a public or private kindergarten–grade 12 facility not located on a higher education institution campus; or
5. The student is incarcerated in a Texas prison.

Education Code 51.9192(b)–(c); 19 TAC 21.613(a), .614(a)

A student to whom this section applies or a parent or guardian of the student is not required to comply with immunization requirement if the student or a parent or guardian of the student submits to the institution:

1. An affidavit or a certificate signed by a physician who is duly registered and licensed to practice medicine in the United States in which it is stated that, in the physician's opinion, the
vaccination required would be injurious to the health and well-being of the student;

2. An affidavit signed by the student stating that the student declines the vaccination for bacterial meningitis for reasons of conscience, including a religious belief. A conscientious exemption form from the DSHS must be used for students attending a public university, health-related institution, or private or independent institution of higher education. The form must be submitted to the designated department or unit no later than the 90th day after the date the affidavit is notarized; or

3. Evidence of submitting a conscientious objection form through a secure, Internet-based process developed and implemented by the DSHS. The Internet form may be used by entering students attending a public junior college. Public junior colleges may use the Internet-based process as the exclusive method to apply for an exemption from the vaccination requirement for reasons of conscience.

The exemption noted at paragraphs 2 and 3, above, does not apply during a disaster or public health emergency, terrorist attack, hostile military or paramilitary action, or extraordinary law enforcement emergency declared by an appropriate official or authority from the DSHS and in effect for the location of the college district the student attends.

*Education Code 51.9192(d–5)(d–6); 19 TAC 21.614(b)–(c)*

**NOTIFICATION AT REGISTRATION**

Each institution of higher education shall provide, with the registration materials that the institution provides to a student to whom this section applies before the student’s initial enrollment in the institution, written or electronic notice of the right of the student or of a parent or guardian of the student to claim an exemption from the vaccination requirement in the manner prescribed above and of the importance of consulting a physician about the need for immunization to prevent the disease. *Education Code 51.9192(d–6); 19 TAC 21.613(d)*

**DESIGNATION OF OFFICIAL**

Each institution of higher education must designate a department or unit to receive from the student evidence of receipt of an initial bacterial meningitis vaccination dose or booster during the five-year period preceding and at least ten days prior to the first day of the first semester in which the student initially enrolls at an institution, or following a break in enrollment of at least one fall or spring semester at the same or another institution. *19 TAC 21.613(b)*
Evidence of the student having received the vaccination from an appropriate health practitioner must be received by the designated department or unit.

Acceptable evidence of vaccination or receiving a booster dose includes:

1. The signature or stamp of a physician or the physician’s designee or public health personnel on a form that shows the month, day, and year the vaccination dose or booster was administered;

2. An official immunization record generated from a state or local health authority; or

3. An official record received from school officials, including a record from another state.

This information shall be maintained in accordance with Family Educational Rights and Privacy Act Regulations, and with the Health Insurance Portability and Accountability Act.

19 TAC 21.613(c)

Under justifiable circumstances, an administrative official of the designated department or unit of the institution may grant extensions to individual students to extend the compliance date to no more than ten days after the first day of the semester or other term in which the student initially enrolls. 19 TAC 21.613(e)
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)*

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 (TDSHS) and shall include in the student handbook a statement that the pamphlet is available. *Education Code 51.919(c)*

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)*

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
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 TDSHS.

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 department a suspected case of a reportable disease, as defined by state law and the TDSHS, 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)_

If there is no local health authority appointed for the jurisdiction where the school is located, the report shall be made to the TDSHS regional director. Public health emergencies shall be reported to TDSHS’s central office if the local health authority or
TDSHS's regional director is not immediately accessible. 25 TAC 97.5(a);

Note: For a list of reportable diseases, visit TDSHS Infectious Disease Control Unit Notifiable Conditions Web Site, available at 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.
Special sickness and accident insurance policies may be made available to students on an optional basis from approved insurance carriers. The student shall be responsible for paying the premiums of such policies. Details of available insurance shall be maintained by the office of the Vice President of Student and Outreach Services.
Each institution of higher education, including each college district, shall cooperate with the Texas Veterans Commission to provide information, as permitted by law, related to student veterans at the institution, provide access to veteran resource centers or other student meeting areas, and otherwise support the work of veterans’ education counselors.  *Gov’t Code 434.303*
<table>
<thead>
<tr>
<th>STUDENTS WITH DISABILITIES</th>
<th>A postsecondary education program or activity to which 34 C.F.R. Part 104, Subpart E applies shall provide personal academic or vocational counseling, guidance, or placement services to its students without discrimination on the basis of disability. The institution shall ensure that qualified students with disabilities are not counseled toward more restrictive career objectives than are students without disabilities and with similar interests and ability. This requirement does not preclude an institution from providing factual information about licensing and certification requirements that may present obstacles to persons with disabilities in their pursuit of particular careers. 34 C.F.R. 104.47(b)</th>
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<tr>
<td>DISCRIMINATION ON THE BASIS OF SEX</td>
<td>A recipient of federal funding shall not discriminate against any person on the basis of sex in the counseling or guidance of students or applicants for admission. 34 C.F.R. 106.36(a)</td>
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STUDENT WELFARE
FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION

**Note:** This policy addresses complaints of discrimination, harassment, and retaliation targeting students. For legally referenced material relating to discrimination, harassment, and retaliation, see FA(LEGAL). For harassment of employees, see DIA.

**SECTION 504**

A recipient of federal financial assistance, including a college district, that employs 15 or more persons shall adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action prohibited by 34 C.F.R. Part 104 (Section 504 of the Rehabilitation Act of 1973 regulations). Such procedures need not be established with respect to complaints from applicants for admission to postsecondary educational institutions.

A recipient that employs 15 or more persons shall designate at least one person to coordinate its efforts to comply with Part 104.

*34 C.F.R. 104.7*

**AMERICANS WITH DISABILITIES ACT**

A public entity, including a college district, that employs 50 or more persons shall adopt and publish grievance procedures providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by 28 C.F.R. Part 35 (Americans with Disabilities Act regulations).

A public entity that employs 50 or more persons shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under Part 35, including any investigation of any complaint communicated to it alleging its noncompliance with this part or alleging any actions that would be prohibited by this part. The public entity shall make available to all interested individuals the name, office address, and telephone number of the designated employee or employees.

*28 C.F.R. 35.107*

**TITLE IX**

A recipient of federal financial assistance, directly or indirectly, shall adopt and publish grievance procedures providing for prompt and equitable resolution of student complaints alleging any action prohibited by Title IX of the Education Amendments of 1972.

Each recipient shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under this part, including any investigation of any complaint communicated to such recipient alleging its noncompliance with this part or alleging any actions that would be prohibited by this part. The recipient shall notify all its students and employees of the name, office
address, and telephone number of the appointed employee or employees.

34 C.F.R. 106.8

AGE DISCRIMINATION

Each recipient of federal financial assistance shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under the Age Discrimination Act of 1975 and 34 C.F.R. Part 110, including investigation of any complaints that the recipient receives alleging any actions that are prohibited by the Act and these regulations. A recipient shall notify its beneficiaries, in a continuing manner, of information regarding the provisions of the Act and the associated regulations. The notification must also identify the responsible employee by name or title, address, and telephone number.

A recipient shall adopt and publish grievance procedures providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by the Act or the regulations.

34 C.F.R. 110.25
STATEMENT OF NONDISCRIMINATION
The College District prohibits discrimination, including harassment, against any student on the basis of race, color, religion, gender, national origin, disability, age, or any other basis prohibited by law. Retaliation against anyone involved in the complaint process is a violation of College District policy and is prohibited.

DISCRIMINATION
Discrimination against a student is defined as conduct directed at a student on the basis of race, color, religion, gender, national origin, disability, age, or on any other basis prohibited by law, that adversely affects the student.

PROHIBITED HARASSMENT
Prohibited harassment of a student is defined as physical, verbal, or nonverbal conduct based on the student’s race, color, religion, gender, national origin, disability, age, or any other basis prohibited by law that is so severe, persistent, or pervasive that the conduct limits or denies a student’s ability to participate in or benefit from the College District’s educational program.

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

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

1. A College District employee causes the student to believe that the student must submit to the conduct in order to participate in a school program or activity, or that the employee will make an educational decision based on whether or not the student submits to the conduct; or

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

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.

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

Physical contact not reasonably construed as sexual in nature is not sexual harassment.

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

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

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

Examples of retaliation may include threats, rumor spreading, ostracism, assault, destruction of property, unjustified punishments, or unwarranted grade reductions. Unlawful retaliation does not include petty slights or annoyances.
A student who intentionally makes a false claim, offers false statements, or refuses to cooperate with a College District investigation regarding discrimination or harassment shall be subject to appropriate disciplinary action.

In this policy, the term “prohibited conduct” includes discrimination, harassment, and retaliation as defined by this policy, even if the behavior does not rise to the level of unlawful conduct.

Any student who believes that he or she has experienced prohibited conduct or believes that another student has experienced prohibited conduct should immediately report the alleged acts to a responsible employee.

Any College District employee who suspects and any responsible employee who receives notice that a student or group of students has or may have experienced prohibited conduct shall immediately notify the appropriate College District official listed in this policy and shall take any other steps required by this policy.

A person who holds a professional license requiring confidentiality, such as a counselor, or who is supervised by such a person shall not be required to disclose a report of prohibited conduct without the student’s consent.

A person who is a non-professional counselor or advocate designated in administrative procedures as a confidential source shall not be required to disclose information regarding an incident of prohibited conduct that constitutes personally identifiable information about a student or other information that would indicate the student’s identity without the student’s consent, unless the person is disclosing information as required for inclusion in the College District’s annual security report under the Clery Act [see GAC].

For purposes of this policy, a “responsible employee” is an employee:

1. Who has the authority to remedy prohibited conduct.
2. Who has been given the duty of reporting incidents of prohibited conduct.
3. Whom a student reasonably believes has the authority to remedy prohibited conduct or has been given the duty of reporting incidents of prohibited conduct.

The College District designates the following persons as responsible employees: any instructor, any administrator, or any College District official defined below.
For the purposes of this policy, College District officials are the ADA/Section 504 Coordinator, the Title IX Coordinator, and the College President.

**ADA / SECTION 504 COORDINATOR**

Reports of discrimination based on disability may be directed to the ADA/Section 504 Coordinator. The College District designates the following person to coordinate its efforts to comply with Title II of the Americans with Disabilities Act of 1990, as amended, which incorporates and expands the requirements of Section 504 of the Rehabilitation Act of 1973, as amended:

- **Position**: Advisor / Special Populations Coordinator
- **Address**: 2886 FM 1735 Chapel Hill Road, Mount Pleasant, TX 75455
- **Telephone**: (903) 434-8100

**TITLE IX COORDINATOR**

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

- **Position**: Director of Human Resources
- **Address**: 2886 FM 1735 Chapel Hill Road, Mount Pleasant, TX 75455
- **Telephone**: (903) 434-8121

**OTHER ANTI-DISCRIMINATION LAWS**

The College President or designee shall serve as coordinator for purposes of College District compliance with all other antidiscrimination laws.

**ALTERNATIVE REPORTING PROCEDURES**

A student shall not be required to report prohibited conduct to the person alleged to have committed the conduct. Reports concerning prohibited conduct, including reports against the ADA/Section 504 Coordinator or 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.

**TIMELY REPORTING**

Reports of prohibited conduct shall be made as soon as possible after the alleged act or knowledge of the alleged act. A failure to immediately report may impair the College District’s ability to investigate and address the prohibited conduct.
# INVESTIGATION OF THE REPORT

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

# INITIAL ASSESSMENT

Upon receipt or notice of a report, the College District official shall determine whether the allegations, if proven, would constitute prohibited conduct as defined by this policy. If so, the College District official shall immediately authorize or undertake an investigation, except as provided below at CRIMINAL INVESTIGATION.

If the College District official determines that the allegations, if proven, would not constitute prohibited conduct as defined by this policy, the College District official shall refer the complaint for consideration under FFE.

# INTERIM ACTION

If appropriate and regardless of whether a criminal or regulatory investigation regarding the alleged conduct is pending, the College District shall promptly take interim action calculated to address prohibited conduct prior to the completion of the College District's investigation.

# COLLEGE DISTRICT INVESTIGATION

The investigation may be conducted by the College District official or a designee or by a third party designated by the College District, such as an attorney. The investigator shall have received appropriate training regarding the issues related to the complaint and the relevant College District's policy and procedures.

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

# CRIMINAL INVESTIGATION

If a law enforcement or regulatory agency notifies the College District that a criminal or regulatory investigation has been initiated, the College District shall confer with the agency to determine if the College District's investigation would impede the criminal or regulatory investigation. The College District shall proceed with its investigation only to the extent that it does not impede the ongoing criminal or regulatory investigation. After the law enforcement or regulatory agency has completed gathering its evidence, the College District shall promptly resume its investigation.

# CONCLUDING THE INVESTIGATION

Absent extenuating circumstances, such as a request by a law enforcement or regulatory agency for the College District to delay its investigation, the investigation should be completed within ten College District business days from the date of the report; however, the investigator shall take additional time if necessary to complete a thorough investigation.
The investigator shall prepare a written report of the investigation. The report shall be filed with the College District official overseeing the investigation.

<table>
<thead>
<tr>
<th>NOTIFICATION OF OUTCOME</th>
<th>The College District shall provide written notice of the outcome, within the extent permitted by the Family Educational Rights and Privacy Act (FERPA) or other law, to the victim and the person against whom the complaint is filed.</th>
</tr>
</thead>
<tbody>
<tr>
<td>COLLEGE DISTRICT ACTION</td>
<td>If the results of an investigation indicate that prohibited conduct occurred, the College District shall promptly respond by taking appropriate disciplinary or corrective action reasonably calculated to address the conduct in accordance with College District policy and procedures [see FM and FMA].</td>
</tr>
<tr>
<td>PROHIBITED CONDUCT</td>
<td>Examples of corrective action may include a training program for those involved in the complaint, a comprehensive education program for the College District community, counseling for the victim and the student who engaged in prohibited conduct, follow-up inquiries to determine if any new incidents or any instances of retaliation have occurred, involving students in efforts to identify problems and improve the College District climate, increasing staff monitoring of areas where prohibited conduct has occurred, and reaffirming the College District’s policy against discrimination and harassment.</td>
</tr>
<tr>
<td>CORRECTIVE ACTION</td>
<td>The College District shall minimize attempts to require a student who complains of sexual harassment 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. Mediation shall not be used to resolve sexual harassment complaints.</td>
</tr>
<tr>
<td>EXCEPTION</td>
<td>If the investigation reveals improper conduct 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.</td>
</tr>
<tr>
<td>CONFIDENTIALITY</td>
<td>To the greatest extent possible, the College District shall respect the privacy of the complainant, persons against whom a report is filed, and witnesses. Limited disclosures may be necessary in order to conduct a thorough investigation and comply with applicable law.</td>
</tr>
<tr>
<td>APPEAL</td>
<td>A student who is dissatisfied with the outcome of the investigation may appeal to the Vice President of Student and Outreach Services.</td>
</tr>
</tbody>
</table>
An appeal hearing shall include the complainant, the person toward whom the complaint is directed, the College District’s Equal Opportunity Official, and the College President or designee, who shall preside over the hearing. A written finding shall be reported to both parties within five days of the appeal hearing; the written findings of this appeal shall be final.

A student shall be informed of his or her right to file a complaint with the United States Department of Education Office for Civil Rights.

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

Information regarding this policy and any accompanying procedures, as well as relevant educational and resource materials concerning the topics discussed in this policy, shall be distributed annually to College District employees and students in a manner calculated to provide easy access and wide distribution, such as through electronic distribution and inclusion in major College District publications. Information regarding the policy, procedures, and related materials shall also be prominently published on the College District’s website. Copies of the policy and procedures shall be readily available at the College District’s administrative offices and shall be distributed to a student who makes a report.
**Note:** This policy addresses bullying targeting College District students. For provisions regarding discrimination and harassment targeting College District students, see FFD.

