

Frank Phillips College

Employee Handbook

2019-2020

Frank Phillips College

Borger, Texas

Frank Phillips College does not discriminate on the basis of age, race, religion, color, national origin, sex or handicap in its programs, services or activities as required by Title VI of the Civil Rights Act of 1964, as amended; Title IX of the Education Amendments of 1972; and Section 504 of the Rehabilitation Act of 1973, as amended. FPC also provides equal access to the Boy Scouts and other designated youth groups. Inquiries regarding compliance and/or grievance procedures may be directed to the college's Title IX officer, Dr. Shannon Carroll, 1301 West Roosevelt, Borger, Texas 79007, (806) 457-4200, ext 732, scarroll@fpctx.edu and/or the Section 504/ADA Coordinator, Dr. Deborah Johnson, 1301 West Roosevelt, Borger, Texas 79007, (806) 457-4200, ext 777, djohnson@fpctx.edu.

Frank Phillips College no discrimina por motivos de raza, edad, religión, color, origen nacional, sexo o impedimento en sus programas, servicios o actividades según requerido por el Título VI de la Ley de Derechos Civiles de 1964, según enmienda; el Título IX de las Enmiendas de Educación de 1972; y la Sección 504 de la Ley de Rehabilitación de 1973, según enmienda. FPC también proporciona igualdad de acceso a los Boy Scouts y a otros grupos de jóvenes designados. Preguntas con respecto al cumplimiento y/o procedimientos de queja pueden ser dirigidas al oficial del Título IX, Dr. Shannon Carroll, 1301 West Roosevelt, Borger, Texas 79007, (806) 457-4200, ext. 732 y/o al Coordinador de la Sección 504/ADA del distrito escolar, Dr. Deborah Johnson, 1301 West Roosevelt, Borger, Texas 79007, (806) 457-4200, ext 777, djohnson@fpctx.edu.

The Frank Phillips College Employee Handbook is subject to change without notice.

All Texas Association of School Board policies are located in the Office of the President.

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Frank Phillips College

Plan for Sustainability and Growth 2019-2020 through 2023-24 and Goals for 2019-2020

Mission Statement: Frank Phillips College is a comprehensive two-year, community-based educational organization committed to providing high-quality learning experiences and services.

A. Goals and Objectives: Achieving Sustainability and Growth through Relevancy

1. Growth and Retention

- a. Increase headcount/contact hour enrollment by 2%
- b. Increase dual credit headcount/contact enrollment by 2%
- c. Increase continuing education headcount/contact hour enrollment by 2%
- d. Implement Quality Enhancement Plan (QEP) to gather baseline for Years 2, 3, 4, and 5 comparisons

2. Dalhart Rahl Campus

- a. Increase headcount/contact hour enrollment by 3%
- b. Increase dual credit headcount/contact enrollment by 5%
- c. Increase continuing education headcount/contact hour enrollment by 5%
- d. Continue to emphasize Extended Education with local business and industry, in particular explore the possibility of implementing a full CDL Certificate program (in either Dalhart or institutional-wide).
- e. Continue to strengthen community alliances

3. Perryton Allen Campus

- a. Increase headcount/contact hour enrollment by 5 %
- b. Increase dual credit headcount/contact enrollment by 5%
- c. Increase continuing education headcount/contact hour enrollment by 5%
- d. Develop student activities that encourage campus, FPC, and community involvement
- e. Continue extended planning for Pathways students
- f. Increase dual credit program at Perryton ISD and on the Allen Campus.
- g. Target new and build exiting Extended Education opportunities that address local business and industry needs and utilize grant funding when available.

4. Agriculture programs

- a. Develop and implement a strategic marketing plan
- b. Finalize articulation transfer agreements with various university partners.
- c. Continue to build capacity in agriculture course offerings for dual credit program.
- d. Professional Swine Management Certificate program
 - i. Continue to implement and increase enrollments
 - ii. Update and implement new marketing plan

- e. Livestock Genetics Center & Beef Cattle Herd
 - i. Implement a sustainable financial model
 - ii. Continue to embed the components of the LGC into the traditional ag course curriculum
 - iii. Develop and promote awareness the LGC by hosting events, demonstrations, and building a clientele
 - iv. Obtain external funds to replace barn area of LGC.

5. Dual-credit opportunities in area high schools

- a. Provide degree plans for all dual-credit students by the end of the first semester
- b. Promote Meta-majors to dual-credit students
- c. Recruit in partnership with WTAMU
- d. Hold a scholarship application drive
- e. Hold parent nights at the Borger, Dalhart, and Perryton college campuses and high schools by request during the early fall and late spring semesters
- f. Add agronomy, forms of literature, and Texas history opportunities
- g. Prepare a chemistry course to be offered online to high schools

6. Career and Technical Education programs

- a. Implement the strategic marketing plan
- b. Explore PTEC certification to an AAS
- c. Explore Computer Science Certificate Program
- d. Enhance Internship Program with industry for CTE programs
- e. Develop and obtain additional TWC Skills and Equipment grants with service-area businesses
- f. Begin implement a Technology life cycle program to present a state of the art image for education programs to students and customers
- g. Begin implement a real-world plant work environment in all classrooms
- h. Submit all certification programs with TWC to become an approved Certified Training Program
- i. Additional expansion of CTE programs including dual-credit to Dalhart and Perryton campuses
- j. Develop and obtain additional TWC Skills and Equipment grants with service-area businesses
- k. Explore becoming a NCCER accredited facility

7. Safety Training

- a. Implement the strategic marketing plan
- b. Continue to develop and utilize additional internally produced computerized training course and make updates to current training courses.
- c. Explore the need for a qualified NCCCO crane instructor to continue crane training offerings
 - a. Explore the opportunities to offer OHSA 10 & 30 for Construction Training (including Spanish)

- b. Seek safety related grants

8. Extended Education

- a. Expand and enhance continuing education, personal and professional development, and corporate development offerings including professional instructor training offerings
- b. Continue to enhance existing client development offerings and generate new corporate development strategies such as CDL
- c. Expand TCOLE programs and training opportunities such as DLR courses

B. Educational Programs Goals and Objectives: Increase Curriculum Offerings

1. Continue vertical and horizontal expansion dual-credit offerings in area high schools
2. Continue further development Rural Nursing Education Consortium (RNEC) for full implementation in Fall 2020.
3. Continue preparation for Barber Certification as part of Cosmetology Program
4. Improve retention through implementation of QEP
5. Adjust Cosmetology certificate to meet new law of 1,000 hours
6. Implement Meta-Majors as part of advising to increase offerings befitting the Fields of Study degrees, MathWays, PathWays, and QEP

C. Financial Goals and Objectives: Achieve and Maintain Financial Stability

1. Adhere to the 2019-20 adopted budget
2. Each new program or initiative will have a financial pro forma statement as a guided path
3. Seek to maximize grant funding opportunities and grant partnerships

D. Facilities Goals and Objectives: Improve and Maintain the Physical Plant

1. Exercise stewardship over the physical plant by preserving its functionality and its aesthetic appearance and by maximizing its longevity
2. Maximize economic lifetime of the capital facility
3. Follow plan for ADA compliance per OCR audit

E. Internal Activities Goals and Objectives: Promote Programs that Contribute to Student and Institutional Success

1. Implement Destination WTAMU and new advising model
2. Utilize marketing strategies to increase relevancy
 - a. Optimize website to become more mobile friendly
 - b. Grow social presence online through targeted platforms
3. Continue to implement Full Measure with accessibility to faculty and focus on retention and completion
4. SACSCOC initiatives
 - a. Complete the Self Study for the 10-year re-accreditation

b. Implement Year One objectives in the QEP, Start Here.....Go Anywhere

F. External Goals and Objectives: Promote the visibility and Advancement of the College

1. Pursue partnerships with area businesses through extended education and grant opportunities
2. Continue to pursue partnerships with area universities
3. Participate in regional opportunities such as PC3+WTAMU, P16, various rural initiatives, etc.

**Frank Phillips College
Planning Timeline
2019-2020**

January:

February: Board of Regents election is called in even numbered years

March:

April:

May: Board election in even-numbered years
Board officers elected at next regular meeting after election
Commencement

June: Board approves the Employee Handbook

July: Annual Board Retreat

August: Annual Board of Regents Workshop; Board of Regents Self-Evaluation
Board of Regents approves the annual institutional budget
Board of Regents approves the College Mission Statement and Goals
Board of Regents approves the College Investment Policy
Tax Rate Hearings, as needed

September: Board of Regents approves the FPC Emergency Response Manual
Board of Regents sets Tax Rate

October: Board of Regents approves the academic calendar for the subsequent academic year
Board of Regents approves the Affordability and Access Report
President's Evaluation Document is distributed to the Board of Regents
President's Annual Report

November: Board of Regents approves the annual audit
Board of Regents considers re-employment of the college president
Board of Regents acknowledges the Board Member Training Report

December: President's Holiday Reception

Recognition

Frank Phillips College is approved and accredited by the Texas Education Agency, The Association of Texas Colleges and Universities, and the Southern Association of Colleges Schools Commission on Colleges (1866 Southern Lane, Decatur, Georgia 30033-4097; telephone number 404-679-4500) to award Associate degrees.

Employee Handbook

This handbook is used as guideline. This handbook is not intended to imply any contract or contractual rights. The Employee Handbook and policies and procedures contained therein are approved annually by the Board of Regents.

Personnel Policies

- I. Holidays and Vacations
 - A. Holidays and vacations for faculty/staff personnel are determined by the college administrative officers in accordance with the annual contract period.
 - B. Requests for vacation must be made in advance through the payroll portal and approved by the supervisor.
 - C. Refer to Board Policy Manual.
- II. Insurance benefits. Commensurate with institutionally adopted practice. See Benefits Coordinator in the Business Office at the Borger Campus.
- III. Payroll deduction available. See Benefits Coordinator in the Business Office at the Borger Campus.
- IV. Tax-sheltered annuities. These may be purchased through insurance companies and deducted from full-time employee's gross pay through payroll deduction. See Benefits Coordinator for list of approved companies.
- V. Teacher Retirement System of Texas (See also, Board Policy Manual DF). All full-time employees are members of the Teacher Retirement System of Texas. The employee contributes a percentage of monthly compensation through payroll deduction to the TRS or Optional Retirement Program (ORP), and the State contributes a percentage of monthly compensation to the TRS or ORP.
- VI. Optional Retirement Program. Commensurate with institutionally adopted practice. See Benefits Coordinator.
- VII. Social Security. Full-time college employees are not covered by Social Security.
- VIII. Tuition Policy (See also, Board Policy Manual DEB-LOCAL).
 - A. Eligibility. Employees who work full time and their immediate family--husband, wife, or dependent children--are eligible for free tuition at Frank Phillips College. This includes the dependent children of employees who pass away while having the status of full-time employment.
 - B. Allowable tuition-free classes. All college credit classes and Adult Continuing Education classes are tuition-free for employees and their immediate family members (see VIII.A). Lab fees and other required fees must be paid by the employee.
 - C. The employee or member of the employee's family should report to the Vice

President for Academic Affairs Office for an employee scholarship letter.

- IX. FPC 401(K) Plan available. See Benefits Coordinator.
- X. Alcohol and Drug Policy (See also, Board Policy Manual DH(LEGAL) and DI(LOCAL))
- A. In compliance with Section-1213 of the Higher Education Act of 1965 and amended in 1989, Frank Phillips College is committed to the elimination of alcohol abuse and illicit drug use. Compliance with this policy is required of all employees of Frank Phillips College.
 - B. Legal sanctions. Violations render all guilty members of the college community subject to immediate dismissal and/or removal from each individual's current status at Frank Phillips College, making him or her subject to off-campus authorities and the possibility of fines and/or confinement.
 - C. Drug Testing. An employee who is required to have a Commercial Driver's License (CDL) can be randomly drug tested by the college after successfully obtaining the CDL.
- XI. Tobacco Policy. Tobacco use is prohibited in college buildings.
- XII. Parking Policy. There is no designated parking on the campus except for handicapped. Employees are to park in lined parking areas. Employees who park vehicles in No Parking, yellow zones, or on the grass or sidewalks are subject to tow at the employee's expense.
- XIII. Privacy
- A. Employee personnel files are the property of the College.
 - B. The employee may request, in writing, access to his/her file. The request must be made to the President of the College.
 - C. The employee must give written authorization to the President's Office permitting the College to provide information contained in the employee's personnel file to an outside party. Verification of dates of employment will be given without employee's written permission.
 - D. Full-time and part-time employee files are located in the President's Office suite in locked cabinets.
- XIV. Frank Phillips College Public and Directory Information
- Under P.L. 93-380, the College is authorized to release directory information to the general public without the written consent of a current or former employee or official. An employee or official may request that all or any of the general information be withheld from the public by completing a consent form in the Borger campus Business Office. The consent granted will remain in effect until the employee or official completes a new consent form, which will negate previous forms.
- The following information is considered public and directory information:
- Name
 - Date of Birth
 - Home/Mailing Address
 - Home Telephone Number
 - Personal Cell Phone Number
 - Personal Email Address
 - Personal Information of Family Members or Emergency Contacts
- XV. Travel, Reimbursable Expenses, and Claims Policy
- Prior to making a trip, employees must obtain supervisor's permission and then

schedule a vehicle through Outlook Calendar. Compliance with the guidelines for use of a College vehicle is required. Employees must ensure that the vehicle is cleaned and completely refueled before returning the keys. Employees may not use college funds to purchase gasoline for their personal vehicles and may not submit reimbursement for gasoline. In the event that employee uses his or her personal vehicle for college travel out of town, current mileage rates will be applicable to the employee. Upon return from scheduled trip, the employee must submit a "Travel Expense" statement, which includes all receipts pertaining to the trip. All travel expenses must relate to the necessary business of the College. Those expenses not related to the College will be the responsibility of the employee.