<table>
<thead>
<tr>
<th>BULLYING PROHIBITED</th>
<th>The College District prohibits bullying as defined by this policy. Retaliation against anyone involved in the complaint process is a violation of College District policy and is prohibited.</th>
</tr>
</thead>
<tbody>
<tr>
<td>DEFINITIONS</td>
<td>Bullying occurs when a student or group of students engages in written or verbal expression, expression through electronic means, or physical conduct that occurs on College District property, at a College District-sponsored or College District-related activity, or in a vehicle operated by the College District and that:</td>
</tr>
<tr>
<td>BULLYING EXAMPLES</td>
<td>1. Has the effect or will have the effect of physically harming a student, damaging a student's property, or placing a student in reasonable fear of harm to the student’s person or of damage to the student's property; or</td>
</tr>
<tr>
<td></td>
<td>2. Is so sufficiently severe, persistent, and pervasive that the action or threat limits or denies a student’s ability to participate in or benefit from the College District’s educational program.</td>
</tr>
<tr>
<td>EXAMPLES</td>
<td>Bullying of a student may include hazing, threats, taunting, teasing, confinement, assault, demands for money, destruction of property, theft of valued possessions, name-calling, rumor spreading, or ostracism.</td>
</tr>
<tr>
<td>RETALIATION EXAMPLES</td>
<td>The College District prohibits retaliation by a student or College District employee against any person who in good faith makes a report of bullying, serves as a witness, or participates in an investigation.</td>
</tr>
<tr>
<td>FALSE CLAIM EXAMPLES</td>
<td>Examples of retaliation may include threats, rumor spreading, ostracism, assault, destruction of property, unjustified punishments, or unwarranted grade reductions. Unlawful retaliation does not include petty slights or annoyances.</td>
</tr>
<tr>
<td>TIMELY REPORTING</td>
<td>A student who intentionally makes a false claim, offers false statements, or refuses to cooperate with a College District investigation regarding bullying or retaliation as defined by this policy shall be subject to appropriate disciplinary action.</td>
</tr>
<tr>
<td>TIMELY REPORTING</td>
<td>Reports of bullying or retaliation shall be made as soon as possible after the alleged act or knowledge of the alleged act. A failure to immediately report may impair the College District’s ability to investigate and address the prohibited conduct.</td>
</tr>
</tbody>
</table>
To obtain assistance and intervention, any student who believes that he or she has experienced bullying or believes that another student has experienced bullying should immediately report the alleged acts to an instructor, counselor, administrator, or other College District employee.

Any College District employee who suspects or receives notice that a student or group of students has or may have experienced bullying or retaliation shall immediately notify the Vice President of Student and Outreach Services.

A report may be made orally or in writing. The Vice President of Student and Outreach Services or designee shall reduce any oral reports to written form.

The Vice President of Student and Outreach Services or designee shall determine whether the allegations in the report, if proven, would constitute prohibited conduct as defined by policy FFD, including harassment or discrimination on the basis of race, color, religion, gender, national origin, disability, or age. If so, the College District shall proceed under policy FFD instead. If the allegations could constitute both prohibited conduct and bullying, the investigation under FFD shall include a determination on each type of conduct.

The Vice President of Student and Outreach Services or designee shall conduct an appropriate investigation based on the allegations in the report. The Vice President of Student and Outreach Services or designee shall promptly take interim action calculated to prevent bullying or retaliation, as defined by this policy, during the course of an investigation, if appropriate.

Absent extenuating circumstances, the investigation should be completed within ten College District business days from the date of the initial report alleging bullying or retaliation, as defined by this policy; however, the Vice President of Student and Outreach Services or designee shall take additional time if necessary to complete a thorough investigation.

The Vice President of Student and Outreach Services or designee shall prepare a final, written report of the investigation. The report shall include a determination of whether bullying or retaliation, as defined by this policy, occurred. A copy of the report shall be sent to the College President or designee.

If the results of an investigation indicate that bullying or retaliation as defined by this policy occurred, the College District shall promptly respond by taking appropriate disciplinary or corrective action reasonably calculated to address the conduct.
Examples of corrective action may include implementing a training program for the individuals involved in the complaint, implementing a comprehensive education program for the College District community, conducting follow-up inquiries to determine if any new incidents or any instances of retaliation have occurred, involving students in efforts to identify problems and improve the College District climate, increasing staff monitoring of areas where bullying or retaliation has occurred, and reaffirming the College District’s policy against bullying and retaliation.

If the investigation reveals improper conduct that did not rise to the level of bullying or retaliation as defined by this policy, the College District may take disciplinary or any other appropriate corrective action.

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

A student who is dissatisfied with the outcome of the investigation may appeal through FLD(LOCAL), beginning at the appropriate level.

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

Information regarding this policy and accompanying procedures shall annually be made available to College District employees and students and shall be published on the College District’s website. Copies of the policy and procedures shall be readily available at the College District’s administrative offices.
TEMPORARY HOUSING ASSISTANCE FOR CERTAIN STUDENTS

To be eligible to receive housing assistance from an institution of higher education, including a college district, a student must:

1. Have been under the conservatorship of the Department of Family and Protective Services or its predecessor in function on the day preceding:
   a. The student's 18th birthday; or
   b. The date the student's disabilities of minority are removed by a court under Family Code Chapter 31.

2. Be enrolled full-time at the institution during the academic term immediately preceding the period for which the student requests the housing assistance;

3. Be registered or otherwise have taken the actions required by the institution to permit the student to enroll full-time at the institution during the academic term immediately following the period for which the student requests the housing assistance; and

4. Lack other reasonable temporary housing alternatives between the academic terms described above, as determined by the institution.

On the student’s request, each institution of higher education shall assist an eligible student in locating temporary housing for any period beginning on the last day of an academic term and ending on the first day of the immediately following academic term, according to the institution’s academic calendar.

For each eligible student who also demonstrates financial need, the institution may:

1. Provide a stipend to cover any reasonable costs of the temporary housing that are not covered by other financial aid immediately available to the student for that purpose; or

2. Provide temporary housing directly to the student for the applicable period.

The receipt of a stipend does not prohibit the student from receiving additional stipends in one or more subsequent periods, based on the student's demonstrated financial need.

An institution of higher education may use any available revenue, including legislative appropriations, and may solicit and accept gifts, grants, and donations for the purposes of this section. The institution shall use any gifts, grants, and donations received for the purposes of this section before using other revenue.

*Education Code 51.978*
DISCRIMINATION ON THE BASIS OF SEX

A recipient of federal financial assistance, including a college district, shall not, on the basis of sex, apply different rules or regulations, impose different fees or requirements, or offer different services or benefits related to housing, except as provided by 34 C.F.R. 106.32 (including housing provided only to married students). *34 C.F.R. 106.32(a)*

STUDENTS WITH DISABILITIES

A recipient of federal financial assistance, including a college district, that provides housing to its students without disabilities shall provide comparable, convenient, and accessible housing to its students with disabilities at the same cost as to other students. *34 C.F.R. 106.32(a)*

CRIMINAL BACKGROUND CHECK

An institution of higher education, including a college district, is entitled to obtain from the Texas Department of Public Safety criminal history record information maintained by the department that relates to a student, or to an applicant for admission as a student, who applies to reside in on-campus housing at the institution.

Criminal history record information obtained by an institution of higher education under this section may be used by the chief of police of the institution or by the institution's housing office only for the purpose of evaluating current students or applicants for enrollment who apply to reside in on-campus housing at the institution. The institution shall notify a student who is the subject of the criminal history record information of any use of the information to deny the student the opportunity to reside in on-campus housing at the institution.

Criminal history record information received by an institution of higher education under this section may not be released or disclosed to any person except on court order or with the consent of the person who is the subject of the criminal history record information.

As soon as practicable after the beginning of the academic period for which the person's housing application was submitted, all criminal history record information obtained about a person under this section, including any copy of the content of that information held by the institution, shall be destroyed by the chief of police of the institution of higher education or by the institution's housing office, as applicable.

*Gov't Code 411.0945*

MISSING STUDENT NOTIFICATION POLICIES AND PROCEDURES

An institution, including a college district, that provides any on-campus student housing facility must include a statement of policy regarding missing student notification procedures for students who...
reside in on-campus student housing facilities in its annual security report. This statement must:

1. Indicate a list of titles of the persons or organizations to which students, employees, or other individuals should report that a student has been missing for 24 hours;

2. Require that any missing student report must be referred immediately to the institution’s police or campus security department, or, in the absence of an institutional police or campus security department, to the local law enforcement agency that has jurisdiction in the area;

3. Contain an option for each student to identify a contact person or persons whom the institution shall notify within 24 hours of the determination that the student is missing, if the student has been determined missing by the institutional police or campus security department, or the local law enforcement agency;

4. Advise students that their contact information will be registered confidentially, that this information will be accessible only to authorized campus officials, and that it may not be disclosed, except to law enforcement personnel in furtherance of a missing person investigation;

5. Advise students that if they are under 18 years of age and not emancipated, the institution must notify a custodial parent or guardian within 24 hours of the determination that the student is missing, in addition to notifying any additional contact person designated by the student; and

6. Advise students that the institution will notify the local law enforcement agency within 24 hours of the determination that the student is missing, unless the local law enforcement agency was the entity that made the determination that the student is missing.

The procedures that the institution must follow when a student who resides in an on-campus student housing facility is determined to have been missing for 24 hours include:

1. If the student has designated a contact person, notifying that contact person within 24 hours that the student is missing;

2. If the student is under 18 years of age and is not emancipated, notifying the student's custodial parent or guardian and any other designated contact person within 24 hours that the student is missing; and
3. Regardless of whether the student has identified a contact person, is above the age of 18, or is an emancipated minor, informing the local law enforcement agency that has jurisdiction in the area within 24 hours that the student is missing.

   20 U.S.C. 1092(j); 34 C.F.R. 668.46(h)
The College District shall provide residence facilities for students, subject to availability of rooms and regulations established for residency in the facility.

The housing facility shall be under the general responsibility of the Vice President of Student and Outreach Services. A housing director shall be responsible for the daily activities and programs within the facility, communication of the College District’s policies, and the safe operation of the facility. All rooms shall be equipped with suitable beds, mattresses, drawer and closet space, smoke alarms, window coverings, and study desks and chairs.

The College District shall not be responsible for injuries to any resident or for damage to or theft of personal property from or in residence facilities.

Assignment to College District housing must include a meal plan through the food service facilities of the College District.

Each student resident of the housing facility shall be responsible for respecting the rights of others and for maintaining an atmosphere conducive to study and a harmonious social life. Occupants shall be subject to all rules, regulations, policies, and procedures of the College District and the student housing facility.

Officials and agents of the College District may enter the residence unit at all reasonable times to examine, inspect, render service, make repairs, and remove fixtures, alterations, or other objects not in conformity with rules of the institution or applicable law. Any residence unit may be searched with the consent of the occupant of the unit or upon the determination by College District officials that reasonable suspicion of a health, safety, or student housing violation exists.
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 were 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 numbers 1 through 3 and either the local or parent organization satisfies number 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

An unincorporated organization, association, or society is a “qualified nonprofit organization” if it meets the qualifications described at numbers 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*

STUDENT ORGANIZATIONS An institution of higher education, including a college district, shall allow a qualified organization that is a student organization recognized by the institution to sell raffle tickets at any facility of the institution, subject to reasonable restrictions on the time, place, and manner of the sale. *Occupations Code 2002.057*
**“STUDENT SOLICITATION”**

As used in this policy, “student solicitation” shall mean the sale or offer for sale of any property or service, whether for immediate or future delivery, and the receipt of or request for any gift or contribution by a student or registered student organization.

**LIMITATIONS ON SOLICITATION**

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

1. The sale or offer for sale of any newspaper, magazine, or other publication in an area designated in advance by the Vice President of Student and Outreach Services for the conduct of such activity;

2. The sale or offer for sale of any food or drink item in an area designated in advance by the Vice President of Student and Outreach Services or a designated representative for the conduct of such activity;

3. The collection of membership fees or dues by registered student organizations at meetings of such organizations scheduled in accordance with the College District’s regulations on use of facilities; [See FLAA]

4. The collection of admission fees for the exhibition of movies, performances, or other programs that are sponsored by a student or registered student organization and are scheduled in accordance with College District regulations; or

5. The sale of raffle tickets by a registered student organization that can present to the Vice President of Student and Outreach Services written evidence from the Internal Revenue Service that the organization has been granted an exemption from taxation under 26 U.S.C. 501(c)(3), Internal Revenue Code.

No solicitation shall be conducted on the grounds, sidewalks, or streets of any property either owned or controlled by the College District, except as approved by the Vice President of Student and Outreach Services.

**TIME LIMIT**

No organization shall solicit under this policy for more than a total of 14 days, whether continuous or intermittent, during each fiscal year.

**USE OF COLLEGE DISTRICT NAME**

Only authorized students or registered student organizations shall be allowed to sponsor and engage in solicitation and/or fund-raising activities under the name of the College District. All such activities shall be compatible with the mission and objectives of the College District and shall be approved by the Vice President of...
SOLICITATIONS

Student and Outreach Services in accordance with procedures developed for that purpose.

CONDUCT DURING SOLICITATION

Solicitation made pursuant to the terms of this policy must be conducted according to the following:

1. The solicitation shall not disturb or interfere with the regular academic or institutional programs being conducted in buildings or on property owned or controlled by the College District.

2. The solicitation shall not interfere with the free or unimpeded flow of pedestrian and vehicular traffic on sidewalks and streets and at places of ingress and egress to and from buildings owned or controlled by the College District.

3. The solicitation shall not harass, embarrass, or intimidate the person or persons being solicited.

SANCTIONS

If a student or registered student organization is alleged to have violated this policy, the student or organization shall be subject to a reasonable investigation conducted by the Vice President of Student and Outreach Services.

If the Vice President of Student and Outreach Services determines that a solicitation is being conducted in a manner violating this policy, the Vice President of Student and Outreach Services may prohibit the offending student or registered student organization from soliciting on the campus for such period or periods of time determined to be appropriate.

A student determined to be in violation of this policy shall be subject to disciplinary measures as described in policies FM and FMA. In the case of a registered student organization, the Vice President of Student and Outreach Services may revoke the registered status of the organization in accordance with policy FKC.
This introductory page outlines the contents of the student records policy. See the following sections for statutory provisions on:

SECTION I
Education Records pages 2 – 3
1. Definition of "education records"
2. Privacy rules

SECTION II
Access, Disclosure, and Amendment pages 3 – 18
1. Definitions
2. Access to education records
3. Request procedure
4. Destruction of requested records
5. De-identified records, authenticating requestors' identities
6. Transfer by third parties to other persons
7. Record of access to student records
8. Right to amend records
9. Fees for copies
10. Annual notification of rights

SECTION III
Directory Information pages 18 – 21
1. Definition and disclosure of directory information
2. Electronic student records system
SECTION I: EDUCATION RECORDS

For the purposes of this policy, the term “education records” means those records, files, documents, and other materials that contain information directly related to a student and are maintained by an education agency or institution, including a college district, or by a person acting for such agency or institution.

The term “education records” does not include:

1. Records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto that are kept in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to anyone other than a temporary substitute for the maker of the record.

2. Records of a law enforcement unit of an educational agency or institution created by the law enforcement unit for a law enforcement purpose and maintained by the law enforcement unit, but not:
   a. Records created by a law enforcement unit for a law enforcement purpose that are maintained by a component of the educational agency or institution other than the law enforcement unit; or
   b. Records created and maintained by a law enforcement unit exclusively for a non-law enforcement purpose, such as a disciplinary action or proceeding conducted by the educational agency or institution.

3. Records relating to an individual who is employed by an educational agency or institution, that are made and maintained in the normal course of business, relate exclusively to the individual in that individual’s capacity as an employee, and are not available for use for any other purpose.

4. Records on a student who is 18 years of age or older, or who is attending an institution of postsecondary education, that are:
   a. Made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional capacity or assisting in a paraprofessional capacity; and
   b. Made, maintained, or used only in connection with treatment of the student; and
c. Disclosed only to individuals providing the treatment. For the purpose of this definition, “treatment” does not include remedial educational activities or activities that are part of the program of instruction at the agency or institution.

5. Records that are created or received by an educational agency or institution after an individual is no longer a student in attendance and that are not directly related to the individual’s attendance as a student.

6. Grades on peer-graded papers before they are collected and recorded by a teacher.

20 U.S.C. 1232g(a)(4); 34 C.F.R. 99.3

A covered entity under the Health Insurance Portability and Accountability Act (HIPAA) must comply with the Privacy Rule, 45 C.F.R. Part 164, with respect to protected health information that is not an education record.