Travel statements and expense reports shall be completed and submitted for approval through the employee's respective department's authorized administrator and then forwarded to the Business Office. For the Director level and above, approval will come from the employee's direct supervisor. Travel statements should be submitted in a timely manner. All employees and students authorized to travel or drive a College vehicle must have on file in the Business Office a copy of his/her valid driver's license. Total travel expenditures must be held within the budgeted amount established for each individual or division.

Employees who drive FPC vehicles are subject to annual background checks.

Frank Phillips College credit cards may be issued to approved employees who travel on a regular basis. Credit cards will be issued to employees upon approval of the authorized administrator and the Business Office. All employees who are issued a credit card will be required to sign a credit card agreement. The following stipulations will be followed:

- The cardholder is the only person authorized to use the card.
- All charges must relate to the necessary business of the college – no personal purchases.
- Report lost or stolen credit cards immediately to the issuing bank and to the Business Office.
- Use of credit card cash advances should be accessed in a limited manner and only when necessary. Use of cash advances also must relate to the necessary business of the college.

Note: Any misuse of the credit card including, but not limited to the above stated items, may be grounds for termination of employment from Frank Phillips College.

Reimbursable Expenses:

- Automobile expense: the mileage allowance for all privately owned vehicles used for official college business shall not exceed the approved allowance. Toll charges and parking fees are reimbursable on an actual expense basis. Reimbursable automobile expenses must be submitted on official college forms.
- Other expenses: in addition to reimbursable travel expense, the following expenses are reimbursed on an actual cost basis:
 1. Meals: a reasonable cost of each meal plus tip
 2. Guests: if, while in travel status, a meal is paid for by an employee for other employees, the name of the other employees must be shown on the reimbursement request. Reimbursement of expense for guests other than fellow employees will be disallowed unless prior approval has been obtained.
 3. Lodging: actual cost of lodge and tip is reimbursable.

Purchasing Procedures:

Note: Purchasing must follow the OMB Uniform Guidance for Procurement. The below requirements meet these minimum standards, however any purchases over \$150,000 have additional requirements that need to be met to meet government standards.

- Purchases made through Frank Phillips College are grouped by dollar amount:
 1. Purchases exceeding \$450
 2. Purchases less than \$450
 3. Computer hardware, software & related items

Purchases exceeding \$450:

- Purchases exceeding \$450 must be initiated with a purchase order
- The purchase order must be authorized and approved by the authorized administrator of that department and the Business Office
- The Vice President for Academic Affairs will approve purchases exceeding \$1,000.
- For non-instructional departments, the Business Office will provide authorization and approval
- The approval of the President is required on all purchases exceeding \$2,500
- For the Director level and above, the direct supervisor must approve purchases
- The correct account number is required for all purchase orders
- Once a purchase order is approved, orders may be placed for items requested

Purchases exceeding \$25,000 - At least three competitive bids (or request for proposals) are required on all items that are purchased from one vendor and have an estimated annual total of \$25,000 or more. For a complete explanation refer to the Handbook on Purchasing for Texas Public Schools, Junior Colleges and Community Colleges published by the Texas Education Agency published by the Texas Education Agency, at www.tea.state.tx.us (web site).

Purchases less than \$450:

- Purchases less than \$450 must be initiated with a purchase order, standing purchase order, or FPC issued credit card
- The purchase must be authorized and approved by the authorized administrator of the department
- The immediate supervisor must approve purchases for the Director level and above
- The correct account number is required on all purchases

Credit card purchases are authorized under the guidelines explained in the "Travel Policies" section of this document.

Purchases for computer software, hardware & related items:

- All purchases must be authorized and approved by the authorized administrator of that department and the Vice President of Administrative Services.

Note: Follow the above guidelines depending if the purchase exceeds or is less than \$450.

Inventory Policy

Perkins items must have permanently-affixed inventory tags and have some indication that they were purchased with Perkins funding on the tag. The tag should contain a unique number in the campus inventory system. Perkins inventory is to be kept with the general FPC inventory, which is campus-wide; items over \$5,000 (capital items)

must have inventory number, acquisition date, and grant number of year purchased. All purchased equipment will follow the procedures outlined in the funded grant.

Inventory Procedure

Items received must be inventoried with a unique institutional number and with either tags or engraving that are permanently affixed to the item. Once the item has been received, the department which has ordered the item will be responsible for placing the permanent inventory number, whether with permanent tag or engraving on the item. In addition, the item must be added to the general FPC inventory and marked as purchased with Perkins funds. Once finished, the Director will be informed of the completion of the inventory process.

OMB Uniform Guidance for Procurement: Effective 9/1/18:

(a) *Procurement by micro-purchases.* Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold of \$3,000 (\$200.67 Micro-purchase). To the extent practicable, the non-Federal entity must distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the non-Federal entity considers the price to be reasonable.

(b) *Procurement by small purchase procedures.* Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the Simplified Acquisition Threshold of \$150,000. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources.

(c) *Procurement by sealed bids (formal advertising)* for purchases over \$150,000. Bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in paragraph (c)(1) of this section apply.

(1) In order for sealed bidding to be feasible, the following conditions should be present:

(i) A complete, adequate, and realistic specification or purchase description is available;

(ii) Two or more responsible bidders are willing and able to compete effectively for the business; and

(iii) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

(2) If sealed bids are used, the following requirements apply:

(i) Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids, for local, and tribal governments, the invitation for bids must be publicly advertised;

(ii) The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;

(iii) All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids must be opened publicly;

(iv) A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be

considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and

(v) Any or all bids may be rejected if there is a sound documented reason.

(d) Procurement by competitive proposals. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

(1) Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical;

(2) Proposals must be solicited from an adequate number of qualified sources;

(3) The non-Federal entity must have a written method for conducting technical evaluations of the proposals received and for selecting recipients;

(4) Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and

(5) The non-Federal entity may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

(e) [Reserved]

(f) Procurement by noncompetitive proposals. Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

(1) The item is available only from a single source;

(2) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;

(3) The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity; or

(4) After solicitation of a number of sources, competition is determined inadequate.

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75885, Dec. 19, 2014; 80 FR 54409, Sept. 10, 2015]

- XVI. Posting Signs: All signs/fliers must be approved through the President's Office or the Office of Educational Services before they are posted on campus. Signs must be posted in approved and designated areas. Signs posted in unapproved locations may be removed.
- XVII. Policy for Use of Technology Resources. Inappropriate use of college technology, including pornography and excessive non-college use, may be subject to disciplinary procedures or dismissal.
- XVIII. Keys. All keys issued to personnel are the property of the college. Keys are not to be loaned to students or other personnel. A request for keys must be made to the authorized administrator and signed for with the Director of the Physical Plant.

XIX. Reservation of Meeting Rooms

- A. Use of College facilities by outside organizations must be coordinated through the Office of the President.

XX. Fund Raising Procedure and Policy Statement

The College President must approve all fund raising and development in writing, in advance. It is the President that works with groups that are interested in the funding of the College i.e., the Texas Legislators and state agencies; state and federal government; area, regional, and local foundations; the Development Corporation, and other funding agencies. Preparation and writing of grants to fund plans of the College, delegation or fund raising and grant development are the responsibility of the President. Clubs and organizations are permitted to raise funds through limited and monitored activities approved by the Office of the President or the Office of Institutional Advancement. These fund raising activities must receive the approval of the President. This includes the raising of funds for athletics and activities. These fund raising activities must be submitted to the President for approval in advance of raising funds.

XXI. Transportation Management Policy: Modes of transportation used for student travel shall include, but not be limited to, cars, vans, and buses. Travel arrangements for student groups shall be made in accordance with administrative regulations.

A driver who is transporting students in Frank Phillips College owned or leased vehicles must:

1. Be an employee of the college district.
2. Hold a valid driver's license appropriate for the vehicle to be driven. A driver of a commercial motor vehicle must have a commercial driver's license (CDL).
3. Have an acceptable driving record.

The driver shall ensure that the number of passengers does not exceed the designed capacity of the vehicle and that each passenger is secured by a safety belt, if provided.

A driver shall not drive for more than twelve (12) hours without taking an eight (8) hour break or relief from driving.

Driver Authorization: The Frank Phillips College institutional practice is to determine if an individual is authorized to drive a college-owned vehicle. Motor vehicle records may be reviewed annually or as determined by the administration. Individuals who are identified as having Type "A" violations will not be allowed to drive college-owned vehicles. It is the responsibility of all Frank Phillips College employees to self-identify to the Business Office Personnel or his/her designee any Type "A" violations within a reasonable time not to exceed thirty calendar days.

Driver Criteria: Type "A" Violations – Unacceptable – 3 calendar years

- Driving While Intoxicated
- Driving Under the Influence of Drugs
- Negligent homicide arising out of the use of a motor vehicle
- Operating a motor vehicle during a period of suspension or revocation
- Using a motor vehicle for the commission of a felony
- Aggravated assault with a motor vehicle
- Operating a motor vehicle without the owner's authority

- Reckless Driving
- Speeding Contest
- Hit and Run Bodily Injury or Personal Damage
- Three (3) speeding violations within three (3) years
- Three (3) accidents within three (3) years

XXII. **Employee Standards of Conduct: Sexual Harassment and Sexual Discrimination** (See also, Board Policy Manual DIA(LEGAL) and (LOCAL)

Notice against Sexual Harassment

Frank Phillips College will not tolerate sexual misconduct in any form. Employees, students, and visitors to the campus have the right to be free from discrimination or harassment on the basis of sex. Employees, students, and visitors to the campus must also conduct themselves in such a way that they do not infringe upon the rights of others.

Non-Retaliation

Frank Phillips College enforces a non-retaliation policy against any individual(s) who has complained about sexual discrimination, harassment, or misconduct or has cooperated with an investigation into such manner. A person violating this policy is subject to discipline, which may include termination for an employee, expulsion for a student, and declaration of no trespass for visitors and community members.

Definitions

Sexual harassment is verbal or physical conduct that denigrates or shows hostility or aversion toward an employee, student, or group of employees or students because of his or her gender and that:

1. Has the purpose or effect of creating an intimidating, hostile, or offensive working or academic environment;
2. Has the purpose or effect of unreasonably interfering with an individual's performance of duties or studies; or
3. Otherwise adversely affects an individual's employment or academic opportunities.

Harassing conduct includes:

1. Epithets, slurs, negative stereotyping, or threatening, intimidating or hostile acts that relate to gender; and
2. Written or graphic material that denigrates or shows hostility or aversion toward an individual or group because of gender and that is placed on walls, bulletin boards, or elsewhere on Frank Phillips College property or is circulated in the workplace.

Employee-to-Employee

Employees shall not engage in conduct constituting sexual harassment of other employees. Employees who believe they have been sexually harassed by other employees are encouraged to come forward with complaints. College officials or their agents shall investigate promptly all allegations of sexual harassment of employees by other employees, and officials shall take prompt and appropriate disciplinary action against employees found to have engaged in conduct constituting sexual harassment of employees.

Employee-to-student

Employees shall not engage in conduct constituting sexual harassment of students. Sexual harassment includes any unwelcome sexual advances, requests for sexual favors, and other verbal (oral or written), physical, or visual conduct of a sexual nature.

Reporting/Investigation

Employees who have reason to believe that a student is being sexually harassed or sexually abused by a College District employee shall report their suspicion to their immediate supervisor, or Title IX coordinator.

Right to Confidentiality

To the greatest extent possible, complaints will be treated in a confidential manner. Limited disclosure may be necessary in order to complete a thorough investigation.

Time Limits

In resolving complaints, time is of the essence. All time limits shall be strictly complied with, unless extended by mutual consent. All references are to business days on which the college is open for regular business. The complaint shall be considered concluded if the employee does not appeal within the stated time limits.

Complaint procedure

For the purpose of the following complaint process, “days” mean business days on which the college is open for business.

An employee who believes he or she has been or is being subjected to any form of sexual harassment shall bring the matter to the attention of the appropriate administrator, immediate supervisor, or Title IX coordinator for employees. No procedure or step in this policy shall have the effect of requiring the employee alleging harassment to present the matter to a person who is the subject of the complaint.

Level One: The employee shall request a conference with his or her immediate supervisor by submitting the complaint in writing or by requesting a conference. If the complaint is made orally, the supervisor receiving the complaint shall reduce it to writing. The complainant will be asked to review the notes and sign when the information is correct. These notes will be forwarded to the Title IX Coordinator for purposes of maintaining a file and/or further investigation. The file will be secured in a locked cabinet in the Title IX Coordinator’s office.