“Covered entity” means:

1. A health plan.
2. A health-care clearinghouse.

45 C.F.R. 160.103, 164.501 [See CKD]

SECTION II: ACCESS, DISCLOSURE, AND AMENDMENT

“Alleged perpetrator of a crime of violence” is a student who is alleged to have committed acts that would, if proven, constitute any of the following offenses or attempts to commit the following offenses that are defined in FJ(EXHIBIT):

1. Arson;
2. Assault offenses;
3. Burglary;
4. Criminal homicide—manslaughter by negligence;
5. Criminal homicide—murder and nonnegligent manslaughter;
6. Destruction/damage/vandalism of property;
7. Kidnapping/abduction;
<table>
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<tr>
<th>Term</th>
<th>Definition</th>
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<td>8.</td>
<td>Robbery; or</td>
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<tr>
<td>&quot;ALLEGED PERPETRATOR OF A NONFORCIBLE SEX OFFENSE&quot;</td>
<td>&quot;Alleged perpetrator of a nonforcible sex offense&quot; means a student who is alleged to have committed acts that, if proven, would constitute statutory rape or incest. These offenses are defined in FJ(EXHIBIT).</td>
</tr>
<tr>
<td>&quot;ATTENDANCE&quot;</td>
<td>&quot;Attendance&quot; includes, but is not limited to:</td>
</tr>
<tr>
<td>1.</td>
<td>Attendance in person or by paper correspondence, videoconference, satellite, Internet, or other electronic information and telecommunications technologies for students who are not physically present in the classroom; and</td>
</tr>
<tr>
<td>2.</td>
<td>The period during which a person is working under a work-study program.</td>
</tr>
<tr>
<td>&quot;AUTHORIZED REPRESENTATIVE&quot;</td>
<td>&quot;Authorized representative&quot; means any entity or individual designated by a state or local educational authority or an agency headed by an official listed in 34 C.F.R. 99.31(a)(3) to conduct—with respect to federal- or state-supported education programs—any audit, evaluation, or any compliance or enforcement activity in connection with federal legal requirements that relate to these programs.</td>
</tr>
<tr>
<td>&quot;DISCLOSURE&quot;</td>
<td>&quot;Disclosure&quot; means to permit access to or the release, transfer, or other communication of personally identifiable information contained in education records by any means, including oral, written, or electronic means, to any party except the party identified as the party that provided or created the record.</td>
</tr>
<tr>
<td>&quot;EDUCATION PROGRAM&quot;</td>
<td>&quot;Education program&quot; means any program that is principally engaged in the provision of education, including, but not limited to, early childhood education, elementary and secondary education, postsecondary education, special education, job training, career and technical education, adult education, and any program that is administered by an educational agency or institution.</td>
</tr>
<tr>
<td>&quot;ELIGIBLE STUDENT&quot;</td>
<td>&quot;Eligible student&quot; means a student who has reached 18 years of age or is attending an institution of postsecondary education.</td>
</tr>
</tbody>
</table>
| "FINAL RESULTS" | "Final results" means a decision or determination, made by an honor court or council, committee, commission, or other entity au-
authorized to resolve disciplinary matters within the institution. The disclosure of final results must include only the name of the student, the violation committed, and any sanction imposed by the institution against the student. 34 C.F.R. 99.39

**“PARENT”**

“Parent” includes a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or guardian. 34 C.F.R. 99.3

**“PERSONALLY IDENTIFIABLE INFORMATION”**

“Personally identifiable information” includes, but is not limited to:

1. The student’s name;
2. The name of the student’s parent or other family members;
3. The address of the student or student’s family;
4. A personal identifier, such as the student’s biometric record, defined as a record of one or more measurable biological or behavioral characteristics that can be used for automated recognition of an individual (e.g., fingerprints, retina and iris patterns, voiceprints, DNA sequence, facial characteristics, and handwriting), social security number; or student number;
5. Other indirect identifiers, such as the student’s date of birth, place of birth, and mother’s maiden name;
6. Other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; or
7. Information requested by a person who the educational agency or institution, including a college district, reasonably believes knows the identity of the student to whom the education record relates.

34 C.F.R. 99.3

**“RECORD”**

“Record” means any information recorded in any way, including, but not limited to, handwriting, print, computer media, video or audio tape, film, microfilm, and microfiche. 34 C.F.R. 99.3

**“SANCTION IMPOSED”**

“Sanction imposed” means a description of the disciplinary action taken by the institution, the date of its imposition, and its duration. 34 C.F.R. 99.39

**“SIGNED AND DATED WRITTEN CONSENT”**

“Signed and dated written consent” may include a record and signature in electronic form that:
1. Identifies and authenticates a particular person as the source of the electronic consent; and

2. Indicates such person’s approval of the information contained in the electronic consent.

34 C.F.R. 99.30(d)

“Violation committed” means the institution rules or code sections that were violated and any essential findings supporting the institution’s conclusion that the violation was committed. 34 C.F.R. 99.39

ACCESS BY STUDENT AND PARENTS

Access to the education records of a student who is or has been in attendance in an educational agency or institution, including a college district, shall be granted to the student and to the parent of a student who is a dependent for tax purposes. 34 C.F.R. 99.10

When a student becomes an eligible student, the rights accorded to, and consent required of, parents transfer from the parents to the student.

Nothing in this section prevents an educational agency or institution from disclosing education records, or personally identifiable information from education records, to a parent without prior written consent of an eligible student if the disclosure meets the conditions in 34 C.F.R. 99.31(a), including if the student is a dependent for tax purposes or in the case of a health or safety emergency. [See ACCESS BY OTHER PERSONS, below]

34 C.F.R. 99.5(a), .31(a)

EXCEPTIONS

An individual who is or has been a student at an educational institution and who applies for admission at another component of that institution does not have rights under this policy with respect to records maintained by that other component, including records maintained in connection with the student's application for admission, unless the student is accepted and attends that other component of the institution. 34 C.F.R. 99.5(c)

If the education records of a student contain information on more than one student, the parent or eligible student may inspect and review or be informed of only the specific information about that student. 34 C.F.R. 99.12(a)

A postsecondary institution does not have to permit a student to inspect and review education records that are:

1. Financial records, including any information those records contain, of his or her parents;
STUDENT RECORDS

FJ (LEGAL)

Northeast Texas Community College
225500

2. Confidential letters and confidential statements of recommendation placed in the education records of the student before January 1, 1975, as long as the statements are used only for the purposes for which they were specifically intended; and

3. Confidential letters and confidential statements of recommendation placed in the student's education records after January 1, 1975, if:

   a. The student has waived his or her right to inspect and review those letters and statements; and

   b. Those letters and statements are related to the student's admission to an educational institution; application for employment; or receipt of an honor or honorary recognition.

The waiver of the right to inspect and review confidential letters and confidential statements of recommendation described above is valid only if the educational agency or institution does not require the waiver as a condition for admission to or receipt of a service or benefit from the agency or institution; and the waiver is made in writing and signed by the student, regardless of age. If a student has waived his or her rights as described above, the educational institution shall give the student, on request, the names of the individuals who provided the letters and statements of recommendation; and use the letters and statements of recommendation only for the purpose for which they were intended.

The waiver may be revoked with respect to any actions occurring after the revocation. The revocation must be in writing.

20 U.S.C. 1232g(a)(1); 34 C.F.R. 99.12(b)–(c)

ACCESS BY OTHER PERSONS

An educational agency or institution, including a college district, may disclose personally identifiable information from an education record of a student without the written consent required by 34 C.F.R. 99.30 if the disclosure meets one or more of the following conditions:

1. The disclosure is to other school officials, including faculty, within the agency or institution whom the agency or institution has determined to have legitimate educational interests.

   A contractor, consultant, volunteer, or other party to whom an agency or institution has outsourced institutional services or functions may be considered a school official provided that the outside party:
a. Performs an institutional service or function for which the agency or institution would otherwise use employees;

b. Is under the direct control of the agency or institution with respect to the use and maintenance of education records; and

c. Is subject to the requirements of 34 C.F.R. 99.33(a) governing the use and redisclosure of personally identifiable information from education records.

An educational agency or institution must use reasonable methods to ensure that school officials obtain access to only those education records in which they have legitimate educational interests. An educational agency or institution that does not use physical or technological access controls must ensure that its administrative policy for controlling access to education records is effective and that it remains in compliance with the legitimate educational interest requirement.

34 C.F.R. 99.31, .36

2. The disclosure is to officials of another school, school system, or institution of postsecondary education in which the student seeks or intends to enroll, or where the student is already enrolled so long as the disclosure is for purposes related to the student’s enrollment or transfer. An educational agency or institution that discloses an education record under this provision shall:

a. Make a reasonable attempt to notify the eligible student at the last known address of the eligible student, unless:

   (1) The disclosure is initiated by the eligible student; or

   (2) The annual notification of the agency or institution under 34 C.F.R. 99.7 includes a notice that the agency or institution forwards education records to other agencies or institutions that have requested the records and in which the student seeks or intends to enroll or is already enrolled so long as the disclosure is for purposes related to the student’s enrollment or transfer;

b. Give the eligible student, upon request, a copy of the record that was disclosed; and

c. Give the eligible student, upon request, an opportunity
for a hearing under 34 C.F.R. Part 99, Subpart C to challenge the content of the record.

34 C.F.R. 99.31, .34

3. The disclosure is to authorized representatives of the officials or agencies headed by the comptroller general of the United States, the attorney general of the United States, the secretary of education, or state and local educational authorities who require access to student or other records necessary in connection with the audit and evaluation of federal- or state-supported education programs or in connection with the enforcement of or compliance with federal legal requirements that relate to such programs.

4. The disclosure is in connection with financial aid for which the student has applied or which the student has received, if the information is necessary for such purposes as to determine eligibility for the aid; determine the amount of the aid; determine the conditions for the aid; or enforce the terms and conditions of the aid.

5. The disclosure is to state and local officials or authorities to whom this information is specifically allowed to be reported or disclosed pursuant to state statute adopted:

   a. Before November 19, 1974, if the allowed reporting or disclosure concerns the juvenile justice system and its ability to effectively serve the student whose records are released, or

   b. After November 19, 1974, if:

      (1) The allowed reporting or disclosure concerns the juvenile justice system and its ability to effectively serve, prior to adjudication, the student whose records are released; and

      (2) The officials and authorities to whom such information is disclosed certify in writing to the educational agency or institution that the information will not be disclosed to any other party, except as provided under state law, without the prior written consent of the parent of the student.

6. The disclosure is to organizations conducting studies for or on behalf of educational agencies or institutions to develop, validate, or administer predictive tests, administer student aid programs, and improve instruction. An educational agency or institution may disclose personally identifiable information on-
ly if the study is conducted in a manner that does not permit personal identification of students and their parents by individuals other than representatives of the organization who have legitimate interests in the information. The information must be destroyed when no longer needed for the purposes for which the study was conducted.

The educational agency or institution must enter into a written agreement with the organization that:

a. Specifies the purpose, scope, and duration of the study or studies and the information to be disclosed;

b. Requires the organization to use personally identifiable information from education records only to meet the purpose or purposes of the study as stated in the written agreement;

c. Requires the organization to conduct the study in a manner that does not permit personal identification of parents and students, as defined in this part, by anyone other than representatives of the organization with legitimate interests; and

d. Requires the organization to destroy all personally identifiable information when the information is no longer needed for the purposes for which the study was conducted and specifies the time period in which the information must be destroyed.

A college district that enters into an agreement with an organization conducting a study may redisclose personally identifiable information from education records on behalf of educational agencies and institutions that disclosed the information to the college district in accordance with the requirements of 34 C.F.R. 99.33(b).

The educational agency or institution is not required to initiate a study or agree with or endorse the conclusions or results of the study.

7. The disclosure is to accrediting organizations to carry out their accrediting functions.

8. The disclosure is to comply with a judicial order or lawfully issued subpoena. The educational agency or institution may disclose information only if the agency or institution makes a reasonable effort to notify the parent or eligible student of the order or subpoena in advance of compliance, so that the par-
ent or eligible student may seek protective action, unless the disclosure is in compliance with:

a. A federal grand jury subpoena and the court has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed;

b. Any other subpoena issued for a law enforcement purpose and the court or other issuing agency has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed; or

c. An ex parte court order obtained by the U.S. Attorney General (or designee not lower than an Assistant Attorney General) concerning investigations or prosecutions of an offense listed in 18 U.S.C. 2332b(g)(5)(B) or an act of domestic or international terrorism as defined in 18 U.S.C. 2331.

9. If an educational agency or institution initiates legal action against a parent or student, the educational agency or institution may disclose to the court, without a court order or subpoena, the education records of the student that are relevant for the educational agency or institution to proceed with the legal action as plaintiff.

If a parent or eligible student initiates legal action against an educational agency or institution, the educational agency or institution may disclose to the court, without a court order or subpoena, the student's education records that are relevant for the educational agency or institution to defend itself.

10. The disclosure is in connection with a health or safety emergency. An educational agency or institution may disclose personally identifiable information from an education record to appropriate persons, including the parents of an eligible student, in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals.

In making a determination, an educational agency or institution may take into account the totality of the circumstances pertaining to a threat to the health or safety of a student or other individuals. If the educational agency or institution determines that there is an articulable and significant threat to the health or safety of a student or other individuals, it may disclose information from education records to any person
whose knowledge of the information is necessary to protect the health or safety of the student or other individuals. If, based on the information available at the time of the determination, there is a rational basis for the determination, the U.S. Department of Education will not substitute its judgment for that of the educational agency or institution in evaluating the circumstances and making its determination.

<table>
<thead>
<tr>
<th>DIRECTORY INFORMATION</th>
<th>11. The disclosure is information the educational agency or institution has designated as “directory information”, under the conditions described below.</th>
</tr>
</thead>
<tbody>
<tr>
<td>ALLEGED VICTIM</td>
<td>12. The disclosure, subject to the requirements in 34 C.F.R. 99.39, is to a victim of an alleged perpetrator of a crime of violence or a nonforcible sex offense. The disclosure may only include the final results of the disciplinary proceeding conducted by the institution of postsecondary education with respect to that alleged crime or offense. The institution may disclose the final results of the disciplinary proceeding, regardless of whether the institution concluded a violation was committed.</td>
</tr>
<tr>
<td>ASSOCIATED WITH DISCIPLINARY PROCEEDING</td>
<td>13. The disclosure, subject to the requirements in 34 C.F.R. 99.39, is in connection with a disciplinary proceeding at an institution of postsecondary education. The institution must not disclose the final results of the disciplinary proceeding unless it determines that:</td>
</tr>
<tr>
<td></td>
<td>a. The student is an alleged perpetrator of a crime of violence or nonforcible sex offense; and</td>
</tr>
<tr>
<td></td>
<td>b. With respect to the allegation made against him or her, the student has committed a violation of the institution’s rules or policies.</td>
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<tr>
<td></td>
<td>The institution may not disclose the name of any other student, including a victim or witness, without the prior written consent of the other student.</td>
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<tr>
<td></td>
<td>This section applies only to disciplinary proceedings in which the final results were reached on or after October 7, 1998.</td>
</tr>
<tr>
<td>VIOLATION OF FEDERAL, STATE, OR LOCAL LAW</td>
<td>14. The disclosure is to a parent of a student at an institution of postsecondary education regarding the student’s violation of any federal, state, or local law, or of any rule or policy of the institution, governing the use or possession of alcohol or a controlled substance if:</td>
</tr>
</tbody>
</table>
STUDENT RECORDS

FJ
(LEGAL)

a. The institution determines that the student has committed a disciplinary violation with respect to that use or possession; and

b. The student is under the age of 21 at the time of the disclosure to the parent.

This section does not supersede any provision of state law that prohibits an institution of postsecondary education from disclosing information.

SEX OFFENDERS

15. The disclosure concerns sex offenders and other individuals required to register under Section 170101 of the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. 14071, and the information was provided to the educational agency or institution under 42 U.S.C. 14071 and applicable federal guidelines.

20 U.S.C. 1232g(b)(1)–(2), (6), (l)–(j); 34 C.F.R. 99.31(a)(1)–(7), (9)–(11), (13)–(16), .35–.39

REQUEST PROCEDURE

The educational agency or institution, including a college district, shall comply with a request for access to records within a reasonable period of time, but not more than 45 days after it has received the request. The educational agency or institution shall respond to reasonable requests for explanations and interpretations of the records. 34 C.F.R. 99.10(b)–(c)

INSPECTION AND REVIEW

If circumstances effectively prevent the parent or eligible student from exercising the right to inspect and review the student's education records, the educational agency or institution, including a college district, shall provide the parent or eligible student with a copy of the records requested; or make other arrangements for the parent or eligible student to inspect and review the requested records. 34 C.F.R. 99.10(d)

DESTRUCTION OF RECORDS

The educational agency or institution, including a college district, shall not destroy any education records if there is an outstanding request to inspect and review the records under 34 C.F.R. 99.10(e)

DE-IDENTIFIED RECORDS

An educational agency or institution, or a party that has received education records or information from education records, may release the records or information without the consent after the removal of all personally identifiable information provided that the educational agency or institution or other party has made a reasonable determination that a student's identity is not personally identifiable, whether through single or multiple releases, and taking into account other reasonably available information.
An educational agency or institution, or a party that has received education records or information from education records, may release de-identified student level data from education records for the purpose of education research by attaching a code to each record that may allow the recipient to match information received from the same source, provided that:

1. An educational agency or institution or other party that releases de-identified data under this section does not disclose any information about how it generates and assigns a record code, or that would allow a recipient to identify a student based on a record code;

2. The record code is used for no purpose other than identifying a de-identified record for purposes of education research and cannot be used to ascertain personally identifiable information about a student; and

3. The record code is not based on a student’s social security number or other personal information.

An educational agency or institution, including a college district, must use reasonable methods to identify and authenticate the identity of parents, students, school officials, and any other parties to whom the agency or institution discloses personally identifiable information from education records.