The immediate supervisor shall hold the conference as soon as possible, but in any event within seven days after receipt of the complaint. The immediate supervisor shall ordinarily have seven days following the conference within which to investigate and respond. The employee shall be informed if extenuating circumstances delay the investigation.

Level Two: If the outcome of the conference at Level One is not to the employee’s satisfaction, the employee may request a conference with the Title IX Coordinator to discuss the complaint. The request should be in writing and shall be filed within seven days following receipt of a written response from the Level One supervisor or, if no written response is received, within seven days of the response deadline.

The Title IX Coordinator shall hold the conference as soon as possible but within seven days after receipt of the written request. The Title IX Coordinator shall have seven days following the conference within which to respond.

Level Three: If the outcome at Level Two is not to the employee’s satisfaction or if the time for a response has expired, the employee may submit to the College President a written request to meet in order to discuss the complaint. The request shall be filed within seven days following

receipt of a written response from the Title IX Coordinator, or if not written response is received, within seven days of the response deadline.

The College President shall hold the conference as soon as possible but within seven days after receipt of the written request. The College President shall have seven days following the conference within which to respond.

Note: In the event that the complaint is against the College President or an active member of the College's Board or Regents, the employee may request a meeting with the College Board of Regents and be placed on the next regular board meeting's agenda. The complaint shall be included as an item on the agenda posted with notice of the meeting. Announcing a decision in the employee's presence constitutes communication of the decision.

The Title IX Coordinator shall provide the Board with copies of the employee's original complaint, all responses, and any written documentation previously submitted by the employee and the administration.

Closed Meeting

The Board may hear the allegation of sexual harassment in closed meeting, if posted in accordance with law, unless an open hearing is requested in writing by the employee or Board member against whom the complaint or charge is brought.

XXIII. Faculty/Staff Meeting

- A. During the academic year the president may hold a monthly faculty/staff meeting.
- B. All personnel are encouraged to attend.

XXIV. Committee Assignments

Serving on a committee is a condition of employment if an employee is assigned to a committee. Only full-time employees are required to serve on committees.

XXV. Jury Duty

- A. Eligibility. Employees who work full time (including faculty) will be paid their regular salary or wages when serving on a jury.
- B. Employees receiving a jury duty request should notify their immediate supervisors immediately of the potential absence. The immediate supervisor must be notified within fifteen minutes after the beginning of the work day of jury duty absence.
- C. The immediate supervisor must report this time off in writing to the payroll office.

Political Issues

- A. Employees of Frank Phillips College shall not solicit support of any political candidate, partisan or non-partisan, or support of any issue or any referendum matter, while on the job and/or on college property.
- B. Frank Phillips College personnel are free, as citizens, to express their opinions through letter-to-the-editor or other media. In such cases, college personnel should refrain from identifying themselves as employees of the college. This precludes the use of college letterheads for such correspondence.
- C. Employees of the college are free, as citizens, to participate in political activity and serve as political party or public officials, whenever consistent with state law, except during regular hours and/or on college property.
- D. Refer to Board Policy Manual.

Outside Employment and Civic/Community Involvement

- A. Outside employment of full-time FPC employees may be permitted upon prior approval from the college president.
- B. Civic and Community involvement is encouraged, with the understanding that time away from the work place requires prior arrangements through the Office of the President. Employees serving as elected offices will utilize personal and vacation days for time away from the work place.
- C. Questions relative to outside employment and/or public service are to be answered in advance.
- D. Refer to Board Policy Manual.

Intellectual Property

An employee who conceives, creates, discovers, invents, or develops intellectual property may own or be awarded any amount of equity interest or participation in, or, if approved by the Board, serve as a member of the board of directors or other governing board or as an officer or an employee of a business entity that has an agreement with the state or a political subdivision of the state relating to the research, development, licensing, or exploitation of that intellectual property without creating a conflict of interest.

Such an employee shall report to the appropriate person or persons at the College District the name of the business entity in which the person has an interest or for which the person serves as a director, officer, or employee. The Board shall include in the appropriate annual report required by Education Code 51.005 the information provided to it under this requirement during the preceding fiscal year. *Education Code 51.912* (See also Board Policy CT (LEGAL) and CT (LOCAL).

FACULTY--PERSONNEL POLICIES

Faculty Code

The faculty may adopt and maintain a Faculty Code as its own independent expression of the standards by which all members of the faculty should be guided in their service at the college and in their relations to students, fellow members of the faculty, and the community. However, no provision in such Code shall be effective if it is contrary to the provision of law, the College Employee Handbook, or the regulations established by the President of the College. Refer to Board Policy Manual. See TCCTA Code of Professional Ethics, page 23.

Continuing Scholarship

To keep scholarship as current as possible, faculty members are encouraged to continue their graduate academic studies through provisions in the salary schedule for salary upgrading. The following policy has been approved by the Board to encourage faculty members to continue their education for professional improvement and for salary purposes:

- A. Faculty members are encouraged to complete the equivalent of six semester hours of graduate classroom work every five years until they have completed a total of thirty hours of acceptable work above a master's degree. Career/Technical Education faculty for whom licensure is a requirement for employment are also encouraged to take the equivalent of six semester hours in areas related to their teaching field. *CTE faculty are required to keep licenses current at all times and maintain required professional development hours for licensure.*
- B. Employees who choose to further their education by earning a degree after

employment with the college will be compensated according to the following schedule. **The degree must coincide with the job duties and be approved by the President of the College** so that the particulars of their program align with the employee's position and become a benefit to the college. Increases occur only after the employee provides an official transcript reflecting the conferred degree to the Office of the President. The following increases apply to the salary the employee is earning at the time the degree is granted:

- A. Associate Degree – 10%
- B. Bachelor's Degree – 10%
- C. Master's Degree – 10%
- D. Doctoral Degree – 10%

Graduation Exercises

The importance of maintaining the graduation traditions at Frank Phillips College depends on participation of all employees (staff and faculty). Exceptions are made by the President of the College and must be approved in advance. All requests for exceptions must be approved by the employee's supervisor and recommended by that supervisor for presidential approval.

Faculty Development Policy

Frank Phillips College encourages Faculty Professional/Development for both full-time and part-time faculty. It may be in the form of continuing scholarship and may include course work to meet the requirements of "Continuing Scholarship" in the Faculty section of the Employee Handbook. It may include any self-improvement courses taken. Faculty in-service meetings are an important way for faculty to meet some of the requirements for faculty development. Other activities, including great teaching seminars, professional discipline meetings, community college teachers' association convention, and other pedagogical meetings, are important ways to participate in development activities. On occasion the college may hold special meetings for faculty-staff development, and the college may participate in teleconferences that are appropriate.

Copyrighted Computer Software

Frank Phillips College does not condone any illicit use of software. The College recognizes that the law concerning legal protection of software, particularly with regard to licenses is unsettled. If software has been copyrighted and/or received under license, someone wishing to make a copy considers the following lawful use of that software.

- A. Making backup copies for emergency purposes, even if the software is copy protected. Software provided by the College for agents of the College may copy use by students for emergency backup but not by individual students.
- B. Configuring the software and making other reasonable modifications specifically designed to fit the software to the user's need. (Note: In some instances, such action may void any warranty on the software.) Limitations on configuring software are the same as for making back-up copies, described in #1 above.
- C. Using the software on no more than one machine at any given time.
- D. Selling or giving the original copy and documentation to another, provided that the transferor keeps no copies whatsoever of either the software or documentation and provides the transferee only with original copies. (This assumes that the copy of the software is owned rather than borrowed or leased.

PROHIBITIONS: The following are actions that are considered illicit and may subject the actor

to sanctions by the College and could result in legal action by the copyright owner:

- A. Providing copies of copyrighted or licensed software to others while maintaining copies for one's own use, unless there is a specific provision in the license allowing such activity. The activity is forbidden even if the software is provided without cost for an educational purpose.
- B. Using software or documentation known to have been obtained in violation of the copyright laws or a valid license provision. Use of a copy of a copyrighted program obtained from another party for which no license exists that allows such a transfer will be presumed to know, and the burden of demonstrating that the use was innocent will rest with the user.
- C. Using a copyrighted program on more than one machine at the same time, unless a specific license provision permits such activity. The above statements are general and may be contrary to the statements supplied with the software. It is the software user responsibility to become familiar with the copyright provisions applicable to each piece of software he/she uses.

FACULTY EMPLOYMENT POLICY

Hiring Procedure:

When a permanent full-time position is vacated, the Executive Assistant to the President will post the position on the college's website and other appropriate listings. Position may be posted internally if recommended by the supervisor and approved by the President; however, if the position is not filled by a qualified internal candidate within 14 days, the position will be announced externally. The position will remain posted until the position is filled or a determination is made to discontinue the position.

Candidates will fill out the online application and send a resume or CV and, when applicable, transcripts, to the Executive Assistant to the President who will notify supervisors of the application. Supervisors are responsible for confirming the required credentials prior to interviewing the candidates, and the Executive Vice President for Academic Affairs/Chief Academic Officer will review qualifications for all applicants for faculty positions.

The supervisor for the position will form an interview committee that consists of three to five employees. The supervisor will notify the EAP regarding interview information, and the supervisor will convene the committee to interview candidates. The President or Executive Vice President for Academic Affairs/Chief Academic Officer, will participate in all interviews for full-time faculty positions.

After references have been checked, the committee chair will notify the EAP of the top candidates in order of preference so that she may complete any required background checks and ensure all documentation and application information is complete. After reviewing the background checks, the committee chair will make a recommendation to the President. Upon his approval, the chair may contact the candidate and offer the position. The EAP will notify candidates who were not selected via mail, email, or telephone.

The President retains the right to engage with any candidate and participate in any interview. The President also has the right to deny any recommendation for employment with good cause.

When a position for a part-time employee, including adjunct faculty, comes open, the Director, Dean or EVPAA will notify the President's office that the position is vacant if the position needs to be announced. If the position does not need to be announced because it is temporary or a position typically filled by students or tutors, the Director or Dean may interview, check references, and notify the EAP that they have a candidate.

If the position is for an adjunct faculty member, the Director or Dean must contact the EVPAA to discuss qualifications. No instructional position may be filled until the credentials are verified through a transcript and a resume. Unofficial transcripts may be used to verify credentials, but the instructor must have official copies of applicable transcripts on file in the President's office prior to the first day of instruction.

The President retains the right to engage with any candidate and participate in any interview. The President also has the right to deny any recommendation for employment with good cause.

All employees are final approved by the President. All faculty and student support personnel are final approved by the EVPAA and the President. Required paperwork includes a payroll authorization that must be signed by the President, and when appropriate, the EVPAA.

Academic Freedom and Responsibility

Institutions of higher education are conducted for the common good. The common good depends upon a free search for truth and its free expression. Hence, it is essential that the faculty member is free to pursue scholarly inquiry without undue restriction and to voice and publish conclusions concerning the significance of evidence considered relevant. The faculty member must be free from the fear that others inside or outside the college community, because their vision may differ, may threaten a professional career or the material benefits accruing from it.

Each faculty member is entitled to full freedom in the classroom in discussing the subject being taught. The concept of academic freedom must be accompanied by an equally demanding concept of responsibility, shared by governing boards, administrators, and faculty members. When speaking, writing, or acting as a citizen of the nation, state, or community, the faculty member must be free from institutional censorship or discipline. The essential responsibilities of a faculty member include maintenance of competence in the field of specialization and the exhibition of such competence in lectures, discussions, or publications. Exercise of professional integrity by a faculty member includes recognition that the public will judge the profession and the institution by that faculty member's appropriate restraint, respect for the opinions of others, and avoidance of the impression, when speaking and acting as a private person, that the faculty member is speaking for the college. A faculty member should be judicious in the use of controversial material in the classroom and should introduce such material only as it has clear relationship to the subject field. Academic freedom does not include the right to refrain from required activities such as assessment and participation in meetings and events. Furthermore, faculty are encouraged to be mindful of acceptable language and behavior in a public setting as other citizens have the right to be free of threats and profanity.

Term of Contract

A contract of employment with the District creates a property interest in the position only for the period of time stated in the contract. Such a contract creates no property interest in any kind beyond the period of time stated in the contract. *Perry v. Sindermann*, 92 S.Ct. 2694 (1972); *Board of Regents of State Colleges v. Roth*, 92 S.Ct. 2701 (1972).

At initial employment and during the second and third year of employment, faculty shall receive only a one-year term contract. After three years of service, a faculty member may be awarded a three-year contract. This contract may be considered annually for an extension to a maximum contract term of three years. Refer to Board Policy Manual: DDA (LEGAL), DDA (LOCAL). The three-year contract may be rescinded for just cause at any time.

Faculty employed under 12-month contracts are expected to work on days in which the college is open for business. Therefore, the 12-month contracted faculty member receives

vacation leave under the policy of all other full-time employees. Those faculty who are extended a 12-month contract shall not take more than one week of vacation during a semester and shall not be gone on the first or last weeks of classes. Faculty working on contracts of a duration less than 12 months do not receive vacation time.

Oral Language Policy

Frank Phillips College wants to insure that each member of its faculty is proficient in the use of English. In accordance with requirements from the Texas Higher Education Coordinating Board and HB 638 the following program is established:

- A. All courses offered for credit at Frank Phillips College will be taught in the English language, and all faculty members will be proficient in the use of the English language. Foreign language courses that are designed to be taught in a foreign language may be taught in a foreign language.

Full-time Staff and administration will be evaluated by their supervisor annually by August 15. New full-time staff and administration will be evaluated during the first six months of employment by the supervisor. Faculty will be evaluated annually by August 15th. Evaluation may include an observation.

Faculty Evaluation Procedure (See attached copy of evaluation forms)

Evaluation of teaching faculty, both full-time and part-time, is important for positive growth and professionalism. Evaluation instruments include, but are not limited to, student evaluations, self-evaluation, and administrative evaluations. These instruments provide feedback and recommendations reinforcing positive classroom demeanor and provide input for improvement of instruction. The Administration and the Academic Standards and Curriculum Committee will review any changes to the evaluation instruments used for faculty evaluation. These instrument(s) are in accordance with the Texas Association of School Boards and the Board of Regents of Frank Phillips College.

Student evaluations will be conducted each fall and spring semester at a time designated by the Vice President for Academic Affairs or her designee.

Criteria for Administrative Faculty Evaluation

- A. Knowledge of subject: How well does this faculty member demonstrate knowledge of the subjects he/she is assigned to teach?
- B. Organization of Class: How well does the faculty member select and prepare the materials and format for the courses he/she is assigned to teach?
- C. Classroom Management: How well does this faculty member perform responsibilities related to management of the classroom?
- D. Instructional Techniques: How effective are the instructional techniques used by this faculty member?
- E. Student Rapport: How well does this faculty member work and interact with students?

The above criteria will be administratively evaluated and discussed as needed with each faculty member at performance review time.

Criteria for Student Evaluation:

- A. Fairness, text and grading
- B. Communication
- C. Organization, creativity, and imagination
- D. Intellectual stimulation, intellectual honesty

- E. Written responses to strengths of the faculty member; areas of improvement and other personal comments.

Frank Phillips College
Performance Evaluation
Full-Time Faculty Position

Employee:

Evaluator:

Evaluation Period:

Date of Evaluation Conference:

Directions: The first blank is to be completed by the employee. The second blank is to be completed by the supervisor in consultation with the employee.

Job Purpose: Teach assigned courses with appropriate rigor and academic excellence. Perform other duties required of full-time faculty members and other duties as assigned by administration to align with college mission.

Reports to:

Scope of Work Responsibilities

1 st	2 nd	
		A. Teaches courses as assigned during fall, spring, summer, and mini-terms with appropriate rigor, expectations, and assessment. Manages classroom, discipline, and pace in an environment organized for student success.
		B. Facilitates distance-learning sections with attention to distance students, a well-built electronic classroom with all documents, regular interaction with students, and timely feedback on assignments and questions.
		C. Provides timely assessment for all students (no longer than two weeks) and posts grades in the CAMS gradebook so they are accessible by students.
		D. Clearly communicates expectations to students regarding grading scale, due dates, types of assignments, and all other expectations.
		E. Maintains required number of office hours and is present in office during posted times.
		F. Serves on assigned committees by attending meetings and performing all other duties as part of the committee.
		G. Meets with assigned advisees during the fall and spring semester. Contacts advisees for appointments as necessary.
		H. Maintains professional development that is adequate to meet the evolving needs of students and within the discipline.
		I. Provides assessment documents to the Vice President of Academic Affairs as required and on time. Maintains students' assignments on paper or as uploaded in CAMS and makes portfolios readily available for program reviews.
		I. Contributes to the team effort by performing additional duties as assigned by the Vice President as needed.

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Professional Qualifications, Essential Job, and Performance Responsibilities:

		A. Education: Has knowledge sufficient for position effectiveness.
		B. Experience: Has demonstrated necessary skills for position effectiveness
		C. Adaptability: Adjusts to changes and new responsibilities with ease and positive attitude.
		D. Initiative: Acts promptly, independently, and beyond normal duties when necessary.
		E. Loyalty: Exemplifies commitment to the welfare of the college in campus and community activities and in the media.
		F. Self-improvement: Demonstrates professional growth through participation in clinics, seminars, workshops, coursework, or self-study.

Improvement Plan: (If required to maintain employment)

Employee:

Supervisor:

Comments/Recommendations:

Employee recommended for continued employment: Yes ____ No ____

Employee's Signature: _____ Date: _____

Evaluator's Signature: _____ Date: _____

VPAA's Signature: _____ Date: _____

Frank Phillips College
Performance Evaluation
Adjunct Instructor

Employee: _____
Evaluator: _____
Evaluation Period: _____

Date of Evaluation Conference: _____

Directions: The first blank is to be completed by the employee. The second blank is to be completed by the supervisor in consultation with the employee.

Job Purpose: Teach assigned courses with appropriate rigor and academic excellence. Perform other duties required of adjunct faculty members to align with college mission.

Reports to: _____

Scope of Work Responsibilities

1st 2nd

		c. Teaches courses as assigned during fall, spring, summer, and mini-terms with appropriate rigor, expectations, and assessment. Manages classroom, discipline, and pace in an environment organized for student success.
		D. Facilitates distance-learning sections with attention to distance students, a well-built electronic classroom with all documents, regular interaction with students, and timely feedback on assignments and questions.
		J. Provides timely assessment for all students (no longer than two weeks) and posts grades in the CAMS gradebook so they are accessible by students.
		K. Clearly communicates expectations to students regarding grading scale, due dates, types of assignments, and all other expectations.
		L. Provides contact information to students and responds to students inquiries in a timely manner.
		M. Provides assessment documents to the appropriate Director or Division Chair as required and on time. Maintains students' assignments on paper or as uploaded in CAMS and makes portfolios readily available for program reviews.

		G. Education: Has knowledge sufficient for position effectiveness.
		H. Experience: Has demonstrated necessary skills for position effectiveness
		I. Adaptability: Adjusts to changes and new responsibilities with ease and positive attitude.
		J. Initiative: Acts promptly, independently, and beyond normal duties when necessary.
		K. Loyalty: Exemplifies commitment to the welfare of the college in campus and community activities and in the media.

Professional Qualifications, Essential Job, and Performance Responsibilities:

Improvement Plan: (If required to maintain employment)

Employee:

Supervisor:

Comments/Recommendations:

Employee recommended for continued employment: Yes ___ No ___

Employee's Signature: _____ Date: _____

Evaluator's Signature: _____ Date: _____

VPAA's Signature: _____ Date: _____

Faculty Observation 2018-2019 Academic Year

Frank Phillips College

Course: _____ Instructor: _____

Campus: _____ Full-time/Part-time: _____

Date of Observation: _____

1. What content was being covered during the class period?

2. What strengths does the teacher have?

3. In what ways might the teacher improve delivery of the course?

4. In what ways might the college better support the teacher?

Faculty Member's Signature

Date

Observer's Signature

Date

Vice President for Academic Affairs

Date

Reduction in Force Policy

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

All contracts shall, unless accepted by the Board, contain a provision that a reduction in force may take place when the Board determines that a financial exigency or program change requires that the contract of one or more teachers, administrators, or other professional employees be terminated. Such a determination constitutes the necessary cause for dismissal.

A reduction in force may be implemented in one, several, or all employment areas.

Employment areas shall be defined as:

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

Using the following criteria, the College President shall determine which positions shall be eliminated and shall submit the decision to the Board. These criteria are listed in order of importance; the College President shall apply them sequentially to the selected employment areas until the number of staff reductions necessary have been identified, i.e., if all necessary reductions can be accomplished by applying the certification criteria, it is not necessary to apply the performance or subsequent criteria.

- 1. Certification: appropriate degree certification and/or endorsement for current assignment required by the Southern Association of Colleges and Schools Commission on Colleges and the Texas Higher Education Coordinating Board.
- 2. Performance: employee's effectiveness as reflected by the most recent written evaluations and/or other appraisal documentation.
- 3. Seniority: years of service in the College District.
- 4. Professional Background: professional education and work experience related to the current assignment.

The employee shall be given a statement of the reasons and conditions requiring such dismissal and shall, upon request, be given a hearing in accordance with the policy for termination during contract. [See DMAA (LEGAL), DMAA (LOCAL)].

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

Upon written request by the employee, an employee dismissed pursuant to this policy shall be notified in writing of any subsequent availability of the position, for a period of one

calendar year following the effective date of such dismissal. The notice shall be mailed to the address that was on file for the former employee at the time of dismissal, unless the District has been notified in writing of a change of address. A former employee so notified must respond to the Board in writing within ten calendar days of receipt of such notification if the person wishes to be considered for employment on a preferential basis.

Resignation

- A. Any employee serving under a term contract may relinquish his/her position and leave the employment of the District at the end of any school year without penalty, provided such employee submits a written resignation to the President prior to April 1 of the school year in which he resigns.
- B. Exceptions to the deadline requirements may be granted in extenuating circumstances.
- C. Refer to Board Policy Manual.

Abolition of Position

- A. Abolition of a position shall be on the recommendation of the President.
- B. Refer to Board Policy Manual.

Faculty Workload/Compensation Policy

The administration of Frank Phillips College will determine teaching assignments. Faculty may be assigned to teach day, twilight, or evening classes. These classes may be assigned as regular lecture/lab traditional method or via the distance education medium including, but not limited to, web-based, on-line, hybrid, and ITV. All faculty institutional loads will be discussed and assigned in consultation with the authorized administrator.

I Workload for Faculty

- A. The basic workload for a faculty member will consist of 15 semester credit hours, 10 office hours per week, committee and task-force assignments as determined by the President/authorized administrator, and assignments to fulfill accreditation requirements as assigned by the Accreditation Liaison.

The maximum workload permitted for a faculty member will be 21 (7-3 hours lecture) credit hours excluding dual-credit assignments. Any workload that exceeds this maximum must be approved by the Vice President for Academic Affairs/Chief Academic Officer and must meet an unusual contingency.

- B. TBA Course: TBA classes will be taught only under unusual circumstances and with special permission from the authorized administrator. Any TBA course taught will be part of the 21-hour maximum workload. The pay for a TBA course will be \$25.00 per credit hour per student. Any course with fewer than four students enrolled will automatically be considered a TBA. Teaching the course is at the discretion of the instructor and the Vice President for Academic Affairs.
- C. When two or more courses are taught in the same period, teaching and workload credit will be given for only one class.
- D. All instructional assignments shall be made by the Vice President for Academic Affairs/Chief Academic Officer or his/her designee.

II. Compensation Policy

Compensation for faculty is determined by faculty assignments made by the administration. The following criteria will be utilized in figuring basic loads and supplemental assignments:

- A. Number of hours: 15 equated hours are considered a basic workload. Lab hours are equated .5 to one. An increment of \$500 per equated hour will be assessed for each

administratively approved credit hour above 15 hours.

- B. The formula for compensation above the basic workload allows an increment of \$500 per equated semester hour. A regular class will constitute a minimum of 8-12 students. A class with fewer students will be subject to "To Be Arranged" (TBA) classification by the authorized administrator only under special circumstances. The Vice President for Academic Affairs will determine caps for the maximum number of students allowed in a class. Saturday teaching assignments above the basic load will be compensated at \$550 per equated semester hour with science labs counting as three hours.
- C. Distance Learning Room (DLR) Courses: Instructional assignments utilizing distance learning facilitates (DLR 1, 2, 3 or Nursing) will be coordinated with the Offices of Educational Services and Extended Education. Faculty assigned to DLR courses must schedule orientation and training prior to the beginning of classes with the Coordinator of Professional Development/Training.
- D. Instructors who develop web-based online courses will be compensated \$500 for the development and first semester of instruction of the course as a one-time development fee. The course will become the property of Frank Phillips College. Instructors engaging in web-based classes are required to use FPC administratively approved standardized software for the development of these courses. No further compensation for delivering or updating the course will be given.
- E. Dual-credit/Concurrent courses will be compensated at \$1500 per three-hour course for a high-school section of 8 or more students. Fewer than 8 students will be compensated at 1/8 of \$1500 for each student. Sections may be combined for compensation. Faculty may be required to use a hybrid system of delivery that combines online instruction with pre-recorded lectures as assigned by the Vice President for Academic Affairs. *Faculty whose primary responsibility is dual credit delivery will not be compensated additionally for dual credit courses.*
- F. Off-campus/Concurrent Site Visitation: Instructors assigned to classes located at one of the various off-campus or concurrent sites will be required to conduct one to two visits at each receiving site. Visitations must be documented in the Office of Educational Services.
- G. Summer School Pay: Summer school course assignments for full-time instructors will be paid at a rate of \$500 per equated hour prorated on eight students.
- H. Compensation for work above the basic workload for full-time faculty will be paid on the first Friday after the conclusion of each corresponding semester.
- I. All full-time faculty members will receive their salary over a twelve-month period.