34 C.F.R. 99.31(b)–(c)

An educational agency or institution, including a college district, may disclose personally identifiable information from an education record only on the condition that the party to whom the information is disclosed will not disclose the information to any other party without the prior consent of the parent or eligible student. The officers, employees, and agents of a party that receives the information may use the information, but only for the purposes for which the disclosure was made. 34 C.F.R. 99.33(a)

34 C.F.R. 99.33(a) does not apply to disclosures made to parents of dependent students under 34 C.F.R. 99.31(a)(8), to disclosures made pursuant to court orders, lawfully issued subpoenas, or litigation under 34 C.F.R. 99.31(a)(9), to disclosures of directory information under 34 C.F.R. 99.31(a)(11), to disclosures made to a parent or student under 34 C.F.R. 99.31(a)(12), to disclosures made in connection with a disciplinary proceeding under 34 C.F.R. 99.31(a)(14), to disclosures made to parents under 34 C.F.R. 99.31(a)(15) regarding a violation of law or policy, or to disclosures concerning sex offenders under 34 C.F.R. 99.31(16). It also does not apply to information that postsecondary institutions are required
to disclose under the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act), 20 U.S.C. 1092(f), to the accuser and accused regarding the outcome of any campus disciplinary proceeding brought alleging a sexual offense. 34 C.F.R. 99.31(a)(8)–(9), (11)–(12), (14)–(16), .33(c)

An educational agency or institution shall inform a party to whom a disclosure is made of the requirements of 34 C.F.R. 99.33(a), unless the disclosure is made under Sections 99.31(a)(8), (9), (11), (12), (14), (15), and (16), and to information that postsecondary institutions are required to disclose under the Clery Act to the accuser and accused regarding the outcome of any campus disciplinary proceeding brought alleging a sexual offense. 34 C.F.R. 99.33(d)

This section does not prevent an educational agency or institution from disclosing personally identifiable information with the understanding that the party receiving the information may make further disclosures of the information on behalf of the educational agency or institution if:

1. The disclosures meet the requirements of 34 C.F.R. 99.31; and

2. The educational agency or institution has complied with the requirements of 34 C.F.R. 99.32(b) regarding the record of disclosure; or a state or local educational authority or federal official or agency listed in 34 C.F.R. 99.31(a)(3) has complied with the requirements of 34 C.F.R. 99.32(b)(2).

34 C.F.R. 99.33(b)

An educational agency or institution, including a college district, must maintain a record of each request for access to and each disclosure of personally identifiable information from the education records of each student, as well as the names of state and local educational authorities and federal officials and agencies listed in 34 C.F.R. 99.31(a)(3) that may make further disclosures of personally identifiable information from the student's education records without consent. The agency or institution shall maintain the record with the education records of the student as long as the records are maintained.

For each request or disclosure, the record must include the parties who have requested or received personally identifiable information from the education records and the legitimate interests the parties had in requesting or obtaining the information. An educational agency or institution must obtain a copy of the record of further disclosures maintained by the named authorities, officials, and agen-
cies under 34 C.F.R. 99.32(b)(2) and make it available in response to a parent’s or eligible student’s request to review the record of access described above.

An educational agency or institution must record the following information when it discloses personally identifiable information from education records under the health or safety emergency exception [see HEALTH AND SAFETY EMERGENCY, above]:

1. The articulable and significant threat to the health or safety of a student or other individuals that formed the basis for the disclosure; and

2. The parties to whom the agency or institution disclosed the information.

If an educational agency or institution discloses personally identifiable information from education records with the understanding authorized under 34 C.F.R. 99.33(b) [see TRANSFER NOT PERMITTED], the record of the disclosure required under this section must include:

1. The names of the additional parties to which the receiving party may disclose the information on behalf of the educational agency or institution; and

2. The legitimate interests under 34 C.F.R. 99.31, which each of the additional parties has in requesting or obtaining the information.

The requirement to record a request does not apply if the request was from, or the disclosure was to, the parent or eligible student; a school official under 34 C.F.R. 99.31(a)(1); a party with written consent from the eligible student; a party seeking directory information; or a party seeking or receiving records in accordance with a subpoena or ex parte order under 34 C.F.R. 99.31(a)(9)(ii)(A) through (C).

The following parties may inspect the record relating to each student:

1. The parent or eligible student.

2. The school official or his or her assistants who are responsible for the custody of the records.

3. Those parties authorized in 34 C.F.R. 99.31(a)(1) and (3) for the purposes of auditing the recordkeeping procedures of the educational agency or institution.

20 U.S.C. 1232g(b)(4)(A); 34 C.F.R. 99.32
If an eligible student believes the education records relating to the student contain information that is inaccurate, misleading, or in violation of the student’s rights of privacy, he or she may ask the educational agency or institution, including a college district, to amend the record. The educational agency or institution shall decide whether to amend the record as requested within a reasonable time after the agency or institution receives the request. If the educational agency or institution decides not to amend the record as requested, it shall inform the eligible student of its decision and of his or her right to a hearing to challenge the content of the student’s education records on the grounds that the information contained in the education records is inaccurate, misleading, or in violation of the privacy rights of the student.

If, as a result of the hearing, the educational agency or institution decides that the information is inaccurate, misleading, or otherwise in violation of the privacy rights of the student, it shall amend the records accordingly and inform the eligible student of the amendment in writing. If, as a result of the hearing, the educational agency or institution decides that the information in the education record is not inaccurate, misleading, or otherwise in violation of the privacy rights of the student, it shall inform the eligible student of the right to place a statement in the records commenting on the contested information or stating why he or she disagrees with the decision of the agency or institution, or both.

If an educational agency or institution places a statement in the education records of a student, the agency or institution shall maintain the statement with the contested part of the record for as long as the record is maintained and disclose the statement whenever it discloses the portion of the record to which the statement relates.

20 U.S.C. 1232g(a)(2); 34 C.F.R. 99.20–.21

Unless the imposition of a fee effectively prevents a parent or eligible student from exercising the right to inspect and review the student’s education records, an educational agency or institution, including a college district, may charge a fee for a copy of an education record that is made for the parent or eligible student. An educational agency or institution may not charge a fee to search for or to retrieve the education records of a student. 34 C.F.R. 99.11

Each educational agency or institution, including each college district, shall annually notify eligible students currently in attendance of their rights under the Family Educational Rights and Privacy Act of 1974.
The notice must inform each eligible student that the student has the right to:

1. Inspect and review the student's education records;
2. Seek amendment of the student's education records that the eligible student believes to be inaccurate, misleading, or otherwise in violation of the student's privacy rights;
3. Consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that the Act and 34 C.F.R. 99.31 authorize disclosure without consent; and
4. File with the U.S. Department of Education a complaint under 34 C.F.R. 99.63 and 99.64 concerning alleged failures by the educational agency or institution to comply with the requirements of the Act and 34 C.F.R. part 99.

The notice must include all of the following:

1. The procedure for exercising the right to inspect and review education records.
3. If the educational agency or institution has a policy of disclosing education records under 34 C.F.R. 99.31(a)(1), a specification of criteria for determining who constitutes a school official and what constitutes a legitimate educational interest.

An educational agency or institution may provide this notice by any means that are reasonably likely to inform the eligible students of their rights.

An educational agency or institution shall effectively notify eligible students who are disabled.

20 U.S.C. 1232g(e); 34 C.F.R. 99.7

SECTION III: DIRECTORY INFORMATION

“Directory information” means information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed. It includes, but is not limited to, the student's name, address, telephone listing, electronic mail address, photograph, date and place of birth, major field of study, grade level, enrollment status (e.g., undergraduate or graduate; full-time or part-time), dates of attendance, participation in officially recognized activities and sports, weight and height of members of athletic teams, degrees, honors and awards received,
and the most recent educational agency or institution attended. Directory information does not include a student's:

1. Social security number; or

2. Student identification (ID) number, except:

   a. A student ID number, user ID, or other unique personal identifier used by a student for purposes of accessing or communicating in electronic systems, but only if the identifier cannot be used to gain access to education records except when used in conjunction with one or more factors that authenticate the user's identity, such as a personal identification number (PIN), password, or other factor known or possessed only by the authorized user; or

   b. A student ID number or other unique personal identifier that is displayed on a student ID badge, but only if the identifier cannot be used to gain access to education records except when used in conjunction with one or more factors that authenticate the user's identity, such as a PIN, password, or other factor known or possessed only by the authorized user.

20 U.S.C. 1232g(a)(5)(A); 34 C.F.R. 99.3

An educational agency or institution, including a college district, may disclose directory information if it has given public notice to eligible students in attendance at the agency or institution of:

1. The types of personally identifiable information that the agency or institution has designated as directory information.

2. An eligible student's right to refuse to let the agency or institution designate any or all of that information about the student as directory information.

3. The period of time within which the eligible student has to notify the agency or institution in writing that he or she does not want any or all of those types of information about the student designated as directory information.

20 U.S.C. 1232g(a)(5)(B); 34 C.F.R. 99.37(a)

In its public notice to eligible students in attendance at the agency or institution, an educational agency or institution may specify that disclosure of directory information will be limited to specific parties, for specific purposes, or both. When an educational agency or institution specifies that disclosure of directory information will be limited to specific parties, for specific purposes, or both, the educa-
tional agency or institution must limit its directory information disclosures to those specified in its public notice. 34 C.F.R. 99.37(d)

IN CLASS
An eligible student may not use the right of refusal to opt out of directory information disclosures to prevent an educational agency or institution from disclosing or requiring a student to disclose the student’s name, identifier, or institutional e-mail address in a class in which the student is enrolled. 34 C.F.R. 99.37(c)

STUDENT ID CARD OR BADGE
An eligible student may not use the right of refusal to opt out of directory information disclosures to prevent an educational agency or institution from requiring a student to wear, to display publicly, or to disclose a student ID card or badge that exhibits information that may be designated as directory information under 34 C.F.R. 99.3 and that has been properly designated by the educational agency or institution as directory information in the public notice described above. 34 C.F.R. 99.37(c)

FORMER STUDENTS
An educational agency or institution may disclose directory information about former students without complying with the notice and opt out conditions above. However, the agency or institution must continue to honor any valid request to opt out of the disclosure of directory information made while a student was in attendance unless the student rescinds the opt-out request. 34 C.F.R. 99.37(b)

CONFIRMATION OF IDENTITY OR RECORDS
An educational agency or institution may not disclose or confirm directory information without meeting the written consent requirements in 34 C.F.R. 99.30 if a student’s social security number or other non-directory information is used alone or combined with other data elements to identify or help identify the student or the student’s records. 34 C.F.R. 99.37(e)

ELECTRONIC STUDENT RECORDS SYSTEM
Each school district, open-enrollment charter school, and institution of higher education, including each college district, shall participate in an electronic student records system that satisfies the standards approved by the commissioner of education and the commissioner.

The electronic student records system must permit an authorized state or school district official or an authorized representative of an institution of higher education to electronically transfer to and from an educational institution in which the student is enrolled and retrieve student transcripts, including information concerning a student’s:

1. Course or grade completion;
2. Teachers of record;
3. Assessment instrument results;
4. Receipt of special education services, including placement in a special education program and the individualized education program developed; and

5. Personal graduation plan as described by Education Code 28.0212 or 28.02121, as applicable.

Any person involved in the transfer and retrieval of student information under this section is subject to any state or federal law governing the release of or providing access to any confidential information to the same extent as the educational institution from which the data is collected. A person may not release or distribute the data to any other person in a form that contains confidential information.

_Education Code 7.010(b)–(c), (f)_)
The College President shall develop and maintain a comprehensive system of student records and reports dealing with all facets of the College District program operation and shall ensure through reasonable procedures that records are accessed by authorized persons only, as allowed by this policy. These data and records shall be stored in a safe and secure manner and shall be conveniently retrievable for utilization by authorized school officials.

The Registrar is custodian of all records for currently enrolled students and for all official academic records. The Associate Director of Admissions is custodian of all admissions applications, high school transcripts, residency status, and other related admission documentation. The Vice President for Student and Outreach Services is custodian of all student records related to complaints and student discipline. The addresses for the custodians of records shall be included in the Annual Notice of Student Rights under 20 U.S.C. 1232g.

Each record custodian shall be responsible for the education records of the College District. These records may include:

1. Admissions data, personal and family data.
2. Standardized test data, including intelligence, aptitude, interest, personality, and social adjustment ratings.
3. All achievement records, as determined by tests, recorded grades, and teacher evaluations.
4. Attendance record.
5. Records of faculty, counselors, or administrative conferences with the student or pertaining to the student.
6. Disciplinary records, including scholastic disciplinary actions.
7. Copies of correspondence with parents and others concerned with the student.
8. Records transferred from secondary schools and other post-secondary institutions in which the student has been enrolled.
9. Records pertaining to participation in student activities including academic awards or recognition by the College District.
10. Information relating to student participation in special programs.
11. Records of tuition and fees paid and outstanding.
14. Scholarships or other financial awards.
15. Records pertaining to student complaints.
16. Other records that may contribute to understanding of the student.

REQUEST PROCEDURES

The College District shall make a student’s records available to the student. The records custodian or designee shall use reasonable procedures to verify the requestor’s identity before disclosing student records containing personally identifiable information.

Records may be reviewed in person during regular business hours without charge upon written request to the records custodian. For in-person viewing, the records custodian or designee shall be available to explain the record and to answer questions. The confidential nature of the student’s records shall be maintained at all times. Records to be viewed shall be restricted to use only in the College President’s office or other restricted area designated by the records custodian. The original copy of the record or any document contained in the comprehensive record shall not be removed from the school.

Copies of records must be requested in writing and shall be available at a per copy cost, payable in advance. Financial hardship cases shall be dealt with on an individual basis. A student may be denied copies of records if he or she fails to follow proper procedures or pay the copying charge.

DIRECTORY INFORMATION

Directory information shall be released to a qualified individual or organization that files a written request with the College President or designee.

The College District shall give public notice of the categories of information designated as directory information; whether the disclosure of directory information will be limited to specific parties, for specific purposes, or both; and the period of time after such notice for a student to inform the College District that any or all of the directory information should not be released without prior consent.

ACCESS BY SCHOOL OFFICIALS

A school official shall be allowed access to student records if he or she has a legitimate educational interest in the records.

For the purposes of this policy, “school officials” shall include:

1. An employee, Trustee, or agent of the College District, including an attorney, a consultant, a contractor, a volunteer and
any outside service provider used by the College District to perform institutional services.

2. A person serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing his or her tasks.

All contractors provided with student records shall follow the same rules as employees concerning privacy of the records and shall return the records upon completion of the assignment.

A school official has a “legitimate educational interest” in a student’s records when he or she is:

1. Working with the student;

2. Considering disciplinary or academic actions, the student’s case, or services for a student with disabilities;

3. Compiling statistical data;

4. Reviewing an education record to fulfill the official’s professional responsibility; or

5. Investigating or evaluating programs.

ACCESS BY PARENTS

The College District may disclose educational records to a student’s parent without the student’s consent under circumstances specified in law. [See FJ(LEGAL)] A qualified parent shall be subject to the provisions of the REQUEST PROCEDURES, above.

TRANSCRIPTS AND TRANSFERS OF RECORDS

The College District may request transcripts from previously attended schools for students transferring into the College District; however, the ultimate responsibility for obtaining transcripts from sending schools rests with the student.

For purposes of a student’s enrollment or transfer, the College District shall promptly forward education records upon request to officials of other schools or school systems in which the student intends to enroll or enrolls. The College District may return an education record to the school identified as the source of the record.

PROCEDURE TO AMEND RECORDS

Within 15 College District business days of the record custodian’s receipt of a request to amend records, the College District shall notify the student in writing of its decision on the request and, if the request is denied, of his or her right to a hearing. If a hearing is requested, it shall be held within ten College District business days after the request is received.
Students shall be notified in advance of the date, time, and place of the hearing. An administrator who is not responsible for the contested records and who does not have a direct interest in the outcome of the hearing shall conduct the hearing. The student shall be given a full and fair opportunity to present evidence, and at his or her own expense, may be assisted or represented at the hearing.

The student shall be notified of the decision in writing within ten College District business days of the hearing. The decision shall be based solely on the evidence presented at the hearing and shall include a summary of the evidence and reasons for the decision. If the decision is to deny the request, the student shall be informed that he or she has 30 College District business days within which to exercise his or her right to place in the record a statement commenting on the contested information and/or stating any reason for disagreeing with the College District’s decision.
DEFINITIONS OF CRIMES OF VIOLENCE

“Crimes of violence,” as defined in Appendix A to Title 34, Part 99, of the Code of Federal Regulations, include:

1. Arson:
   Any willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, personal property of another, and the like.

2. Assault Offenses:
   An unlawful attack by one person upon another. **Note:** By definition there can be no “attempted” assaults, only “completed” assaults.
   a. Aggravated assault. An unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault usually is accompanied by the use of a weapon or by means likely to produce death or great bodily harm. (It is not necessary that injury result from an aggravated assault when a gun, knife, or other weapon is used that could and probably would result in serious injury if the crime were successfully completed.)
   b. Simple assault. An unlawful physical attack by one person upon another where neither the offender displays a weapon, nor the victim suffers obvious severe or aggravated bodily injury involving apparent broken bones, loss of teeth, possible internal injury, severe laceration, or loss of consciousness.
   c. Intimidation. To unlawfully place another person in reasonable fear of bodily harm through the use of threatening words or other conduct, or both, but without displaying a weapon or subjecting the victim to an actual physical attack. **Note:** This offense includes stalking.