See Entry Level Schedule for Faculty – Attached (page 35)

III. Compensation for Part-Time Instructors

Testing

- A. Testing of student is the responsibility of each faculty member.
- B. Instructors will be expected to test students adequately so an appropriate estimate of the students' progress can be assessed.
- C. Instructors should assess students' progress in multiple ways and must list in their syllabi the ways in which students will be assessed for their final grades. All adjunct faculty are required to participate in the assessment process developed by the department and/or Vice President for Academic Affairs in conjunction with the

Academic Standards and Curriculum Committee and in compliance with the requirements of individual licensing boards, the Texas Higher Education Coordinating Board, SACSCOC, and the Department of Education.

- D. Final examination schedules will be prepared and distributed by the Vice President for Academic Affairs/Chief Academic Officer.
- E. Final examinations must be given on the scheduled day and time unless arrangements are made with the Vice President for Academic Affairs. In an instance in which a faculty member assigns an early final exam, the class must meet on the scheduled day of the final exam for meaningful engagement. No classes are to end earlier than the scheduled week of final exams, and it is the responsibility of the instructor to ensure that the class continues for the required weeks of instructions.
- F. When a student requests a final exam earlier than the date the instructor has scheduled, instructors must refer students to the Vice President for Academic Affairs. Final examinations will be given early only in extreme situations and with permission of the Instructor and the Vice President for Academic Affairs/Chief Academic Officer.

Posted Office Hours

Faculty are to post ten (10) office hours per week in which they are available to consult with students and assigned classroom hours. Faculty may hold four (4) of their office hours in the Learning Resource Center each week and one (1) hour per week may be designated as virtual office hours for each internet section taught with a maximum of two (2) virtual office hours each week. Office hours that are designated as virtual office hours must be conducted on campus in the faculty member's office.

Faculty teaching dual-credit courses and visiting high-school campuses are required to provide one hour of office availability for each on-campus class (including Distance-Learning classes to any campus site) per course with a minimum of four hours per week to occur on the days on which faculty teach on campus.

Office hours must be spread Monday through Thursday unless the faculty member uses a day for travel to a dual-credit site. Office hours may not be scheduled to fall within regularly scheduled committee meetings or replaced with regular training appointments. Faculty who need to miss office hours for any reason must notify the Vice President for Academic Affairs. Whenever possible, the Instructor should post a note to students on the office door.

Adjunct faculty are not required to hold office hours but must provide a means of contact to students and make arrangements to meet with students upon request. The meetings may be held on the college campus, through Skype, or by phone.

Faculty Ranking Policy

Faculty ranking will be determined by the Administrative Cabinet and granted by the President. Full-time faculty applying for an increase in faculty ranking will submit an application to the Vice President for Academic Affairs who will present the application to the Administrative Cabinet for review. Faculty ranking is not automatic, and increases in ranking will be granted only to faculty who demonstrate exceptional contributions to the educational mission of Frank Phillips College.

The ranking standards are as follows:

- A. Instructor: Adjunct faculty who teach in a part-time capacity and faculty who have less than a bachelor's degree from an accredited college or university
- B. Assistant Professor: Full-time faculty with a master's degree or higher serving in their

first, second, or third year of instruction at Frank Phillips College and full-time faculty with a bachelor's degree serving their fourth and subsequent years of instruction with Frank Phillips College and any faculty designated because of extraordinary service in instruction to Frank Phillips College by the President of the College

- C. Associate Professor: Full-time faculty with a master's degree or higher serving their fourth or fifth year of instruction at Frank Phillips College
- D. Professor: Full-time faculty with a master's degree or higher serving the sixth and subsequent years of instruction at Frank Phillips College and any faculty with a master's degree or higher designated because of extraordinary service in instruction to Frank Phillips College by the President of the College
- E. Distinguished Professor: Full-time faculty with a doctoral degree serving their eight and subsequent years of instruction at Frank Phillips College

Process to Apply for Increase in Faculty Ranking:

Criteria: years of service to the college, highest earned degree, student evaluations, performance evaluations, self-evaluations, professional development, and contribution to the college environment

Faculty must submit a letter of intent to undergo the application for increasing ranking by October 15 of the year prior to eligibility to increase ranking. The application packet must include three student recommendation letters and two peer recommendation letters. The faculty member must submit a current transcript, professional development forms, and self-evaluations. The application must also include a current curriculum vita that outlines the applicant's contributions to the college environment. The Vice President for Academic Affairs/Chief Academic Officer will add to the application the official performance evaluations and student evaluations from the applicable preceding years.

Faculty ranking will be awarded in May and become effective on August 15th of the following academic year.

An increase in ranking will be reviewed by the Administrative Cabinet and will be based on the above information. The President of the College will award increased ranking to all faculty. Faculty who increase their ranking will not receive monetary compensation, nor does the increase in faculty ranking imply any form of tenure. Faculty will not receive automatic increases in rank and should not expect the process to be without stringent review. Faculty who petition for ranking and are not awarded will be eligible to petition for ranking the following year if all other criteria for continued employment has been met.

In the initial year of faculty ranking implementation, faculty eligible for ranking must submit application by October 15, 2008, and ranking will be determined by January 15, 2009.

Classroom Instructional Hours

Faculty are expected to hold classes during the scheduled time and for the scheduled length each class period including the first class. Instructors teaching night classes should conduct class through the scheduled time and take one fifteen minute break mid-way through the class. Failure to conduct class for the required length may result in disciplinary action.

Library Services

The Library offers the following special privileges and services to the faculty:

- A. No time limit on faculty loans.
- B. Inter-library loan service is available.

Books and periodicals must be ordered through the Library.

The Library maintains catalogues and literature on new publications.

Testing

- A. Testing of students is the responsibility of each faculty member.
- B. Faculty will be expected to test students adequately so an appropriate estimate of the students' progress can be assessed.
- C. A testing proctor employed full-time by the college may be arranged only for classes held online.
- D. Final examination schedules will be prepared and distributed by the Executive Vice President for Academic Affairs/Chief Academic Officer.

Grade Books

- A. It is the responsibility of each faculty member to keep an accurate record of each student's attendance and grades in CAMS. Grades must be entered in a timely manner (within two weeks of assignment due date). Failure to enter grades in a timely manner may result in disciplinary action.
- B. At the end of each semester, on-line grade sheets will be provided to each instructor through CAMS.
 - 1. Semester grades are to be recorded online through CAMS.
 - 2. An email should be sent for each class to the Office of Admissions and Records stating that grades have been entered.
 - 3. The Director of Enrollment Management will send out emails indicating the date by which grades should be entered.
 - 4. Grades entered on a student's permanent record are unalterable except when explanation is made in writing by the faculty member involved showing that a grade recorded is incorrect as the result of errors in recording or computing the grade in question. Grade changes may be recorded at the time an error is discovered. In the event of a student grade appeal, the final grade will be authorized by the Vice President for Academic Affairs and changed by the Director of Enrollment Management. Faculty involved in the appeal will be notified of the recommendation by the VPAA, and grades will not be changed until the appeal is concluded.
 - 5. Grade books and grade sheets are the property of the college.

Classroom Conditions

- A. General classroom maintenance is provided by the custodial staff.
- B. It is the responsibility of each faculty member to encourage normal tidiness in the classroom and enforce college regulations. Faculty must be careful not to leave any documents in the classroom.
- C. No eating or drinking by students or instructors is permitted in computer classrooms. Faculty have the right to ban food and drinks from their classes regardless of location.
- D. Use of tobacco is prohibited in all classrooms.

Absences of Faculty

- A. Faculty absences shall be reported to the Vice President for Academic Affairs or her designee as promptly as possible.
- B. Faculty missing a class must make arrangements for the class and notify the VPAA of the arrangement. Faculty members may be required to secure a substitute teacher at their own expense.
- C. When the faculty member has been absent, the faculty member will file with the Business Office and Vice President for Academic Affairs an "Absence" report through the electronic portal.
- D. Types of Absences:
 - 1. Personal Business Days.
 - i. Eligibility. Employees who work full-time (including faculty members on a 9-

months contract) are eligible for three (3) personal days leave per academic year. Personal Business Days are not vacation or sick leave.

2. Sick Leave.

- a. Eligibility. Employees who work full-time (including faculty members on a 9-month contract), and who have accrued or earned sick leave are eligible for sick leave. Employees will report sick leave.
- b. Definition. Illness of employee, wife, husband, or children (adopted or step). Doctor and dentist appointments of employee only which cannot be scheduled other than during working hours. Critical illness of mother, father, brother, or sister.
- c. Allowable sick leave. Eligible employees accumulate one day for each month employed by the College up to forty (40) days). If the anniversary date is after the 15th of the month, that month does not count when calculating sick leave. If the anniversary date is on or before the 15th of the month, that month does count toward sick leave. Sick leave is available to be used by employee only if accumulated. An employee who has been employed for one (1) month will have accumulated one (1) sick day. If a person is sick following a month of employment, one (1) day will be considered time off with pay. An employee must accrue another sick day in order to be eligible for time off with pay for sickness. Employees will not be paid for any accumulated sick leave upon termination or resignation from Frank Phillips College.
- d. Proof of illness. Verification of sickness from a doctor may be requested.
- e. Maternity leave. Time off from work due to pregnancy is subject to the sick leave policy.
- f. The immediate supervisor must approve this time off through the electronic portal to the payroll office. Refer to Board Policy Manual.
- g. Communicable disease policy. Communicable diseases include, but are not limited to, measles, influenza, viral hepatitis-A (infectious hepatitis), viral hepatitis-B (serum hepatitis), human immunodeficiency virus (HIV Infection) and AIDS, leprosy, and tuberculosis. Frank Phillips College recognizes that faculty members with communicable diseases may wish to engage in as many of their normal pursuits as their condition and ability allows. As long as acceptable performance standards are met, and medical evidence indicates that their conditions are not a threat to themselves or others, the Administration and Board of this college ensures the consistent and equal treatment of all employees. Any faculty member with a communicable disease, upon confirmed knowledge, is required to report the condition to the Vice President for Academic Affairs/Chief Academic Officer. All reasonable effort will be made to protect the faculty member's right to confidentiality.
- h. Family and Medical Leave. [See also Board Policy Manual DEC (LEGAL)] Under the Family and Medical Leave Act of 1993, employees are eligible for up to twelve (12) work weeks of Family and Medical Leave (FML) during a leave year if they:
 - have at least 12 months of cumulative service and have worked at least 1,250 hours
 - at the college during the 12 month period preceding the date their FML is to begin; and
 - have a qualifying reason for taking FML; and
 - have a remaining balance of FML.

A "leave year" is defined as a period of 12 months measured backward from the date the proposed leave is to begin.

Employees are required to provide 30 days advance written notice to the supervisor when the need for FML is foreseeable. When such leave is not foreseeable, employees shall provide notice at the earliest possible date. FML is provided when employees are absent from work for one of more of the following qualifying reasons:

- the birth of the employee's child and the care of such newborn child;
- the placement of a child with the employee for adoption or foster care;
- the care of the employee's spouse, child (age 19 or under, or a child over age 18) with a disability where the child is unable to perform activities of daily living without assistance) or parent who has a serious health condition; or
- the employee's own serious health condition that prevents him/her from performing the essential functions of his/her position (excludes immunizations, routine physical examinations, orthodontia, and cosmetic treatments).

Employees are required to provide certification from their health care provider of the need for such leave. Supervisors must grant employees 15 calendar days to submit such certification. Employees are required to recertify every 30 days unless an extension of leave is requested or modified, changed circumstances occur regarding the serious health condition or information arises that questions the validity of the earlier certification. In cases of the employee's own serious health condition, the employee may be required, on or before the date he/she returns, to provide a certification from a health care provider confirming the employee is able to return to work and perform the essential functions of his/her position.

Employees are responsible for completing all required forms and are responsible for recertifying every 30 days

Employees on FML are required to use accrued sick leave. Employees may request, at their option, use of accrued vacation when sick leave is exhausted. See Benefits Coordinator.

3. Deaths in Family

- a. Eligibility. Employees who work full-time (including instructors) and who have been employed by the College for six (6) months are eligible for bereavement leave.
- b. Allowable bereavement leave. Immediate family is husband, wife, child, father, mother, sister, or brother. Five (5) working days are allowed with pay.
- c. Allowable bereavement leave. In-laws. Three (3) working days are allowed with pay.
- d. The immediate supervisor must report this time off through the electronic portal to the payroll office.
- e. Refer to Board Policy Manual.

E. Non-Attendance

The following absences by any faculty member shall be regarded as non-attendance and not as an absence.

1. Absence in carrying out a specific assignment from the President or Vice President for Academic Affairs/Chief Academic Officer.
2. Absence because of attendance before a court of law or public authority in any case in which the faculty member has no financial interest and when the member's attendance is not required as a result of or as an incident to any employment, occupation, or voluntary act on the part of the member.
3. Absence because of compliance with quarantining regulation of a public officer of governmental authority.
4. Absence because of military duty in accordance with the laws of the State of Texas.
5. Absence because of attendance at a funeral with the prior permission of the President.
6. Absence for the purpose of personal business, with a maximum of three days per

- calendar year, with prior approval of the President or designee.
7. Absence for the purpose of attending conferences, meetings, conventions, or for technological, industrial or educational visitations, when the President approves this absence.

The President is authorized to grant permission to be absent for any of the above purposes. Refer to Board Policy Manual.

Student Club Sponsor

Assignments: Each faculty member will be encouraged to become involved with extracurricular sponsorship responsibilities.

Responsibilities:

- A. To supervise the operation of the organization so it may assume its proper place within the framework of the College.
- B. To supervise the organization of the group in accordance with the democratic procedures.
- C. To supervise Secretary-Treasurer in maintaining proper records.
 1. Minutes of all meetings.
 2. Financial records showing sources of all funds received and disbursed. Disbursement of all club funds must be validated by a signed receipt, or the Business Office must preserve canceled check and all records for audit.
- D. To supervise activities or organization.
 1. Be present at all parties, games, etc., sponsored by organization from opening to close, unless a substitute adult sponsor is provided.
 2. If college facilities or property are to be used, arrangements must be made well in advance. The sponsor must be responsible for opening and closing the facility, and for proper care and cleaning. All borrowed property must be returned promptly.
- E. To supervise all fund raising projects, which must be approved by the President or his/her designee before they are begun.

Faculty Meetings

- A. Meetings may be called by the Vice President for Academic Affairs/Chief Academic Officer or President.
- B. All faculty members are expected to attend faculty meetings.
- C. The Vice President for Academic Affairs/Chief Academic Officer and Division Director are to be notified in advance by any faculty member unable to attend a scheduled faculty meeting.
- D. Refer to Board Policy Manual.

Faculty/Staff Meeting

- A. During the academic year the president may hold a monthly faculty/staff meeting.
- B. All personnel are encouraged to attend.

Professional Organizations

Faculty members are encouraged to participate in and maintain membership in professional organizations of their subject field. Departmental budgets may assist in payment of expenses of attendance at meetings of these organizations.

Audio-Visual Personnel, Equipment, and Services

The audio-visual equipment is available to faculty and staff upon request and availability from the Library. A basic collection of audio and visual equipment is maintained at this location with other equipment being issued to different departments for the convenience of instructors in that department. This equipment is available to faculty and staff upon request.

Administrative Withdrawal

An official withdrawal initiated by a faculty member and approved by the Vice President for Academic Affairs/Chief Academic Officer may occur at any time during the semester for the following, but not limited to, excessive absences and disrupting the education process.

Incomplete Grades

The grade of "I" which denotes an Incomplete may be given when a student, for a justifiable reason (such as illness), has failed to complete the requirements for a course.

The Vice President for Academic Affairs/Chief Academic Officer must approve all incompletes given by a faculty member. It is the responsibility of the student to arrange with the faculty member for the completion of the course requirements when an "I" is given. An "incomplete" must be removed during the next full semester following its issuance unless special permission for an extension of time is given by the Vice President for Academic Affairs/Chief Academic Officer. The faculty member issuing the incomplete may specify a make-up time less than the full semester interval by notifying the student of the "deadline" date in writing at the beginning of the semester. If the incomplete is not removed within the allotted time, the "I" will automatically be recorded as an "F."

Course Syllabus & Attendance:

Faculty members are required to provide a syllabus for each class, which includes attendance requirements. It is the responsibility of the instructor to establish clear and definite guidelines regarding attendance and tardies.

Grade Points: The following schedule of grade points is used as an aid in computing standing:

A - 4 point per semester hour	D - 1 point per semester hour
B - 3 points per semester hour	F, W - no points C -
2 points per semester hour	I – Incomplete

Certain programs, such as Licensed Vocational Nursing and Cosmetology, may retain a different grading standard. This standard must be communicated to students and approved by the Vice President for Academic Affairs. Unless noted otherwise, faculty use the above grade point schedule.

Texas Success Initiative

All faculty members are encouraged to participate at appropriate levels in the Success Initiative Program regarding assessment, placement, and developmental education of students.

Information Regarding Students

- A. Students' files, which are kept in the Educational Services Office, are available to faculty members and counselors.
- B. Information regarding students will be made available to properly identified representatives of government agencies.

Faculty Consultation with Students

- A. Each faculty member observes weekly office hours for consultation with students. These hours are posted outside the faculty member's office and are filed with the Vice President for Academic Affairs/Chief Academic Officer. Exceptions to the number of hours are made by the Vice President for Academic Affairs.
- B. Faculty members will make appointments to confer with students at times other than posted office hours.

C. Refer to Board Policy Manual.

Grading System

Grades in the various courses are expressed in letters as follows:

A – Superior (90-100)	B – Good (80-89)
C – Average (70 – 79)	D – Passing (60 – 69)
F – Failure (Below 60)	W - Student Withdrawal
I- Incomplete	

****The Licensed Vocational Nursing Program uses the following grade scale:**

A – Superior (92 – 100)	B - Good (83 – 91)
C - Average (75-82)	D - Passing (60 -74)
F - Failure (Below 60)	W - Student Withdrawal
I- Incomplete	

****The Cosmetology Program uses the following grade scale:**

A – Superior (90 – 100)	B - Good (80 – 89)
C – Average (76-79)	D – Passing (70 – 75)
F – Failure (Below 70)	W - Student Withdrawal
I- Incomplete	

Faculty are given the freedom to round up or adjust grades but are not required to do so. Faculty may not arbitrarily lower final averages/final grades and must have a written policy that is distributed to students for deducting points from the final semester average in order to lower final averages/grades for such reasons as attendance and participation.

Final grades are available to students in CAMS once the grades are posted at the end of the semester.

Instructional Resources Library:

- A. Hours - Library hours coincide with the teaching schedule. Additional hours, including weekend hours are also available upon request.
- B. Check out procedures - The checkout period for a student is two weeks, with the privilege of renewal if there is not a special demand for the book.
- C. Reserved books
 1. A faculty member may place books on reserve if special emphasis in a course calls for use of limited materials.
 2. The faculty member should furnish the library with a list of these books two weeks in advance.
 3. The library staff should be informed when these books are to be taken off the reserve list and made available for general circulation. Copy machines and the microfilm reader/printer area are available for student use. Students are charged by the copy.
- D. All films, books, and periodicals used for instruction should be requisitioned through the library.

STAFF EMPLOYMENT POLICIES

Employment status at Frank Phillips College is on an at-will basis. The College may terminate the employment relationship at any time, for any reason, with or without cause, or notice to the employee. Contents of this handbook are subject to change at any time without prior notice to employees. Employment Procedure (See also, Board Policy Manual DM)

- A. Frank Phillips College is an equal opportunity employer. All recruiting, hiring, training, promotion decisions will comply with the principle of equal employment opportunity.
- B. The immediate supervisor must submit in writing on the Personnel Request Form a request for full-time new or replacement staff employees.
- C. The vacancy, when approved, will be announced and filled as soon as possible according to College policy. The President's office shall be responsible for advertising all position openings of the college.
- D. All new employees must attend a brief orientation session by the first month of employment or the first time the institution provides the training.
- E. Employees of the college are free, as citizens to participate in political activity and serve as political party or public officials, whenever consistent with state law, except during regular hours or on college property.

Hiring Policy:

Frank Phillips College will follow a hiring procedure that ensures consideration of all qualified applicants with regard to color, race, religion, disability, age, gender, or national origin. The college will comply with local, regional, state, and federal statutes defining and prohibiting such discrimination.

Hiring Procedure:

When a permanent full-time position is vacated, the Executive Assistant to the President will post the position on the college's website and other appropriate listings. Position may be posted internally if recommended by the supervisor and approved by the President; however, if the position is not filled by a qualified internal candidate within 14 days, the position will be announced externally. The position will remain posted until the position is filled or a determination is made to discontinue the position.

Candidates will fill out the online application and send a resume or CV and, when applicable, transcripts, to the Executive Assistant to the President who will notify supervisors of the application. Supervisors are responsible for confirming the required credentials prior to interviewing the candidates, and the Executive Vice President for Academic Affairs/Chief Academic Officer will review qualifications for all applicants for faculty positions.

The supervisor for the position will form an interview committee that consists of three to five employees. The supervisor will notify the EAP regarding interview information, and the supervisor will convene the committee to interview candidates. The President or Executive Vice President for Academic Affairs/Chief Academic Officer, will participate in all interviews for full-time faculty positions.

After references have been checked, the committee chair will notify the EAP of the top candidates in order of preference so that she may complete any required background checks and ensure all documentation and application information is complete. After reviewing the background checks, the committee chair will make a recommendation to the President. Upon his approval, the chair may contact the candidate and offer the position. The EAP will notify candidates who were not selected via mail, email, or telephone.

The President retains the right to engage with any candidate and participate in any interview. The President also has the right to deny any recommendation for employment with good cause.

When a position for a part-time employee, including adjunct faculty, comes open, the Director,

Dean or EVPAA will notify the President's office that the position is vacant if the position needs to be announced. If the position does not need to be announced because it is temporary or a position typically filled by students or tutors, the Director or Dean may interview, check references, and notify the EAP that they have a candidate.

If the position is for an adjunct faculty member, the Director or Dean must contact the EVPAA to discuss qualifications. No instructional position may be filled until the credentials are verified through a transcript and a resume. Unofficial transcripts may be used to verify credentials, but the instructor must have official copies of applicable transcripts on file in the President's office prior to the first day of instruction.

The President retains the right to engage with any candidate and participate in any interview. The President also has the right to deny any recommendation for employment with good cause.

All employees are final approved by the President. All faculty and student support personnel are final approved by the EVPAA and the President. Required paperwork includes a payroll authorization that must be signed by the President, and when appropriate, the EVPAA.

Full-time Employee Evaluation Policy:

Full-time Staff and administration will be evaluated by their supervisor annually by August 15. New full-time staff and administration will be evaluated during the first six months of employment by the supervisor. Faculty will be evaluated annually by August 15th. Evaluation may include an observation.

Full-time Staff and Administration Evaluation Procedure:

Staff and administration will be evaluated annually by their supervisors with the employee's job description serving as the basis for evaluation. Employees will complete a self-evaluation along with the supervisor to promote discussion about the employee's needs, concerns, and performance. The evaluation will be signed by the employee and supervisor and placed in the employee's permanent personnel file in the Office of the President. New full-time staff and administration will be evaluated during the employee's first six months of employment then annually thereafter.

II. Definitions

- A. Staff employees are all employees who are not faculty or administration.
- B. Full-time employees. Employees who are hired with the specific intent to work full time (generally 40 hours per week) and are hired to work 12 months per year.
- C. Student help. Any employee whose primary purpose is attending Frank Phillips College classes and whose secondary purpose is working at Frank Phillips College. Also, any public school student who works for Frank Phillips College is classified as student help.
- D. Part-time employees. Employees who are hired with the specific intent to work part time and who do not qualify as full-time employees.
- E. Anniversary date. The date an employee begins work for FPC as a full-time employee.
- F. Probationary period. All employees are on probation during their first three months (90 days) of employment. The employee will be evaluated on job performance during this period.
- G. Performance Evaluation. All employees are subject to performance evaluations by their immediate supervisor or designee.

III. Salaries and Wages

- A. Salary and wages. When the College first employs a staff person, the employee will be assigned a certain beginning hourly rate. This beginning hourly rate will be based on

years of experience and performance. According to the job classification, employees are either paid a monthly salary or by the hour. The immediate supervisor must confer with the President before a person is offered a particular salary.

- B. Salary increases. Salaries are reviewed annually and possible increases are considered at the beginning of the fiscal year (September 1). An employee must be employed for at least six months prior to September 1 to receive a salary adjustment.
- C. Overtime pay. Before an employee can work overtime, his/her immediate supervisor must approve it. Overtime rate is one and one-half (1 1/2) times the employee's regular hourly pay rate. An employee may, upon approval of his/her immediate supervisor, take compensatory time in lieu of overtime, but this must be recorded on the employee's time sheet. Overtime is paid for hours in excess of 40 hours per week. In order to receive overtime, an employee must work more than 40 hours. The time compensated does not include other paid or unpaid leave such as holidays, closure, vacation, or sick time. The period of a work week is Saturday through Friday. In the event that the college has adopted a work week of fewer than 40 hours during a given academic year (such as summer hours and breaks), the employee must work more than forty hours to receive overtime pay.
- D. Time cards. Hourly personnel must complete an electronic time card bi-weekly through the electronic portal in order to be paid. All time cards must be completed by the employee submitted to his/her immediate supervisor who will check for accuracy, approve, and submit to the payroll office. All employees must submit time off requests through the electronic portal and receive approval from their supervisors prior to taking the time off. When an employee is sick, the time off request should be entered as quickly as possible.
- E. Direct Deposit: Direct deposit is required for all full-time positions and part-time, positions. Direct deposit is available at the bank of the employee's choice.
- F. Employees who choose to further their education by earning a degree after employment with the college will be compensated according to the following schedule. **The degree must coincide with the job duties and be approved by the President of the College** so that the particulars of their program align with the employee's position and become a benefit to the college. Interested employees should contact the Executive Assistant to the President for the form that must be completed. Increases occur only after the employee provides an official transcript reflecting the conferred degree to the Office of the President. The following increases apply to the salary the employee is earning at the time the degree is granted:
 - i. Associate Degree – 10%
 - ii. Bachelor's Degree – 10%
 - iii. Master's Degree – 10%
 - iv. Doctoral Degree – 10%

IV. Vacation Leave (See also, Board Policy Manual DEC (LOCAL). [See Absence Form, attached])

- A. Eligibility: Full-time employees in positions requiring 12 months of service are eligible for vacation leave. Accrual of vacation leave will begin on the anniversary date (date of employment).
- B. Faculty employed under 12-month contracts are expected to work on days in which the college is open for business. Therefore, the 12-month contracted faculty member receives vacation leave under the policy of all other full-time employees. Those

faculty who are extended a 12-month contract shall take no more than one week of vacation during a semester and shall not be gone on the first or last weeks of classes. Faculty on ten- or eleven-month contracts are expected to be at work during the full day of college business hours during the term of the contract. Faculty working on contracts of a duration less than 12 months do not receive vacation time.