3. Burglary:
   The unlawful entry into a building or other structure with the intent to commit a felony or a theft.

4. Criminal Homicide—Manslaughter by Negligence:
   The killing of another person through gross negligence.

5. Criminal Homicide—Murder and Nonnegligent Manslaughter:
   The willful (nonnegligent) killing of one human being by another.

6. Destruction/Damage/Vandalism of Property:
   To willfully or maliciously destroy, damage, deface, or otherwise injure real or personal property without the consent of the owner or the person having custody or control of it.

7. Kidnapping/Abduction:
The unlawful seizure, transportation, or detention of a person, or any combination of these actions, against his or her will, or of a minor without the consent of his or her custodial parent(s) or legal guardian. **Note:** Kidnapping/abduction includes hostage taking.

8. **Robbery:**

The taking of, or attempting to take, anything of value under confrontational circumstances from the control, custody, or care of a person or persons by force or threat of force or violence or by putting the victim in fear. **Note:** Carjackings are robbery offenses where a motor vehicle is taken through force or threat of force.

9. **Sex Offenses, Forcible:**

Any sexual act directed against another person, forcibly or against that person’s will, or both; or not forcibly or against the person’s will where the victim is incapable of giving consent.

   a. **Forcible rape (except “statutory rape”).** The carnal knowledge of a person, forcibly or against that person’s will, or both; or not forcibly or against the person’s will where the victim is incapable of giving consent because of his or her temporary or permanent mental or physical incapacity (or because of his or her youth).

   b. **Forcible sodomy.** Oral or anal sexual intercourse with another person, forcibly or against that person’s will, or both; or not forcibly or against the person’s will where the victim is incapable of giving consent because of his or her youth or because of his or her temporary or permanent mental or physical incapacity.

   c. **Sexual assault with an object.** To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly or against that person’s will, or both; or not forcibly or against the person’s will where the victim is incapable of giving consent because of his or her youth or because of his or her temporary or permanent mental or physical incapacity. **Note:** An “object” or “instrument” is anything used by the offender other than the offender’s genitalia. Examples are a finger, bottle, handgun, stick, and the like.

   d. **Forcible fondling.** The touching of the private body parts of another person for the purpose of sexual gratification, forcibly or against that person’s will, or both; or not forcibly or against the person’s will where the victim is incapable of giving consent because of his or her youth or because of his or her temporary or permanent mental or physical incapacity. **Note:** Forcible fondling includes “indecent liberties” and “child molesting.”

10. **Nonforcible Sex Offenses (Except “Prostitution Offenses”):**

Unlawful, nonforcible sexual intercourse.

   a. **Incest.** Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

   b. **Statutory rape.** Nonforcible sexual intercourse with a person who is under the statutory age of consent.
In providing physical education courses and athletics and similar aid, benefits, or services to any of its students, a recipient to which 34 C.F.R. Part 104, Subpart E applies, including a college district, may not discriminate on the basis of disability. A recipient that offers physical education courses or operates or sponsors intercollegiate, club, or intramural athletics shall provide to qualified students with disabilities an equal opportunity for participation in these activities.

A recipient may offer to students with disabilities physical education and athletic activities that are separate or different only if separation or differentiation is consistent with the requirements of offering the most integrated setting appropriate and only if no qualified student with disabilities is denied the opportunity to compete for teams or to participate in courses that are not separate or different.

34 C.F.R. 104.43(d), .47(a)

No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, be treated differently from another person, or otherwise be discriminated against in any interscholastic, intercollegiate, club or intramural athletics offered by a recipient of federal funding, and no recipient shall provide any such athletics separately on such basis.

Notwithstanding the requirements above, a recipient may operate or sponsor separate teams for members of each sex where selection for such teams is based upon competitive skill or the activity involved is a contact sport. However, where a recipient operates or sponsors a team in a particular sport for members of one sex but operates or sponsors no such team for members of the other sex, and athletic opportunities for members of that sex have previously been limited, members of the excluded sex must be allowed to try-out for the team offered unless the sport involved is a contact sport. For the purposes of this part, contact sports include boxing, wrestling, rugby, ice hockey, football, basketball, and other sports the purpose or major activity of which involves bodily contact.

A recipient that operates or sponsors interscholastic, intercollegiate, club, or intramural athletics shall provide equal athletic opportunity for members of both sexes. In determining whether equal opportunities are available, the U.S. Department of Education Office of Civil Rights (OCR) will consider, among other factors:

1. Whether the selection of sports and levels of competition effectively accommodate the interests and abilities of members of both sexes;

2. The provision of equipment and supplies;
3. Scheduling of games and practice time;
4. Travel and per diem allowance;
5. Opportunity to receive coaching and academic tutoring;
6. Assignment and compensation of coaches and tutors;
7. Provision of locker rooms, practice, and competitive facilities;
8. Provision of medical and training facilities and services;
9. Provision of housing and dining facilities and services; and
10. Publicity.

Unequal aggregate expenditures for members of each sex or unequal expenditures for male and female teams if a recipient operates or sponsors separate teams will not constitute noncompliance with this section, but OCR may consider the failure to provide necessary funds for teams for one sex in assessing equality of opportunity for members of each sex.

34 C.F.R. 106.41
The College President shall develop procedures regarding the sponsorship or sanction of student activities and related requirements consistent with the mission and objectives of the College District.

ATHLETICS

The College President shall ultimately be responsible for, and shall exercise administrative and fiscal control over, the College District's intercollegiate athletics program.
Special circumstances must be present to give an institution of higher education, including a college district, the right to control student publications. An institution of higher education may censor student expression only if it acts consistent with First Amendment constitutional guarantees [see FLA]. An institution may not infringe on free speech when it is not shown to be necessarily related to the maintenance of order and discipline within the educational process. Schiff v. Williams, 519 F.2d 257 (5th Cir. 1975)
The role of student publications shall be three-fold: to provide a training ground for those students who want to pursue careers in journalism, to provide news of campus-related activities to be disseminated to the College District community, and to act as a public relations tool by informing area residents about the College District.

Student publication organizations shall be responsible for printing material that is free from personal bias, is not libelous, and is in good taste. Hate literature that attacks ethnic, religious, or racial groups or similar irresponsible publications aimed at creating hostility and violence shall be prohibited. Each publication must clearly state that opinions expressed in its editorials and policy statements do not necessarily reflect the opinion and policies of the College District, its Board, or administration.

Supervision of student publications shall be through a faculty sponsor who normally teaches journalism/creative writing courses at the College District. The responsibilities of the faculty sponsor shall be to ensure that printed materials meet the standards stated above as well as approve the content of the publication, advise the student staff, and appoint and remove student staff members. Removal of a student staff member may be based on the following acts, as judged by the sponsor:

1. Failure to follow the policies established by the faculty sponsor;
2. Failure to follow the principles of journalistic writing style; or
3. Failure to carry out the responsibilities of the position as outlined by the sponsor.

If a student staff member disagrees with action against him or her, a hearing may be requested.
The College District shall serve as the depository and fiscal agent for all student organizations authorized to operate on campus. Organization sponsors shall have the responsibility for ensuring that all organization revenue is turned in to the business office, which shall issue a receipt for the funds. Expenditures of organization funds shall be under the direction of the sponsor and shall be subject to procedures established by the business office.

Each organization shall be responsible for keeping detailed records that provide adequate data for financial operating reports. The business office shall keep records on funds received and disbursed and shall issue a statement showing income, expenditures, and account balances on a monthly basis to the organization.

No fund-raising activities shall be conducted without the approval of the Vice President for Institutional Advancement. Any fund-raising activity shall be for the benefit of the organization as a whole or a charity, and no funds shall be distributed to officers or members of the organization for personal profit or gain.

The College District shall not be responsible for debts incurred by any student organization.
RISK MANAGEMENT PROGRAMS FOR STUDENT ORGANIZATIONS

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

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

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

Education Code 51.9361(b)–(d)

MANDATORY ATTENDANCE

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

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

Education Code 51.9361(a)(1), (d)–(e)
Each advisor or officer required to attend a program shall report on the program’s contents at a meeting of the full membership of the student organization the advisor or officer represented at the program. *Education Code 51.9361(f)*

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

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

*Education Code 51.9361(g)*

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

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

*Education Code 51.9361(h)–(i)*
## Recognition

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

## Discrimination on the Basis of Disability

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

## Sales

### Sales Tax Exemption

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

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

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

*Tax Code 151.321(a)–(b)*

## To Qualify

A student organization qualifies for the exemptions if the student organization:

1. Is affiliated with an institution of higher education or a private or independent college or university that is located in this state and that is accredited by a recognized accrediting agency;
2. Has as its primary purpose a purpose other than engaging in business or performing an activity designed to make a profit; and
3. Files a certification with the comptroller as described below.

*Tax Code 151.321(c)*

**USE TAX EXEMPTION**

The storage, use, or consumption of a taxable item acquired tax-free under this section is exempted from the use tax imposed by Tax Code Chapter 151, Subchapter D until the item is resold or subsequently transferred. *Tax Code 151.321(e)*

**CERTIFICATION**

A student organization must file with the comptroller a certification issued by the institution showing that the organization is affiliated with the institution. *Tax Code 151.321(d)*

**RAFFLES**

An institution of higher education shall allow a qualified organization that is a student organization recognized by the institution to sell raffle tickets at any facility of the institution, subject to reasonable restrictions on the time, place, and manner of the sale. *Occupations Code 2002.057* [See FI]
An organization in which membership is limited to students, staff, and faculty may become a registered student organization by complying with the registration procedures established by the Vice President of Student and Outreach Services.

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

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

ELIGIBILITY
A group shall be eligible for registration if:

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

REJECTION OF APPLICATION
If the Vice President of Student and Outreach Services does not approve the application for registration, he or she shall provide the applicant with a copy of a written statement of the reasons for refusal, and the applicant may appeal to the College President.

The College President may take one of the following actions:

1. Affirm the Vice President of Student and Outreach Services’s decision.
2. Reverse the Vice President of Student and Outreach Services’s decision.
3. Appoint a committee to conduct a hearing and report its findings to the applicant and the College President, who shall then take final action.

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

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

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

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

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

Each registered student organization shall submit the following:

1. At the beginning of each semester, a complete list of officers or other representatives of the organization who are authorized to receive official notices, directives, or information from the College District on behalf of the organization. The list shall be kept current and accurate by the organization.

2. At the beginning of each semester, an affidavit stating that the organization or group does not, and will not, accept any member who is not a student or a member of the faculty or staff of the College District.

3. A financial statement form supplied by the business office to be filed on the first workday of July and January.

Upon written notice, a student organization’s registered status may be revoked by the Vice President of Student and Outreach Services if it:

1. No longer meets the eligibility requirements; or

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

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

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

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

Not later than the seventh day after the date on which the person begins to attend school, a person required to register under Code of Criminal Procedure 62.152 or any other provision of Code of Criminal Procedure Chapter 62, who is a student at a public institution of higher education, including a college district, shall report that fact to:

1. The authority for campus security for the institution; or

2. If an authority for campus security for the institution does not exist and the person is otherwise required by Chapter 62, Code of Criminal Procedure, to register at the authority the local law enforcement authority of:
   a. The municipality in which the institution is located; or
   b. The county in which the institution is located, if the institution is not located in a municipality.

The person described above shall provide the authority for campus security or the local law enforcement authority all information the person is required to provide under Code of Criminal Procedure 62.051(c). The person shall notify the authority for campus security or the local law enforcement authority not later than the seventh day after the date of termination of the person’s status as a student 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 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 an authority for campus security; or 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.

[See also GAA]

_Code of Criminal Procedure 62.153_
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”**

**“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 compati-
bility 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.


**PROTECTED SPEECH**

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.


[See also CHE for use of the college district’s mail system]
Written or printed materials, handbills, photographs, pictures, films, tapes, or other visual or auditory materials not sponsored by the College District shall not be sold, circulated, distributed, or posted on any College District premises by any College District student or registered student organization [see FKC], except in accordance with this policy.

The College District shall not be responsible for, nor shall the College District endorse, the contents of any nonschool literature distributed by students or registered student organizations.

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

[For distribution of nonschool literature by nonstudents and organizations that are not registered student organizations, see GF]

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

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

The Vice President of Student and Outreach Services shall designate times, locations, and means by which nonschool literature that is appropriate for distribution, as provided in this policy, may be made available or distributed by students or registered student organizations to students or others at College District facilities.

Distribution of the nonschool literature shall be conducted in a manner that:

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

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

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

Except for signs that violate the limitations on content, as described above, a student or registered student organization may publicly post a sign on College District property in areas or locations designated by the Vice President of Student and Outreach Services. No object other than a sign may be posted on College District property.

Before publicly posting a sign, a student or registered student organization shall:
1. Deliver a copy, photograph, or description of the sign to be posted.
2. Give notice of the following information:
   a. The name of the student or registered student organization and, if an organization, the name of its advisor;
   b. The proposed general location for posting the sign;
   c. The length of time the sign will be posted; and
   d. The signature of the student or, if a registered student organization, the signature of its authorized representative and the signature of its advisor.
3. Place the date of posting on each sign posted.

RESTRICTIONS

A sign shall not be larger than 22 inches by 28 inches, unless authorized by the Vice President of Student and Outreach Services. 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;
8. On or between a curb and sidewalk; or
9. In a College District building, except on a bulletin board designated for that purpose.

**REMOVAL**

A student or registered student organization shall remove each sign not later than 14 days after posting or, if it relates to an event, not longer than 24 hours after the event to which it relates has ended.

A sign posted in accordance with this section shall not be removed without permission from the Vice President of Student and Outreach Services, the student, or the registered student organization.

**DISCLAIMER**

Literature distributed by a registered student organization must include a disclaimer indicating that the literature is not sponsored by the College District and does not represent the views of the College District or College District officials, faculty, or staff.

**IDENTIFICATION**

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

**VIOLATIONS OF POLICY**

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

**APPEALS**

Decisions made by the administration in accordance with this policy may be appealed in accordance with FLD(LOCAL).
The grounds and facilities 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 student or student organization shall pay all expenses incurred by their use of the facilities in accordance with a fee schedule developed by the Executive Vice President for Instruction.

REQUESTS

To request permission to meet on College District premises, interested students or registered student organizations shall file a written request with the Vice President of Student and Outreach Services in accordance with administrative procedures.

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

APPROVAL

The Vice President of Student and Outreach Services 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, or other content of the speech likely to be associated with the student’s or registered student organization’s use of the facility.

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

1. The College District facility requested is unavailable, inadequate, or inappropriate to accommodate the proposed use at the time requested;

2. The applicant is under a disciplinary penalty or sanction prohibiting the use of the facility;

3. The proposed use includes nonpermissible solicitation [see FI];

4. The proposed use would constitute an immediate and actual danger to the peace or security of the College District that available law enforcement officials could not control with reasonable efforts;

5. The applicant owes a monetary debt to the College District and the debt is considered delinquent;

6. The proposed activity would disrupt or disturb the regular academic program;
7. The proposed use would result in damage to or defacement of property or the applicant has previously damaged College District property; or

8. The proposed activity would constitute an unauthorized joint sponsorship with an outside group.

The Vice President of Student and Outreach Services shall provide the applicant a written statement of the grounds for rejection if a request is denied.

ANNOUNCEMENTS AND PUBLICITY

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

IDENTIFICATION

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

VIOLATIONS

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

APPEALS

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

[For distribution of literature, see FLA]
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 GFA.
DEFINITIONS

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

A “student” shall mean one who is currently enrolled in the College District. These policies and regulations shall also apply to any prospective or former student who has been accepted for admission or readmission to any component institution while he or she is 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" 
“Scholastic dishonesty” shall include, but not be limited to, cheating, plagiarism, and collusion.

“Cheating” shall include, but shall not be limited to:

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 one’s self, to take a test;
7. Bribing another person to obtain an unadministered test or information about an unadministered test; or
8. Manipulating a test, assignment, or final course grades.

“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.

“Collusion” shall be defined as the unauthorized collaboration with another person in preparing written work for fulfillment of course requirements.

"DISORDERLY CONDUCT" 
“Disorderly conduct” shall include any of the following activities occurring on premises owned or controlled by the College District:
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.

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.

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;
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; and
8. Cooperate with and assist the College District staff in maintaining safety, order, and discipline.

The following behavior shall be prohibited:

**PROHIBITED CONDUCT**

<table>
<thead>
<tr>
<th>FEDERAL, STATE, AND LOCAL LAW</th>
<th>1. Violations of federal, state, or local law or College District policies, procedures, or rules, including the student handbook.</th>
</tr>
</thead>
<tbody>
<tr>
<td>PROHIBITED WEAPONS</td>
<td>2. Possession, distribution, sale, or use of firearms or other prohibited weapons without prior approval. [See FLBF]</td>
</tr>
<tr>
<td>DRUGS AND ALCOHOL</td>
<td>3. The use, possession, control, manufacture, transmission, or sale, or being under the influence, of a drug or narcotic, as those terms are defined by the Texas Controlled Substances Act, or other prohibited substances described in FLBD, unless under the direction of a physician.</td>
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<tr>
<td></td>
<td>4. The use, possession, control, manufacture, transmission, or sale of paraphernalia related to any prohibited substance.</td>
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<tr>
<td></td>
<td>5. The use, possession, control, manufacture, transmission, or sale, or being under the influence, of alcohol or other intoxicating beverage without the permission of the College District.</td>
</tr>
<tr>
<td>DEBTS</td>
<td>6. Owing a monetary debt to the College District that is considered delinquent or writing an “insufficient funds” check to the College District.</td>
</tr>
<tr>
<td>DISRUPTIONS</td>
<td>7. “Disorderly conduct,” as defined above, or disruptive behavior.</td>
</tr>
<tr>
<td>BEHAVIOR TARGETING OTHERS</td>
<td>8. Threatening another person, including a student or employee.</td>
</tr>
<tr>
<td></td>
<td>9. Intentionally, knowingly, or negligently causing physical harm to any person.</td>
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<td></td>
<td>10. Engaging in conduct that constitutes harassment, bullying, or dating violence directed toward another person, including a student or employee. [See DIA, FFD, and FFE as appropriate]</td>
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<td></td>
<td>11. Hazing with or without the consent of a student. [See FLBC]</td>
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<tr>
<td></td>
<td>12. Initiations by organizations that include features that are dangerous, harmful, or degrading to the student, a violation of</td>
</tr>
</tbody>
</table>
which also renders the organization subject to appropriate discipline.

13. Endangering the health or safety of members of the College District community or visitors to the premises.

PROPERTY

14. Intentionally, knowingly, or negligently defacing, damaging, misusing, or destroying College District property or property owned by others.

15. Stealing from the College District or others.

DIRECTIVES

16. Failure to comply with directives given by College District personnel.

17. Failure to provide identification when requested to do so by College District personnel.

TOBACCO

18. Possession or use of tobacco products on College District premises without authorization.

MISUSE OF TECHNOLOGY

19. Violating policies, rules, or agreements signed by the student regarding the use of technology resources.

20. Attempting to access or circumvent passwords or other security-related information of the College District, students, or employees or uploading or creating computer viruses.

21. Attempting to alter, destroy, or disable 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.

22. Using the Internet or other electronic communications to threaten College District students, employees, or volunteers.

23. Sending, posting, or possessing electronic messages that are abusive, obscene, sexually oriented, threatening, harassing, damaging to another’s reputation, or illegal.

24. Using e-mail or websites to engage in or encourage illegal behavior or threaten the safety of the College District, students, employees, or visitors.

25. 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

26. Scholastic dishonesty, as defined above.
27. Making false accusations or perpetrating hoaxes regarding the safety of the College District, students, employees, or visitors.

28. Intentionally or knowingly providing false information to the College District.

29. Intentionally or knowingly falsifying records, passes, or other College District-related documents.

GAMBLING

30. Gambling.

OTHER CONDUCT

31. Engaging in any conduct that College District officials might reasonably believe will substantially disrupt the College District program or incite violence.

DISCIPLINE

A student shall be subject to discipline, including suspension, 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.
DRESS AND GROOMING

The college campus marks the appropriate boundary where the public institution can no longer assert that the regulation of student grooming is reasonably related to the fostering or encouragement of education.

In the absence of a showing that unusual conditions exist, the regulation of the length or style of a college student's hair is irrelevant to any legitimate institutional administrative interests.

*Lansdale v. Tyler Junior College, 470 F.2d 659 (5th Cir. 1972) (en banc)*
HAZING OFFENSE

PERSONAL

A person commits an offense if the person:

1. Engages in hazing.
2. Solicits, encourages, directs, aids, or attempts to aid another in engaging in hazing.
3. Has first-hand knowledge of the planning of a specific hazing incident involving a student in an educational institution, including a college district, or first-hand knowledge that a specific hazing incident has occurred, and knowingly fails to report that knowledge in writing to the dean of students or other appropriate official of the institution.

_Education Code 37.152(a), 51.936(a)_

ORGANIZATION

An organization commits an offense if the organization condones or encourages hazing or if an officer or any combination of members, pledges, or alumni of the organization commits or assists in the commission of hazing. _Education Code 37.153(a)_

DEFINITIONS

“HAZING”

“Hazing” means any intentional, knowing, or reckless act, occurring on or off the campus of an educational institution by one person alone or acting with others, directed against a student, that endangers the mental or physical health or the safety of a student for the purpose of pledging, being initiated into, affiliating with, holding office in, or maintaining membership in any organization whose members are or include other students. The term includes:

1. Any type of physical brutality, such as whipping, beating, striking, branding, electronic shocking, placing of a harmful substance on the body, or similar activity.
2. Any type of physical activity, such as sleep deprivation, exposure to the elements, confinement in a small space, calisthenics, or other activity that subjects the student to an unreasonable risk of harm or that adversely affects the mental or physical health or safety of the student.
3. Any activity involving consumption of a food, liquid, alcoholic beverage, liquor, drug, or other substance that subjects the student to an unreasonable risk of harm or that adversely affects the mental or physical health or safety of the student.
4. Any activity that intimidates or threatens the student with ostracism, that subjects the student to extreme mental stress, shame, or humiliation, or that adversely affects the mental health or dignity of the student or discourages the student from entering or remaining registered in an educational institution, or that may reasonably be expected to cause a student
to leave the organization or the institution rather than submit to acts described above.

5. Any activity that induces, causes, or requires the student to perform a duty or task that involves a violation of the Penal Code.

*Education Code 37.151(6); 51.936(a)*

"ORGANIZATION" "Organization" means a fraternity, sorority, association, corporation, order, society, corps, club, or service, social, or similar group, whose members are primarily students. *Education Code 37.151(5); 51.936(a)*

"STUDENT" "Student" means any person who:

1. Is registered in or in attendance at an educational institution;
2. Has been accepted for admission at the educational institution where the hazing incident occurs; or
3. Intends to attend an educational institution during any of its regular sessions after a period of scheduled vacation.

*Education Code 37.151(4); 51.936(a)*

PUBLICICATION Each public institution of higher education shall distribute to each student during the first three weeks of each semester a summary of Education Code Chapter 37, Subchapter F and a list of organizations that have been disciplined for hazing or convicted for haz- ing on or off campus during the previous three years. If the institu- tion publishes a general catalogue, student handbook, or similar publication, it shall publish a summary of the provisions of Educa- tion Code Chapter 37, Subchapter F in each edition of the publication. *Education Code 51.936(c)–(d)*

INFORMATION REGARDING GANG-FREE ZONES The governing board of each institution of higher education, including each college district, shall ensure that any student handbook or similar publication for the institution includes information on gang-free zones and the consequences of engaging in organized criminal activity within those zones. *Education Code 51.973*
The College District prohibits the use of any type of tobacco products, including electronic cigarettes, on College District grounds and in College District buildings, facilities, and vehicles in order to provide students, employees, and visitors a safe and healthy environment. This prohibition shall also apply to spaces leased by the College District. The use of tobacco products, including electronic cigarettes, shall be permitted in designated areas and private vehicles parked on College District property provided any residue is retained within the vehicle. [See also DH and GFA]
NOTICE REGARDING STEROIDS

Each public institution of higher education, including each college district, shall post in a conspicuous location in each gymnasium at the institution the notice described in Education Code 51.921. *Education Code 51.921* [See FLBE(EXHIBIT)]

ALCOHOL AND DRUG ABUSE PROGRAMS

Notwithstanding any other provision of law, no institution of higher education, including a college district, shall be eligible to receive funds or any other form of financial assistance under any federal program, including participation in any federally funded or guaranteed student loan program, unless the institution certifies to the U.S. Secretary of Education that the institution has adopted and has implemented a program to prevent the use of illicit drugs and the abuse of alcohol by students and employees that, at a minimum, includes:

1. The annual distribution to each student of:
   a. Standards of conduct that clearly prohibit, at a minimum, the unlawful possession, use, or distribution of illicit drugs and alcohol by students and employees on the institution's property or as part of any of the institution's activities;
   b. A description of the applicable legal sanctions under local, state, or federal law for the unlawful possession or distribution of illicit drugs and alcohol;
   c. A description of the health risks associated with the use of illicit drugs and the abuse of alcohol;
   d. A description of any drug or alcohol counseling, treatment, or rehabilitation or re-entry programs that are available to employees or students; and
   e. A clear statement that the institution will impose sanctions on students and employees (consistent with local, state, and federal law), and a description of those sanctions, up to and including expulsion or termination of employment and referral for prosecution, for violations of the standards of conduct required above.

2. A biennial review by the institution of the institution's program to:
   a. Determine the program's effectiveness and implement changes to the program if the changes are needed;
   b. Determine the number of drug- and alcohol-related violations and fatalities that occur on the institution's campus, as defined in 20 U.S.C. 1092(f)(6), or as part of any of the institution's activities; and are reported to campus officials;
c. Determine the number and type of sanctions described in 20 U.S.C. 1011i(a)(1)(E) that are imposed by the institution as a result of drug- and alcohol-related violations and fatalities on the institution's campus or as part of any of the institution's activities; and

d. Ensure that the sanctions required by 20 U.S.C. 1011i(a)(1)(E) are consistently enforced.

20 U.S.C. 1011i(a); 34 C.F.R. 86.100

**BINGE DRINKING**

It is the sense of Congress that, in an effort to change the culture of alcohol consumption on college campuses, all institutions of higher education, including college districts, should carry out the following:

1. The president of the institution should appoint a task force consisting of school administrators, faculty, students, Greek system representatives, and others to conduct a full examination of student and academic life at the institution. The task force should make recommendations for a broad range of policy and program changes that would serve to reduce alcohol and other drug-related problems. The institution should provide resources to assist the task force in promoting the campus policies and proposed environmental changes that have been identified.

2. The institution should provide maximum opportunities for students to live in an alcohol-free environment and to engage in stimulating, alcohol-free recreational and leisure activities.

3. The institution should enforce a “zero tolerance” policy on the illegal consumption of alcohol by students at the institution.

4. The institution should vigorously enforce the institution's code of disciplinary sanctions for those who violate campus alcohol policies. Students with alcohol or other drug-related problems should be referred for assistance, including on-campus counseling programs if appropriate.

5. The institution should adopt a policy to discourage alcoholic beverage-related sponsorship of on-campus activities. It should adopt policies limiting the advertisement and promotion of alcoholic beverages on campus.

6. The institution should work with the local community, including local businesses, in a “Town/Gown” alliance to encourage responsible policies toward alcohol consumption and to address illegal alcohol use by students.

20 U.S.C. 1011h
ALCOHOL

A student shall be prohibited from using or being under the influence of intoxicating beverages in classroom buildings, laboratories, auditoriums, library buildings, museums, faculty and administrative offices, intercollegiate and intramural athletic facilities, housing facilities, and all other public campus areas. With the prior consent of the Board or the Board’s designee, the provisions herein may be waived with respect to any specific event that is sponsored by the College District. State law shall be strictly enforced at all times on all property controlled by the College District in regard to the possession and consumption of alcoholic beverages.

CONTROLLED SUBSTANCES

No student shall possess, use, transmit, or attempt to possess, use, or transmit, or be under the influence of, any of the following substances on College District premises or off premises at a College District-sponsored activity, function, or event:

1. Any controlled substance or dangerous drug as defined by law, including but not limited to marijuana, any narcotic drug, hallucinogen, stimulant, depressant, amphetamine, or barbiturate.

2. Any abusable glue, aerosol paint, or any other volatile chemical substance for inhalation.

3. Any performance-enhancing substance, including steroids.

4. Any designer drug.

5. Any other intoxicant or mood-changing, mind-altering, or behavior-altering drug.

The transmittal, sale, or attempted sale of what is represented to be any of the above-listed substances shall also be prohibited under this policy.

EXCEPTION

A student who uses a drug authorized by a licensed physician through a prescription specifically for that student’s use shall not be considered to have violated this rule.

VIOLATION

Students who violate this policy shall be subject to appropriate disciplinary action. [See FM and FMA] Such disciplinary action may include referral to drug and alcohol counseling or rehabilitation programs or student assistance programs, suspension, expulsion, and referral to appropriate law enforcement officials for prosecution.

NOTICE

Each student taking one or more classes for any type of academic credit except for continuing education units shall be given a copy of the College District’s policy prohibiting the unlawful possession, use, or distribution of illicit drugs and alcohol, a description of the...
applicable legal sanctions under local, state, or federal law, and a description of the health risks associated with the use of illicit drugs and the abuse of alcohol.
NOTICE REGARDING STEROIDS

Education Code 51.921

Anabolic steroids and growth hormones are for medical use only. State law prohibits possessing, dispensing, delivering, or administering an anabolic steroid or growth hormones in any manner not allowed by state law. State law provides that body building, muscle enhancement, or increasing muscle bulk or strength through the use of an anabolic steroid is not a valid medical purpose. Only a medical doctor may prescribe an anabolic steroid or human growth hormone for a person. A violation of state law concerning anabolic steroids or human growth hormones is a criminal offense punishable by confinement in jail or imprisonment in the Texas Department of Criminal Justice.
A person commits an offense if the person intentionally, knowingly, or recklessly possesses or goes with a firearm, illegal knife, club, or prohibited weapon on the physical premises of a school or educational institution, including a community college, any grounds or building on which an activity sponsored by a school or educational institution is being conducted, or a passenger transportation vehicle of a school or educational institution unless pursuant to written regulations or written authorization of the institution. *Penal Code 46.03(a)*

**DEFINITIONS**

**“FIREARM”**

A “firearm” is any device designed, made, or adapted to expel a projectile through a barrel by using the energy generated by an explosion or burning substance or any device readily convertible to that use. *Penal Code 46.01(3)*

**“ILLEGAL KNIFE”**

An “illegal knife” is a knife with a blade over five and one-half inches; hand instrument designed to cut or stab another by being thrown; dagger, including, but not limited to, a dirk, stiletto, and poniard; bowie knife; sword; or spear. *Penal Code 46.01(6)*

**“CLUB”**

A “club” is an instrument that is specially designed, made, or adapted for the purpose of inflicting serious bodily injury or death by striking a person with the instrument, and includes, but is not limited to, a blackjack, nightstick, mace, and tomahawk. *Penal Code 46.01(1)*

**“PROHIBITED WEAPONS”**

“Prohibited weapons” include:

1. An explosive weapon (any explosive or incendiary bomb, grenade, rocket, or mine that is designed, made, or adapted for the purpose of inflicting serious bodily injury, death, or substantial property damage, or for the principal purpose of causing such a loud report as to cause undue public alarm or terror, and includes a device designed, made, or adapted for delivery or shooting an explosive weapon). *Penal Code 46.01(2)*

2. A machine gun (any firearm that is capable of shooting more than two shots automatically, without manual reloading, by a single function of the trigger). *Penal Code 46.01(9)*

3. A short-barrel firearm (rifle with a barrel length of less than 16 inches or a shotgun with a barrel length of less than 18 inches, or any weapon made from a shotgun or rifle if, as altered, it has an overall length of less than 26 inches). *Penal Code 46.01(10)*

4. A firearm silencer (any device designed, made, or adapted to muffle the report of a firearm). *Penal Code 46.01(4)*
5. Knuckles (any instrument consisting of finger rings or guards made of a hard substance that is designed, made, or adapted for the purpose of inflicting serious bodily injury or death by striking a person with a fist enclosed in the knuckles). *Penal Code 46.01(8)*

6. Armor-piercing ammunition (handgun ammunition that is designed primarily for the purpose of penetrating metal or body armor and to be used primarily in pistols and revolvers). *Penal Code 46.01(12)*

7. A chemical dispensing device (device, other than a small chemical dispenser sold commercially for personal protection, that is designed, made, or adapted for the purpose of dispensing a substance capable of causing an adverse psychological or physiological effect on a human being). *Penal Code 46.01(14)*

8. A zip gun (a device or combination of devices that was not originally a firearm and is adapted to expel a projectile through a smooth-bore or rifled-bore barrel by using the energy generated by an explosion or burning substance). *Penal Code 46.01(16)*

9. A tire deflation device (a device, including a caltrop or spike strip, that, when driven over, impedes or stops the movement of a wheeled vehicle by puncturing one or more of the vehicle’s tires; it does not include a traffic control device that is designed to puncture one or more of a vehicle’s tires when driven over in a specific direction, and has a clearly visible sign posted in close proximity to the traffic control device that prohibits entry or warns motor vehicle operators of the traffic control device). *Penal Code 46.01(17)*

*Penal Code 46.05(a)*
Students shall not bring on College District property or to any College District-sponsored or -related activity any weapons prohibited by law or identified below:

1. Fireworks of any kind;
2. Incendiary devices;
3. Instruments designed to expel a projectile with the use of pressurized air, like a BB gun;
4. Razors;
5. Chains;
6. Martial arts throwing stars; or
7. Any other object, including school/college supplies, used in a way that threatens or inflicts bodily injury on another person.