- New classified (hourly) employees do not earn vacation leave until the successful completion of the 90-day probationary period. Upon successful completion of the probationary period, employees receive vacation credit retroactive to the original anniversary date. An employee, who resigns his /her position prior to the completion of six months employment, will not be paid for unused vacation. An employee who resigns his/her position with two weeks' notice and leaves the College in good standing will be paid for accrued vacation leave only up to the maximum accrual limit. If an employee is terminated from the College, no accumulated vacation leave will be paid.
 - For new classified employees, accrued annual leave time cannot be taken until the end of six months of service.
 - Employees employed 0 – 5 years are eligible for 10 days of vacation.
Employees employed 5 years and over are eligible for 15 days of vacation.
 - Employees in positions requiring less than 12 months of service do not accrue vacation leave.
 - Exempt employees receive a credit of 80 hours or ten days of vacation beginning with the employment date and are eligible for vacation at that time. All other vacation leave can be taken as it is accrued. An employee, who resigns his /her position with the college prior to the completion of six months employment, will not be paid for unused vacation. An employee who resigns his/her position with two weeks' notice and leaves the College in good standing will be paid for accrued vacation leave only up to the maximum accrual limit. If an employee is terminated from the College, no accumulated vacation leave will be paid.
 - Employees in grant-funded positions must take all vacation leave during the grant-funding year. Employees in grant-funded positions will not be paid for accrued vacation leave.

B. Scheduling:

Vacation leave shall be scheduled with the immediate supervisor. Vacation leave should not be taken during peak periods, such as registration or special events. A maximum of ten consecutive business days of earned vacation may be scheduled at one time.

C. Carryover:

Vacation leave time accumulated over the set maximum will be forfeited on the employee's anniversary date. An employee who resigns his/her position with two weeks' notice and leaves the College in good standing will be paid for accrued vacation leave only up to the maximum accrual limit. If an employee is terminated from the College, no accumulated vacation leave will be paid.

Maximum vacation carryover limits:

0 – 5 years	40 hours (5 days)
5 years and over	80 hours (10 days)

V. Personal Business Days (See also, Board Policy Manual DEC).

- A. Eligibility. Employees on full-time staff are eligible for three (3) personal days' leave per year after one year of employment.
- B. Request for personal days must be approved through the electronic portal in advance by the immediate supervisor. Personal Business days are not vacation or sick leave.

VI. Sick Leave (See also, Board Policy Manual DEC) [See Absence Form, attached]

- A. Eligibility. Employees, who work full time, and who have accrued or earned sick leave are eligible for sick leave.
- B. Definition. Illness of employee, wife, husband, or children (adopted or step). Doctor and dentist appointments of employee only which cannot be scheduled other than during working hours. Critical illness of husband, wife, child, mother, father, brother, or sister.
- C. Allowable sick leave. Eligible employees accumulate one day for each month employed by the College up to forty (40) days. If anniversary date is after the 15th of the month, that month does not count when calculating sick leave. If anniversary date is on or before the 15th of the month, that month does count toward sick leave. Sick leave is available to be used by employee only if accumulated. An employee who has been employed for one (1) month will have accumulated one (1) sick day. If a person is sick following a month of employment, one (1) day will be considered time off with pay. Employees will not be paid for any accumulated sick leave upon termination or resignation from Frank Phillips College.
- C. Proof of illness. Verification of sickness from a doctor may be required.
- D. Work-related injuries: Any employee who suffers a work-related injury must immediately notify his/her immediate supervisor and complete an Accident Form, available in the Business Office. The Accident Form must be completed the same day of the injury.
- E. Maternity leave. Time off from work due to pregnancy is subject to the sick leave policy. [See Absence Form, attached].
 - F. Notification of Absence. When an employee is sick, he/she must notify the supervisor as soon as possible prior to the start of the business day and submit the missed time through the payroll portal on the day of the illness. When an employee is sick, he/she must notify the supervisor as soon as possible prior to the start of the business day and submit the missed time through the payroll portal on the day of the illness. Security personnel are to notify the immediate supervisor four (4) hours prior to the beginning of their shift in case of absence.
- G. The immediate supervisor must approve this time off through the electronic portal to the payroll office.
- H. Communicable Disease Policy. (See also, Board Policy Manual DBB-LEGAL) Communicable diseases include, but are not limited to measles, influenza, viral hepatitis-A (infectious hepatitis), viral hepatitis B (serum hepatitis), human immunodeficiency virus (HIV Infection) and AIDS, leprosy, and tuberculosis.
 Frank Phillips College recognizes that employees with communicable diseases may wish to engage in their normal pursuits as their condition and ability allows. As long as acceptable performance standards are met, and medical evidence indicates that their condition is not a threat to themselves or others, the Administration and Board of this college ensures the consistent and equal treatment of all employees.
 Any employee with a communicable disease upon confirmed knowledge is required to report the condition to his/her immediate supervisor. All reasonable effort will be made to protect the employee's right to confidentiality.
- I. Family and Medical Leave. [See also Board Policy Manual DEC (LEGAL)]
 Under the Family and Medical Leave Act of 1993, employees are eligible for up to twelve (12) work weeks of Family and Medical Leave (FML) during a leave year if they:
 - have at least 12 months of cumulative service and have worked at least 1,250 hours at the college during the 12 month period preceding the date their FML is to begin; and
 - have a qualifying reason for taking FML; and
 - have a remaining balance of FML.
 A "leave year" is defined as a period of 12 months measured backward from the date the proposed leave is to begin.

Employees are required to provide 30 days advance written notice to the supervisor when the need for FML is foreseeable. When such leave is not foreseeable, employees shall provide notice at the earliest possible date. FML is provided when employees are absent from work for one or more of the following qualifying reasons:

- the birth of the employee's child and the care of such newborn child;

- the placement of a child with the employee for adoption or foster care;
- the care of the employee's spouse, child (age 18 or under, or a child over age 18 with a disability where the child is unable to perform activities of daily living without assistance) or parent who has a serious health condition; or
- the employee's own serious health condition that prevents him/her from performing the essential functions of his/her position (excludes immunizations, routine physical examinations, orthodontia, and cosmetic treatments).

Employees are required to provide certification from their health care provider of the need for such leave. Supervisors must grant employees 15 calendar days to submit such certification. Additional certifications are required no more frequently than every 30 days unless an extension of leave is requested or modified, changed circumstances occur regarding the serious health condition or information arises that questions the validity of the earlier certification. In cases of the employee's own serious health condition, the employee may be required, on or before the date he/she returns, to provide a certification from a health care provider confirming the employee is able to return to work and perform the essential functions of his/her position.

Employees on FML are required to use accrued sick leave. Employees may request, at their option, use of accrued vacation when sick leave is exhausted.

Employees on FML will not accrue vacation or personal leave. For vacation or personal leave to accrue, employees must be actively working. Employees on FML are required to pay 100% insurance coverage. See Benefits Coordinator.

VII. Deaths in Family (See also, Board Policy Manual DEC(R) LOCAL) [See Absence Form, attached]

- A. Eligibility. Employees, who work full time, are hired to work twelve months per year, and that have been employed by the College for six (6) months are eligible for bereavement leave.
- B. Allowable bereavement leave. Immediate family, husband, wife, child, father, mother, sister, or brother. Five (5) working days are allowed with pay.
- C. Allowable bereavement leave. In-laws. Three (3) working days are allowed with pay.
- D. The immediate supervisor must be notified within fifteen minutes after the beginning of the workday of bereavement leave absence.
- E. This time off must be reported through electronic portal to the payroll office.

VIII.Reduction in Force Policy

- A. Definition: (1) Reduction in force (RIF) means the dismissal of an employee before the end of the normal term of employment for reasons of financial exigency or program change. (2) Financial exigency means any decline in the College's financial resources brought about by decline in enrollment, cuts in funding, decline in tax revenues, or any other actions or events that create a need for the District to reduce financial expenditures for personnel. (3) Program change means any elimination, curtailment, or reorganization of a curriculum offering, program, or school operation because of a lack of student response to particular course offerings, legislative revisions to program funding, or a reorganization of consolidation of two or more divisions or departments.
- B. Employment areas. A reduction in force may be implemented in one, several, or all employment areas of non-professional employment.
- C. Criteria. Using the following criteria, the College President shall determine which positions shall be eliminated and shall submit the decision to the Board. These criteria are listed in order of importance; the College President shall apply them sequentially to the selected employment areas until the number of staff reductions necessary have been identified, i.e., if all necessary reductions can be accomplished by applying the work/trade skills criteria, it is not necessary to apply the performance or subsequent criteria.
 - (1) Work/trade skills: appropriate work/trade skills required by the college for support of the operation of the institution.

- (2) Performance: employee's effectiveness as reflected by the most recent written evaluations and/or other appraisal documentation.
 - (3) Seniority: years of service in College District.
 - (4) Experience: accumulated trade and work experience related to the current assignment.
- D. Action. The College President shall determine which employees shall be dismissed.
 - E. Rights of Employees Subject to RIF. An employee dismissed pursuant to this policy, if subsequently re-employed by the District, shall be credited with the amount of local sick leave that had accrued at the time of dismissal.
 - F. Re-employment. Upon written request, an employee dismissed pursuant to this policy shall be notified in writing of any subsequent availability of the position, for a period of one calendar year following the effective date of such dismissal. The notice shall be mailed to the address that was on file for the former employee at the time of dismissal, unless the District has been notified in writing of a change of address. A former employee so notified must respond to the Board in writing within ten calendar days of receipt of such notification if the person wishes to be considered for the position. Any individual who responds shall be considered for employment on a preferential basis.

IX. Termination

Employees who fail to abide by the Employee Handbook may be subject to disciplinary procedures or dismissal.

Policy:

Frank Phillips College will follow a hiring procedure that ensures consideration of all qualified applicants with regard to color, race, religion, disability, age, gender, or national origin. The college will comply with local, regional, state, and federal statutes defining and prohibiting such discrimination.

Hiring Procedure:

When a permanent full-time position is vacated, the Executive Assistant to the President will post the position on the college's website and other appropriate listings. Position may be posted internally if recommended by the supervisor and approved by the President; however, if the position is not filled by a qualified internal candidate within 14 days, the position will be announced externally. The position will remain posted until the position is filled or a determination is made to discontinue the position.

Candidates will fill out the online application and send a resume or CV and, when applicable, transcripts, to the Executive Assistant to the President who will notify supervisors of the application. Supervisors are responsible for confirming the required credentials prior to interviewing the candidates, and the Executive Vice President for Academic Affairs/Chief Academic Officer will review qualifications for all applicants for faculty positions.

The supervisor for the position will form an interview committee that consists of three to five employees. The supervisor will notify the EAP regarding interview information, and the supervisor will convene the committee to interview candidates. The President or Executive Vice President for Academic Affairs/Chief Academic Officer, will participate in all interviews for full-time faculty positions.

After references have been checked, the committee chair will notify the EAP of the top candidates in order of preference so that she may complete any required background checks and ensure all documentation and application information is complete. After reviewing the background checks, the committee chair will make a recommendation to the President. Upon his approval, the chair may contact the candidate and offer the position. The EAP will notify candidates who were not selected via mail, email, or telephone.

The President retains the right to engage with any candidate and participate in any interview. The President also has the right to deny any recommendation for employment with good cause.

When a position for a part-time employee, including adjunct faculty, comes open, the Director, Dean or EVPAA will notify the President's office that the position is vacant if the position needs to be announced. If the position does not need to be announced because it is temporary or a position typically filled by students or tutors, the Director or Dean may interview, check references, and notify the EAP that they have a candidate.

If the position is for an adjunct faculty member, the Director or Dean must contact the EVPAA to discuss qualifications. No instructional position may be filled until the credentials are verified through a transcript and a resume. Unofficial transcripts may be used to verify credentials, but the instructor must have official copies of applicable transcripts on file in the President's office prior to the first day of instruction.

The President retains the right to engage with any candidate and participate in any interview. The President also has the right to deny any recommendation for employment with good cause.

All employees are final approved by the President. All faculty and student support personnel are final approved by the EVPAA and the President. Required paperwork includes a payroll authorization that must be signed by the President, and when appropriate, the EVPAA.