The possession or use of articles not generally considered to be weapons may be prohibited when the College President or designee determines that a danger exists for any student, College District employee, or College District property by virtue of possession or use.

Lockers and cars parked on College District premises may be inspected by College District personnel if there is reasonable cause to believe they contain weapons.

Students found to be in violation of this policy shall be subject to disciplinary action. [See FM and FMA]

Written authorization may be given to the following persons for possession of certain weapons:

1. A student enrolled in a noncredit concealed handgun training course offered through the continuing education department.
2. A student enrolled in the Texas Peace Officers Skills college credit class.
3. Criminal justice staff using weapons or reasonable facsimile of weapons for training purposes.
Students have a right to be free from unreasonable searches and seizures while on college district premises.  *U.S. Const. Amend. IV; Tex. Const. Art. I, Section 9; New Jersey v. T.L.O.*, 469 U.S. 325 (1985)

**GENERALLY SEARCHES CONDUCTED BY COLLEGE DISTRICT OFFICIALS**

When a search is conducted by a college district employee, a reasonable suspicion standard is applied to the search. Reasonable cause exists if the student is suspected of violating a rule, and it is believed that the search will uncover evidence of the suspected violation. The reasonableness of any search involves a determination of whether the search was justified at its inception, and whether, as conducted, the search was reasonably related in scope to the circumstances that justified the interference in the first place. *Vernonia Sch. Dist. 47J v. Acton*, 515 U.S. 646 (1995); *New Jersey v. T.L.O.*, 469 U.S. 325 (1985); *Porter v. Ascension Parish Sch. Bd.*, 393 F.3d 608 (5th Cir. 2004)

**SEARCHES CONDUCTED BY LAW ENFORCEMENT**

Generally, when law enforcement officials conduct a search, they must have probable cause to believe that the subject of the search has violated or is violating the law. However, in some circumstances, courts may apply a different standard to a college district search in which a law enforcement official is involved. *New Jersey v. T.L.O.*, 469 U.S. 325 (1985)

**STUDENT CONSENT**

An individual may waive his rights under the Fourth Amendment by consenting to a search. *Grubbs v. State*, 177 S.W.3d 313 (Tex. App.—Houston [1st Dist.] 2005, pet. ref’d)

**SEARCHES OF DORM ROOMS**

A student who occupies a college dormitory room has the same expectation of privacy as any adult has in the privacy of that person’s home and therefore enjoys the protection of the Fourth Amendment. An institution of higher education, including a college district, retains broad supervisory powers, which permit it to adopt a regulation that applies to college district housing, provided that regulation is reasonably construed and is limited in its application to further the institution’s function as an educational institution. The regulation cannot be construed or applied so as to give consent to a search for evidence for the primary purpose of a criminal prosecution. *Piazzola v. Watkins*, 442 F.2d 284 (5th Cir. 1971), *Grubbs v. State*, 177 S.W.3d 313 (Tex. App.—Houston [1st Dist.] 2005, pet. ref’d)

**SEARCHES OF TELECOMMUNICATIONS / ELECTRONIC DEVICES**

A person is prohibited from obtaining, altering, or preventing authorized access to a wire or electronic communication while it is in electronic storage by:

1. Intentionally accessing without authorization a facility through which an electronic communication service is provided; or
2. Intentionally exceeding an authorization to access that facility.

EXCEPTIONS

This section does not apply with respect to conduct authorized:

1. By the person or entity providing a wire or electronic communications service;

2. By a user of that service with respect to a communication of or intended for that user; or


18 U.S.C. 2701(a), (c)

“ELECTRONIC COMMUNICATION”

“Electronic communication” means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic, or photooptical system that affects interstate or foreign commerce. 18 U.S.C. 2510(12)

“ELECTRONIC STORAGE”

“Electronic storage” means:

1. Any temporary, intermediate storage of a wire or electronic communication incidental to the electronic transmission thereof; and

2. Any storage of such communication by an electronic communication service for purposes of backup protection of such communication.

18 U.S.C. 2510(17)

Messages that have been sent to a person, but not yet opened, are in temporary, intermediate storage and are considered to be in electronic storage. See Steve Jackson Games, Inc. v. United States Secret Service, 36 F.3d 457 (5th Cir. 1994)
Administrators, faculty, security, and other professional personnel may question a student regarding the student's own conduct or the conduct of other students. In the context of student disciplinary processes, students shall be expected to cooperate with College District officials. Lack of cooperation may lead to disciplinary action.

The College District shall respect the right of students to privacy and security against arbitrary invasion of their person or property. However, College District officials shall have a limited right to search students or their property when it is in the interest of the welfare of students and/or staff members or when it becomes necessary to preserve the good order and discipline of the College District.

Students have full responsibility for the security of their backpacks, briefcases, and other personal property, as well as for personal vehicles parked on College District property. A student shall not place, keep, or maintain any article or material that is forbidden by law or College District property in a backpack, briefcase, other personal property, or in a vehicle parked on College District property.

College District officials may search a student's personal property or vehicle parked on school property if there is reasonable cause to believe that it or they contain articles or materials prohibited by College District policy. A student shall be responsible for any prohibited items found on or in his or her personal property or in a vehicle parked on school property.

If a vehicle subject to search is locked, the student shall be asked to unlock the vehicle. If the student refuses, future access to College District property may be denied.

Lockers, desks, dormitory rooms, and similar areas owned and controlled by the College District may be searched by College District officials when reasonable suspicion exists to believe that stolen items or items prohibited by law are contained in the area to be searched. Blanket searches, or indiscriminate searches, shall not occur. Stolen items or items prohibited by College District policy may be impounded and used as evidence in institutional disciplinary proceedings.

The College District may allow local law enforcement agencies to use specially trained nonaggressive dogs to sniff out and alert officials to the current presence of concealed prohibited items, illegal controlled substances, and alcohol. This program shall be implemented to maintain a safe environment conducive to education.
The dogs shall be used to sniff vacant classrooms, vacant common areas, dormitory facilities, and the areas around vehicles parked on College District property. The dogs shall not be used to sniff a student’s person. If a dog alerts to an area or vehicle, it may be searched by College District officials.
UNITED STATES CONSTITUTION

A governmental entity, including a college district, shall take no action abridging the freedom of speech or the right of the people to petition the governing board of the entity for redress of grievances. U.S. Const. Amend. I, XIV [See FLA]

The governing board may confine its meetings to specified subject matter and may hold nonpublic sessions to transact business. But when the governing board sits in public meetings to conduct public business and hear the views of citizens, it may not discriminate between speakers on the basis of the content of their speech or the message it conveys. Rosenberger v. Rector & Visitors of Univ. of Virginia, 515 U.S. 819, 828 (1995); City of Madison v. Wis. Emp. Rel. Comm’n, 429 U.S. 167, 174 (1976); Pickering v. Bd. of Educ., 391 U.S. 563, 568 (1968)

TEXAS CONSTITUTION

The citizens shall have the right, in a peaceable manner, to assemble together for their common good; and to apply to those invested with the powers of government for redress of grievances or other purposes, by petition, address, or remonstrance. Tex. Const. Art. I, Sec. 27

The governing board of a community college is not required to negotiate or even respond to complaints. However, the governing board must stop, look, and listen and must consider the petition, address, or remonstrance. Prof’l Ass’n of College Educators v. El Paso County Cmty. [College] Dist., 678 S.W.2d 94 (Tex. App.—El Paso 1984, writ ref’d n.r.e.)

CHALLENGE TO EDUCATION RECORDS

An educational agency or institution, including a college district, shall give a student, on request, an opportunity for a hearing to challenge the content of the student’s education records on the grounds that the information contained in the records is inaccurate, misleading, or in violation of the privacy rights of the student. 34 C.F.R. 99.21 [See FJ]

Note: See GFA for provisions concerning students barred from campus.
A student grievance is a College District-related concern or problem that the student believes is unfair, inequitable, discriminatory, or a hindrance to the student's education. The College District's student grievance process affords the student a means for filing a grievance and provides a process for resolving a grievance.

The College District supports the concept of due process, a means by which students are assured that specific problems are addressed in a fair and impartial manner. A student grievance shall be initiated by a student and may proceed, if necessary and applicable, through the College District's formal hearing process. [See FMA] Complaints of sexual harassment, discrimination, and retaliation shall be handled in accordance with FFD.

The College District encourages students to discuss their concerns with the appropriate instructor or other campus administrator who has the authority to address the concerns. Concerns should be expressed as soon as possible to allow early resolution at the lowest possible administrative level.

Informal resolution shall be encouraged but shall not extend any deadlines in this policy, except by mutual written consent. A student may initiate the formal process described below by timely filing a written complaint.

Even after initiating the formal complaint process, students are encouraged to seek informal resolution of their concerns. A student whose concerns are resolved may withdraw a formal complaint at any time.

The process described in this policy shall not be construed to create new or additional rights beyond those granted by law or Board policy, nor to require a full evidentiary hearing or “mini-trial” at any level.

Neither the Board nor any College District employee shall unlawfully retaliate against any student for bringing a concern or complaint.

The College District shall inform students of this policy through appropriate College District publications.

In this policy, the terms “complaint” and “grievance” shall have the same meaning.

Student complaints shall be filed in accordance with this policy, except as required by the policies listed below. Some of these policies require appeals to be submitted in accordance with FLD after the relevant complaint process:
1. Complaints alleging discrimination or harassment based on race, color, gender, national origin, disability, age, or religion. [See FFD]

2. Complaints concerning retaliation relating to discrimination and harassment. [See FFD]

3. Complaints concerning disciplinary decisions. [See FMA]

4. Complaints concerning a commissioned peace officer who is an employee of the College District. [See CHA]

Complaints and appeal notices may be filed by hand-delivery, by electronic communication, including e-mail and fax, or by U.S. Mail. Hand-delivered filings shall be timely filed if received by the appropriate administrator or designee by the close of business on the deadline. Filings submitted by electronic communication shall be timely filed if they are received by the close of business on the deadline, as indicated by the date/time shown on the electronic communication. Mail filings shall be timely filed if they are postmarked by U.S. Mail on or before the deadline.

The College District shall make reasonable attempts to schedule conferences at a mutually agreeable time. If a student fails to appear at a scheduled conference, the College District may hold the conference and issue a decision in the student’s absence.

At Levels One, Two, and Three, “response” shall mean a written communication to the student from the appropriate administrator. Responses may be hand-delivered, sent by electronic communication to the student’s e-mail address of record, or sent by U.S. Mail to the student’s mailing address of record. Mailed responses shall be timely if they are postmarked by U.S. Mail on or before the deadline.

“Days” shall mean College District business days. In calculating time lines under this policy, the day a document is filed is “day zero.” The following day is “day one.”

“Representative” shall mean any person who or organization that is designated by the student to represent the student in the complaint process.

The student may designate a representative through written notice to the College District at any level of this process. If the student designates a representative with fewer than three days’ notice to the College District before a scheduled conference or hearing, the College District may reschedule the conference or hearing to a lat-
er date, if desired, in order to include the College District’s counsel. The College District may be represented by counsel at any level of the process.

CONSOLIDATING COMPLAINTS
Complaints arising out of an event or a series of related events shall be addressed in one complaint. A student shall not file separate or serial complaints arising from any event or series of events that have been or could have been addressed in a previous complaint.

UNTIMELY FILINGS
All time limits shall be strictly followed unless modified by mutual written consent.

If a complaint or appeal notice is not timely filed, the complaint may be dismissed, on written notice to the student, at any point during the complaint process. The student may appeal the dismissal by seeking review in writing within ten days from the date of the written dismissal notice, starting at the level at which the complaint was dismissed. Such appeal shall be limited to the issue of timeliness.

COSTS INCURRED
Each party shall pay its own costs incurred in the course of the complaint.

COMPLAINTS AND APPEALS IN WRITING
Complaints and appeals under this policy shall be submitted in writing to the College District.

Copies of any documents that support the complaint should be attached to the complaint. If the student does not have copies of these documents, copies may be presented at the Level One conference. After the Level One conference, no new documents may be submitted by the student unless the student did not know the documents existed before the Level One conference.

A complaint or appeal that is incomplete in any material aspect may be dismissed but may be refiled with all the required information if the refiling is within the designated time for filing.

LEVEL ONE
Complaints must be filed:

1. Within 15 days of the date the student first knew, or with reasonable diligence should have known, of the decision or action giving rise to the complaint or grievance; and

2. With the lowest level administrator who has the authority to remedy the alleged problem.

In most circumstances, students shall file Level One complaints with the department chairperson or student services counselor. If the only administrator who has authority to remedy the alleged problem is the Level Two or Level Three ad-
ministrator, the complaint may begin at Level Two or Level Three, respectively, following the procedure, including deadlines, for filing the complaint at Level One.

If the complaint is not filed with the appropriate administrator, the receiving administrator must note the date and time the complaint was received and immediately forward the complaint to the appropriate administrator.

The appropriate administrator shall investigate as necessary and schedule a conference with the student within ten days after receipt of the written complaint. The administrator may set reasonable time limits for the conference.

Absent extenuating circumstances, the administrator shall provide the student a written response within ten days following the conference. The written response shall set forth the basis of the decision. In reaching a decision, the administrator may consider information provided at the Level One conference and any relevant documents or information the administrator believes will help resolve the complaint.

If the student did not receive the relief requested at Level One or if the time for a response has expired, the student may request a conference with the Vice President of Student and Outreach Services to appeal the Level One decision.

The appeal notice must be filed in writing within ten days of the date of the written Level One response or, if no response was received, within ten days of the Level One response deadline.

After receiving notice of the appeal, the Level One administrator shall prepare and forward a record of the Level One complaint to the Level Two administrator. The student may request a copy of the Level One record.

The Level One record shall include:

1. The original complaint and any attachments.
2. All other documents submitted by the student at Level One.
3. The written response issued at Level One and any attachments.
4. All other documents relied upon by the Level One administrator in reaching the Level One decision.

The Level Two administrator shall schedule a conference within ten days after the appeal notice is filed. The conference shall be limited to the issues and documents considered at Level One. At the
conference, the student may provide information concerning any documents or information relied on by the administration for the Level One decision. The Level Two administrator may set reasonable time limits for the conference.

The Level Two administrator shall provide the student a written response within ten days following the conference. The written response shall set forth the basis of the decision. In reaching a decision, the Level Two administrator may consider the Level One record, information provided at the Level Two conference, and any other relevant documents or information the Level Two administrator believes will help resolve the complaint.

Recordings of the Level One and Level Two conferences, if any, shall be maintained with the Level One and Level Two records.

**LEVEL THREE**

If the student did not receive the relief requested at Level Two or if the time for a response has expired, the student may request a conference with the College President or designee to appeal the Level Two decision.

The appeal notice must be filed in writing within ten days of the date of the written Level Two response or, if no response was received, within ten days of the Level Two response deadline.

After receiving notice of the appeal, the Level Two administrator shall prepare and forward a record of the Level Two complaint to the Level Three administrator. The student may request a copy of the Level Two record.

The Level Two record shall include:

1. The Level One record.
2. The written response issued at Level Two and any attachments.
3. All other documents relied upon by the Level Two administrator in reaching the Level Two decision.

The Level Three administrator shall schedule a conference within ten days after the appeal notice is filed. The conference shall be limited to the issues and documents considered at Level Two. At the conference, the student may provide information concerning any documents or information relied on by the administration for the Level Two decision. The Level Three administrator may set reasonable time limits for the conference.

The Level Three administrator shall provide the student a written response within ten days following the conference. The written response shall set forth the basis of the decision. In reaching a deci-
In addition, the Level Three administrator may consider the Level One and Level Two record, information provided at the Level Three conference, and any other relevant documents or information the Level Three administrator believes will help resolve the complaint.

Recordings of the Level One, Level Two, and Level Three conferences, if any, shall be maintained with the Level One, Level Two, and Level Three records.

LEVEL FOUR

If the student did not receive the relief requested at Level Three or if the time for a response has expired, the student may appeal the decision to the Board.

The appeal notice must be filed in writing within ten days after receipt of the written Level Three response, or, if no response was received, within ten days of the Level Three response deadline.

The College President or designee shall inform the student of the date, time, and place of the Board meeting at which the complaint will be on the agenda for presentation to the Board.

The College President or designee shall provide the Board the record of the Level Three complaint. The student may request a copy of the Level Three record.

The Level Three record shall include:

1. The Level One record.
2. The Level Two record.
3. The written response issued at Level Three and any attachments.
4. All other documents relied upon by the administration in reaching the Level Three decision.

The appeal shall be limited to the issues and documents considered at Level Three, except that if at the Level Four hearing the administration intends to rely on evidence not included in the Level Three record, the administration shall provide the student notice of the nature of the evidence at least three days before the hearing.

The College District shall determine whether the complaint will be presented in open or closed meeting in accordance with the Texas Open Meetings Act and other applicable law. [See BD]

The presiding officer may set reasonable time limits and guidelines for the presentation, including an opportunity for the student and administration to each make a presentation and provide rebuttal and an opportunity for questioning by the Board. The Board shall
hear the complaint and may request that the administration provide an explanation for the decisions at the preceding levels.

In addition to any other record of the Board meeting required by law, the Board shall prepare a separate record of the Level Four presentation. The Level Four presentation, including the presentation by the student or the student’s representative, any presentation from the administration, and questions from the Board with responses, shall be recorded by audio recording, video/audio recording, or court reporter.

The Board shall then consider the complaint. It may give notice of its decision orally or in writing at any time up to and including the next regularly scheduled Board meeting. If for any reason the Board fails to reach a decision regarding the complaint by the end of the next regularly scheduled meeting, the lack of a response by the Board upholds the administrative decision at Level Three.
The governing board of an institution of higher education, including a college district, shall develop and implement policies that provide the students at the institution with a reasonable opportunity to appear before any committee or other entity that is determining whether a food service provider should be selected or retained by the institution. The policies shall provide the students with a reasonable opportunity to discuss the performance of a food service provider and the students’ recommendations for qualifications of food service providers.

A contract between an institution of higher education and a food service provider must require the food service provider to periodically hold meetings or forums to provide the students at the institution with a reasonable opportunity to discuss the performance of the food service provider.

"Food service provider" means a person who contracts with the institution to provide food or beverage service at any location on the premises of the institution.

_Education Code 51.945_
<table>
<thead>
<tr>
<th>STUDENT GOVERNMENT AS REPRESENTATIVE OF STUDENT BODY</th>
<th>The Board encourages students to take an active part in the leadership of campus activities, in assessment of the administration of the community’s needs and interests, and in planning activities. The student government organization shall serve as the official representative arm of the student body. This organization shall work with the administration and faculty toward the realization of the goals and objectives of the College District. The student government organization shall also have the responsibility of encouraging student groups, creating new groups as needs arise, channeling requests for information and/or action to the appropriate authority, and advising the College President and Vice President of Student and Outreach Services on matters of student affairs. The office of the Vice President of Student and Outreach Services shall be responsible for developing procedures for student participation and the operation of the student government organization.</th>
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<tbody>
<tr>
<td>VOICE ON COMMITTEES</td>
<td>In accordance with procedures developed by the Vice President of Student and Outreach Services, students shall be selected annually to provide a voice for the student body in the decision-making processes of the College District on appropriate committees.</td>
</tr>
<tr>
<td>FOOD SERVICE PROVIDER</td>
<td>Students shall be granted the opportunity to provide input regarding a College District food service provider in accordance with Board-approved procedures published in the student handbook.</td>
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</table>
A college district has inherent authority to maintain order and discipline students. It may discipline students who disrupt the educational environment or who otherwise fail to abide by its standards of conduct. *Lansdale v. Tyler Junior Coll.*, 318 F.Supp. 529 (E.D. Tex. 1970); *Speake v. Grantham*, 317 F.Supp. 1253 (S.D. Miss. 1970)

A college district should adopt a student code of conduct that clearly sets out what conduct will result in discipline as well as the associated penalties. *Esteban v. Cent. Mo. State Coll.*, 415 F.2d 1077 (8th Cir. 1969); *Calbillo v. San Jacinto Junior Coll.*, 305 F.Supp. 857 (S.D. Tex. 1969)

No governmental entity, including a college district, shall deprive any person of life, liberty, or property, without due process of law. *U.S. Const. Amend. XIV*

Students subject to discipline by the college district must be afforded the level of due process, including notice and an opportunity to respond, under the U.S. Constitution Fourteenth Amendment that corresponds with the level of the discipline. *Goss v. Lopez*, 419 U.S. 565 (1975); *Dixon v. Ala. State Bd. of Educ.*, 294 F.2d 150 (5th Cir. 1961).

The governing board of a public institution of higher education, including a college district, may expel from that institution any student who is a citizen of a country other than the United States attending the institution under a nonimmigrant visa issued by Immigration and Naturalization Service and who is finally convicted of an offense listed in Education Code 51.909, including Penal Code 28.03 (criminal mischief), 28.04 (reckless damage and destruction), 42.02 (riot), 42.03 (obstructing highway or other pas sageway), or 42.05 (disrupting meeting or procession). A person is finally convicted if the conviction has not been reversed on appeal and all appeals, if any, have been exhausted. *Education Code 51.909*
A student shall be subject to discipline for violations of College District policies and procedures, including the rules outlining expectations for student conduct (see FLB). If a student commits an infraction or engages in misconduct, the College District may impose one or more of the following penalties:

1. **Reprimand** - A verbal or written warning to the student following a rule violation. Repetition of such misconduct may result in more severe disciplinary action.

2. **Restitution** - Reimbursement for damage to or misappropriation of property. Reimbursement may take the form of appropriate service to repair or otherwise compensate for damage.

3. **Scholastic penalties** - The assignment of a failing grade on an assignment or examination or in a course by an instructor based on scholastic dishonesty; including cheating, collusion, and plagiarism; committed by a student. The instructor shall submit a written report of the incident and of the planned action to the instructor’s dean.

4. **Conditional Probation** - The placing of a student on notice that continued infraction of regulations may result in suspension or expulsion from the College District. Conditional probation may include restrictions on a student’s rights and privileges or specified community service. The probation may be for a specified length of time or for an indefinite period according to the relative severity of the infraction or misconduct. Failure to fulfill the terms of the probation may lead to suspension or expulsion.

5. **Suspension** - Forced withdrawal from the College District for either a definite period of time or until stated conditions have been met. Normally, suspension shall extend through a minimum of one regular long semester (with summer sessions not counting in the one semester minimum time lapse). However, suspension may exceed the one semester minimum.

6. **Expulsion** - Permanent forced withdrawal from the College District. A student receiving disciplinary expulsion shall have the action noted in the student’s permanent record.

No former student who has been suspended or expelled from the College District for disciplinary reasons shall be permitted on the campus or other facilities of the College District, initiated into an honorary or service organization, or permitted to receive credit for
academic work done in residence or by correspondence or extension during the period of suspension or expulsion without the prior written approval of the College President or a designated representative.

DISCIPLINARY RECORD

The College District shall maintain for every student alleged or determined to have committed misconduct at the College District, a disciplinary record that shall reflect the charge, the disposition of the charge, the sanction assessed, if any, and any other pertinent information. The disciplinary record shall be separate from the student’s academic record and shall be treated as confidential; the contents shall not be revealed except on request of the student or in accordance with applicable state or federal laws.

The disciplinary record shall be maintained permanently in the event that a student is expelled or subject to an extended suspension. In all other cases, the disciplinary record shall be maintained in accordance with the College District's record retention schedule.
REPORTS OF ALLEGED MISCONDUCT

College District faculty and staff shall submit an alleged violation or violations of College District policies and procedures, including the rules for student conduct [see FLB], committed by a student to the Vice President of Student and Outreach Services within a reasonable time following an alleged incident, not to exceed ten College District business days. The allegations must be submitted in writing, through traditional or electronic means, and must describe the violation and any surrounding facts.

The Vice President of Student and Outreach Services or designee shall investigate the matter as necessary. If an allegation is deemed to be unfounded, the Vice President of Student and Outreach Services or designee shall dismiss the allegation and shall provide the student written notice that the allegation of misconduct was made against the student and that the allegation was dismissed.

CONFEERENCE

If, however, the Vice President of Student and Outreach Services or designee determines that the allegation warrants further consideration, the Vice President of Student and Outreach Services or designee shall summon the student for a conference to be held within a reasonable time, not to exceed ten College District business days, following the receipt of the allegation of misconduct.

At the conference, the Vice President of Student and Outreach Services or designee shall notify the student of the allegation or allegations and provide the student an opportunity to respond.

UNFOUNDED ALLEGATIONS

After conferring with the student, if the Vice President of Student and Outreach Services or designee determines that the student did not commit a violation, the allegation or allegations shall be dismissed as unfounded. The student shall be provided written notice of the dismissal.

MISCONDUCT WARRANTING A PENALTY

If the Vice President of Student and Outreach Services or designee determines that the student committed misconduct that warrants a penalty other than suspension or expulsion, the Vice President of Student and Outreach Services or designee shall provide the student written notice of the penalty and the student’s right to appeal to the disciplinary appeals committee.

SUSPENSION

If the Vice President of Student and Outreach Services or designee determines that the student committed misconduct that warrants a suspension, the Vice President of Student and Outreach Services or designee shall inform the student in writing of the determination, and a hearing shall be scheduled for consideration by the disciplinary appeals committee as described below.
**DISCIPLINE AND PENALTIES**

**DISCIPLINE PROCEDURE**

If the Vice President of Student and Outreach Services or designee determines that the student committed misconduct that warrants expulsion, the official shall inform the student in writing of the determination. The Vice President of Student and Outreach Services or designee shall forward the determination and all evidence collected during the investigation and conference to the College President in order to schedule an expulsion hearing before the Board [see EXPULSION HEARING, below].

### INTERIM DISCIPLINARY ACTION

The Vice President of Student and Outreach Services or designee may take immediate disciplinary action, including suspension pending a hearing, against a student for policy violations if the continuing presence of the student poses a danger to persons or property or an ongoing threat of disrupting the educational environment.

### DISCIPLINARY APPEALS COMMITTEE

The disciplinary appeals committee shall be convened:

1. On request of a student appealing a penalty other than suspension or expulsion. The request must be filed in writing, on a form provided by the College District, within ten College District business days of the date of the administration’s written notice.

2. Automatically, if the Vice President of Student and Outreach Services or designee determines that a student committed misconduct warranting suspension.

### COMPOSITION

The disciplinary appeals committee shall be comprised of at least three College District employees and a minimum of one current College District student. The members of the disciplinary appeals committee and the committee chairperson shall be designated according to procedures developed by the College President. All members of the disciplinary appeals committee shall be eligible to vote during the hearing.

### HEARING NOTICE

The Vice President of Student and Outreach Services or designee shall notify the student by letter of the date, time, and place for the hearing. Unless the student and the Vice President of Student and Outreach Services or designee otherwise agree, the hearing shall take place within a reasonable time period, not to exceed ten College District business days after the date of the student’s request for the hearing or the Vice President of Student and Outreach Services or designee’s determination that the student should be suspended.

### CONTENTS OF NOTICE

The notice shall:

1. Direct the student to appear on the date and at the time and place specified.
2. Advise the student of his or her rights:
   a. To have a private hearing.
   b. To be assisted by an advisor or legal counsel at the hearing.
   c. To call witnesses, request copies of evidence in the College District’s possession, and offer evidence and agreement on his or her own behalf.
   d. To make an audio recording of the proceedings, after first notifying the Vice President of Student and Outreach Services or designee in advance of the hearing, or, at the student’s own expense, to have a stenographer present at the hearing to make a stenographic transcript of the hearing.
   e. To ask questions of each witness who testifies against the student.

3. Contain the names of witnesses who will testify against the student and a description of documentary and other evidence that will be offered against the student.

4. Contain a description of the allegations of misconduct in sufficient detail to enable the student to prepare his or her defense against the charges.

5. State the proposed punishment or range of punishments that may be imposed.

The disciplinary appeals committee may impose appropriate punishment upon a student who fails without good cause to appear for the hearing; for purposes of assessing punishment, the committee may proceed with the hearing in the student’s absence.

The hearing shall proceed as follows:

1. The chairperson shall read the description of the misconduct.
2. The chairperson shall inform the student of his or her rights.
3. The designated official or representative shall present the College District’s case.
4. The student or representative shall present the student’s defense.
5. The designated College District official or representative shall present rebuttal evidence.
6. The committee members may ask questions of witnesses testifying on behalf of the student or the College District.

7. The designated official or representative shall summarize and argue the College District’s case.

8. The student or representative shall summarize and argue his or her case.

9. The designated official or representative shall have an opportunity for rebuttal argument.

10. The committee members shall deliberate in closed session. The committee members shall vote on the issue of whether or not the student violated College District policies and procedures, including the rules for student conduct.

11. If the committee finds the student did commit misconduct, the committee shall determine whether the penalty assessed, or proposed in the case of suspension, by the Vice President of Student and Outreach Services or designee is appropriate and, if necessary, shall assess a different or additional penalty.

12. The committee chairperson shall communicate the decision and any findings of facts in support of the committee’s decision to the student in writing within ten College District business days of the hearing. The notice shall include procedures for appealing the committee’s decision to the College President.

All hearings shall be recorded by the College District. A stenographic digest of the recording shall be made if needed for an appeal, and, on request, the student shall be given a copy of the digest. The student or the student’s representative may listen to the tape recording and compare it with the digest.

**EVIDENCE**

Evidence shall be handled in accordance with the following:

1. Legal rules of evidence do not apply; the committee chairperson may admit evidence or exclude evidence considered to be irrelevant, immaterial, and unduly repetitious.

2. At the hearing, the College District shall be required to prove by a preponderance of the evidence that the charges are true.

3. A student may not be compelled to testify.

4. The committee shall determine if a violation has occurred and assess an appropriate penalty based solely on the evidence presented at the hearing.
A student may, within ten College District business days of receiving notice of the disciplinary appeal committee’s decision, petition in writing the College President to review the decision. The student’s petition shall state with particularity why the decision is believed to be incorrect. After receiving notice of the appeal, the disciplinary appeals committee chairperson shall forward all evidence considered during the hearing, the audio recording of the hearing, and the digest of the hearing, if applicable, to the College President.

The College President shall hold a conference within ten College District business days after the appeal notice is filed. At the conference, the student may provide information concerning any documents or information relied on by the committee. The College President may set reasonable time limits for the conference. The conference shall be audio recorded.

The College President shall provide the student a written response, stating the basis of the decision, within ten College District business days following the conference. In reaching a decision, the College President may consider the evidence included in the student’s petition, provided during the conference, and forwarded by the committee chairperson. The College President may act to affirm, modify, remand, or reverse the decision of the disciplinary appeals committee.

If the College President affirmed or modified the decision of the disciplinary appeals committee or if the time for a response has expired, the student may appeal the decision to the Board. The appeal notice must be filed in writing, on a form provided by the College District, within ten College District business days after receipt of the written response from the College President, or, if no response was received, within ten College District business days of the response deadline.

The College President or designee shall inform the student of the date, time, and place of the Board meeting at which the appeal will be on the agenda for presentation to the Board.

The College President or designee shall provide the Board the evidence presented to the College President, as well as the audio recording of the College President’s conference with the student and the written response provided by the College President to the student.

The College District shall determine whether the appeal will be presented in open or closed meeting in accordance with the Texas Open Meetings Act and other applicable law. [See BD]
The presiding officer may set reasonable time limits and guidelines for the presentation, including an opportunity for the student and the administration to each make a presentation and provide rebuttal and an opportunity for questioning by the Board. The Board shall hear the appeal and may request that the administration provide an explanation for the decisions at the preceding levels.

In addition to any other record of the Board meeting required by law, the Board shall prepare a separate record of the hearing. The hearing, including the presentation by the student or the student’s representative, any presentation from the administration, and questions from the Board with responses, shall be recorded by audio recording, video/audio recording, or court reporter.

The Board shall then consider the evidence. It may give notice of its decision orally or in writing at any time up to and including the next regularly scheduled Board meeting. If for any reason the Board fails to reach a decision regarding the evidence by the end of the next regularly scheduled meeting, the lack of a response by the Board upholds the Vice President of Student and Outreach Services’s decision.

EXPULSION HEARING

If the Vice President of Student and Outreach Services or designee determines that the student’s misconduct warrants expulsion [see CONFERENCE, above], the Board shall convene to conduct an expulsion hearing. The College President or designee shall inform the student of the date, time, and place of the Board meeting at which the appeal will be on the agenda for presentation to the Board. The notice shall contain the contents described at DISCIPLINARY APPEALS COMMITTEE—CONTENTS OF NOTICE, above.

The College President or designee shall provide the Board the documentation presented by the Vice President of Student and Outreach Services.

The Board shall proceed according to the procedures set out at DISCIPLINARY APPEALS COMMITTEE—FAILURE TO APPEAR FOR HEARING, HEARING PROCEDURE, and EVIDENCE, above, with the Board substituted for references to the committee and the presiding officer of the Board substituted for the committee chairperson.