Texas Community College Teachers Association
Code of Professional Ethics
Adopted April 20, 1998
Frank Phillips College
Board of Regents

Professional Educators affirm the inherent worth and dignity of all persons and the right of all persons to learn. Learning best occurs in an environment devoted to the pursuit of truth, excellence, and liberty. These flourish where both freedom and responsibility are esteemed.

In order to express more adequately the affirmation of our professional responsibilities, we, the members of the Texas Community College Teachers Association, do adopt, and hold ourselves and each other subject to, the following Code of Professional Ethics:

The Professional Educator shall treat all persons with respect, dignity, and justice, discriminating against no one on any arbitrary basis such as ethnicity, creed, gender, disability, or age.

The professional Educator shall strive to help each student realize his or her full potential as a learner and as a human being.

The Professional Educator shall by example and action encourage and defend the unfettered pursuit of truth by both colleagues* and students, supporting the free exchange of ideas, observing the highest standards of academic honesty and integrity, and seeking always an attitude of scholarly objectivity and tolerance of other viewpoints.

The Professional Educator shall work to enhance cooperation and collegiality among students, faculty, administrators, and other personnel.

The Professional Educator shall recognize and preserve the confidential nature of professional relationships, neither disclosing nor encouraging the disclosure of information or rumor, which might damage or embarrass or violate the privacy of any other person.

The Professional Educator shall maintain competence through continued professional development, shall demonstrate that competence through consistently adequate preparation and performance, and shall seek to enhance that competence by accepting and appropriating constructive criticism and evaluation.

The Professional Educator shall make the most judicious and effective use of the college's time and resources.

The Professional Educator shall fulfill the employment agreement both in spirit and in fact, shall give reasonable notice upon resignation, and shall neither accept tasks for which he or she is not qualified nor assign tasks to unqualified persons.

The Professional Educator shall support the goals and ideals of the college and shall act in public and private affairs in such a manner as to bring credit to the college.

The Professional Educator shall not engage in sexual harassment of students or colleagues and shall adhere to the college's policy on sexual conduct.

The Professional Educator shall observe the stated policies and procedures of the college, reserving the right to seek revision in a judicious and appropriate manner.

The Professional Educator shall participate in the governance of the college by accepting a fair share of committee and institutional responsibilities.

The Professional Educator shall support the right of all colleagues to academic freedom and due process and defend and assist a professional colleague accused of wrongdoing, incompetence, or other serious offence so long as the colleague's innocence may reasonably be maintained.

The Professional Educator shall not support a colleague whose persistently unethical conduct or professional incompetence has been demonstrated through due process.

The Professional Educator shall accept all rights and responsibilities of citizenship, always avoiding use of the privileges of his or her public position for private or partisan advantage.

**In this Code the term "colleague" refers to all persons employed by colleges in the educational enterprise.*

**Entry Level
Salary Schedule for Faculty
(No fixed schedule – no automatic increases after entry)**

Certificate/Associate \$32,000	Bachelors \$34,000	Master's \$36,000	Doctorate \$38,000
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Education and Experience Scale

Add \$500 per unit with the following scale formula:

- College and public/private secondary teaching experience will be accepted at a 1 to 1 ratio up to a total of 15 years as approved in writing by the Executive Vice President and President. This must be put in the employment file upon initial employment and evaluation.
- Work experience in the field (i.e.: nursing in a hospital) will be accepted at a 2 to 1 ratio up to a 5 years maximum as approved in writing by the Executive Vice President and President. This must be put in the employment file upon initial employment and evaluation.
- No credit shall be given for graduate teaching assistantships, part-time/adjunct instruction, or work not directly related to the teaching assignment.
- All salary adjustments will be made at the start of the fiscal year in September.

08-19 smc/jb

Board Policy Manual

Frank Phillips College

Borger, Texas

The following pages are excerpts, as they pertain to the Frank Phillips College Employee Handbook, from a document prepared by the Texas Association of School Boards (TASB). The Policy Manual is designed for comprehensive coverage of the policies that govern the College District. TASB provides ongoing updating services so that the manual may remain a current and reliable document.

The policy manual, though it contains an extensive collection of legal materials relevant to college districts, does not constitute legal advice. Legal advice about policy decisions or any other particular legal matter should be obtained from legal counsel.

The Policy Manual is organized according to the Texas Association of Community Colleges (TACC) codification system. Each policy is identified according to an alphabetical code. There are seven sections, each devoted to a separate area of College District governance:

- A – Basic District Foundations
- B – Local Governance
- C – Business and Support Services
- D – Personnel
- E – Instruction
- F – Students
- G – Community and Governmental Relations

The (LEGAL) policies found in this manual are brief summaries of law and are intended to inform decision makers and others of the legal context. The (LOCAL) policies that are preceded by a (LEGAL) policy in the same code generally expand on, or qualify, the legally referenced provisions. Other (LOCAL) policies portray the Board's stated intentions in areas not otherwise addressed by law.

Frank Phillips College maintains one copy of the Board Policy Manual in the President's office.

Texas Association of School Boards – Austin, Texas

This Policy Manual is subject to change. As the law changes, the law supersedes these printed excerpts.

DATE CHANGES ISSUED: 3/20/2017
UPDATE 32

BCB (LEGAL) A committee that includes one or more members of the college district board of trustees and has supervision or control over public business or public policy is subject to the Open Meetings Act (OMA), Government Code Chapter 551,

when it meets to discuss that public business or policy. A committee that includes less than a quorum of board members is not subject to the OMA if it serves a purely advisory function, with no power to supervise or control public business. However, should the committee actually function as something more than a merely advisory body with the result that it in fact supervises or controls public business or policy, it must comply with the OMA to avoid depriving the public of access to the board's actual decision-making process. *Atty. Gen. Ops. JM-1072 (1989), JM-331 (1985), H-3 (1973); see also Atty. Gen. Op. LO-97-058 (1997) UPDATE 30 ISSUED 3/18/2015* {See BD (LEGAL)}

BCB (LOCAL) As far as practicable, the Board will perform its work as a Committee of the Whole. Committees of the Board, either standing or special, may be appointed by the Board Chair or elected by the Board. Such committees shall perform specific duties and when the work of the committees has been completed, the committee shall be automatically discharged. The function of all special committees shall be fact finding and advisory, but never legislative or administrative. No committee shall have power to act unless specifically empowered by the Board. The Board Chair and the College President shall be ex officio members of Board committees, unless otherwise directed by Board action.

BD (LEGAL) BOARD MEETINGS: "Meeting" means a deliberation among a quorum of a governmental body, including a college district board of trustees, or between a quorum of a governmental body and another person, during with public business or public policy over which the governmental body has supervision or control is discussed or considered, or during which the governmental body takes formal action. "Meeting" also means a gathering:

1. That is conducted by the governmental body or for which the governmental body is responsible;
2. At which a quorum of members of the governmental body is present;
3. That has been called by the governmental body; and
4. At which the members receive information from, give information to, ask questions of, or receive questions from any third person, including an employee of the governmental body, about the public business or public policy over which the governmental body has supervision or control.

Gov't Code 551.001 (3)-(4)

Quorum: "Quorum" means a majority of a governmental body. *Gov't Code 551.001 (6), 311.013 (b)*

Notice Required: The governmental body shall give written notice of the date, hour, place, and subject of each meeting held by the governmental body.

Gov't Code 551.041

Open to Public: Every regular, special, or called meeting of a governmental body shall be open to the public, except as provided by Government Code Chapter 551. *Gov't Code 551.002* (See BD and BDA)

Exclusion of a Witness: A governmental body that is investigating a matter may exclude a witness from a hearing during the examination of another witness in an investigation. *Gov't Code 551.084*

BD (LOCAL) BOARD MEETINGS: AGENDA PREPARATION: The College President shall compile for review by the Board President all topics timely submitted by Board members, topics requested by the Board, and topics suggested by the College President. The Board President and the College President shall confer regarding the proposed topics, and the Board President shall determine the topics for the official meeting agenda. The Board President

shall ensure that any topic the Board or individual Board members have requested be addressed are either on the meeting agenda or scheduled for deliberation at an appropriate time in the near future. The Board President shall not refuse to assign a topic requested by a Board member to an agenda and, once assigned, shall not have the authority to remove the topic from the agenda without that Board member's specific authorization.

BDA (LEGAL) BOARD MEETINGS: CLOSED MEETINGS: The Board may conduct a closed meeting for the purposes described in the following provisions:

1. Attorney Consultation *Gov't Code 551.071*
2. Real Property *Gov't Code 551.072*
3. Prospective Gift *Gov't Code 551.073*
4. Public Officer or Employee Matters: Chapter 551 does not require a governmental body to conduct an open meeting to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee or to hear a complaint or charge against an officer or employee. This exception does not apply if the officer or employee who is the subject of the deliberation or hearing requests a public hearing. *Gov't Code 551.074*
Employee-Employee Complaints: A school board is not required to conduct an open meeting to deliberate in a case in which a complaint or charge is brought against an employee of the school district by another employee and the complaint or charge directly results in the need for a hearing. The exception does not apply if an open hearing is requested in writing by the employee against whom the complaint or charge is brought. *Gov't Code 551.082; Att'y Gen. Op. JM-346 (1985) [a college district board of trustees is considered a school district board of trustees for the purposes of the Open Meetings Act (OMA)]*
5. Student Discipline: *Gov't Code 551.082*
6. Personally Identifiable Student Information: A school board is not required to conduct an open meeting to deliberate a matter regarding a public school student if personally identifiable information about the student will necessarily be revealed by the deliberation. Directory information about a public school student is considered to be personally identifiable information about the student for this purpose only if a parent or guardian of the student, or the student if the student has attained 18 years of age, has informed the school board that the directory information should not be released without prior consent. "Directory information" has the meaning assigned by the federal Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g. [See FJ] This exception does not apply if an open meeting about the matter is requested in writing by a parent or guardian of the student or by the student if the student has attained 18 years of age.

Gov't Code 551.0821; Att'y Gen. Op. JM-346 (1985) [a college district board of trustees is considered a school district board of trustees for the purposes of the OMA]

7. Medical or Psychiatric Records: *Gov't Code 551.0785*
8. Security: *Gov't Code 551.076*
9. Test Item: *Gov't Code 551.088*
10. Emergency Management: *Gov't Code 418.183(f)*
11. Procedures for Closed Meetings: If a closed meeting is allowed, the governmental body may not conduct the closed meeting unless a quorum of the governmental body first convenes in an open meeting for which notice has been given as provided by Government Code Chapter 551 [see BD] and during which the presiding officer publicly announces that a closed meeting will be held and identifies the section or sections of Chapter 551 under which the closed meeting is held. *Gov't Code 551.101*
12. Vote or Final Action: A final action, decision, or vote on a matter deliberated in a closed meeting under Government Code Chapter 551 may only be made in an open meeting that is held in compliance with the notice provisions of Chapter 551. *Gov't Code 551.102 [See BD]*
13. Certified Agenda or Tape Recording: A governmental body shall either keep a certified agenda or make a recording of the proceedings of each closed meeting, except for private consultation permitted under Government Code 551.071. [See ATTORNEY CONSULTATION] The presiding officer shall certify that a certified agenda is a true and correct record of the proceedings. The certified agenda must include: a statement of the subject matter of each deliberation, a record of any further action taken, and an announcement by the presiding officer at the beginning and end of the closed meeting indicating the date and time. A recording of the proceedings must include announcements by the presiding officer at the beginning and the end of the meeting indicating the date and time. *Gov't Code 551.103*. Closed meetings may not be recorded by an individual trustee against the wishes of a majority of the governmental body. *Zamora v. Edgewood ISD, 592 S.W.2d 649 (Tex.App.—San Antonio, 1979, wr it ref'd n. r. e.)*
14. Preservation: A governmental body shall preserve the certified agenda or tape recording of a closed meeting for at least two years after the date of the meeting. If a legal action involving the meeting is brought within that period, the Board shall preserve the certified agenda or tape recording while the action is pending. *Gov't Code 551.104(a)*
15. Public Access: The certified agenda or recording of a closed meeting is available for public inspection and copying only under a court order issued under Government Code 551.104(b)(3). *Gov't Code 551.104(b)(c)*
16. Prohibitions: A member of a governmental body commits an offense if the member participates in a closed meeting of the governmental body knowing that a certified agenda of the closed meeting is not being kept or that a recording of the closed meeting is not being made. *Gov't Code 551.145(a)* An individual, corporation, or partnership that without

lawful that without lawful authority knowingly discloses to a member of the public the certified agenda or recording of a meeting that was lawfully closed to the public under this Government Code Chapter 551 commits an offense and is liable to a person injured or damaged by the disclosure. *Gov't Code 551.146(a)*

17. INVOLVEMENT IN ILLEGAL CLOSED MEETING: A member of a governmental body commits an offense if a closed meeting is not permitted under Chapter 551 and the member knowingly:
 - a. Calls or aids in calling or organizing the closed meeting, whether it is a special or called closed meeting;
 - b. Closes or aids in closing the meeting to the public, if it is a regular meeting; or
 - c. Participates in the closed meeting, whether it is a regular, special, or called meeting.
18. UNITED STATES CONSTITUTION: *U.S. Const. Amend. 1 XIV*
19. TEXAS CONSTITUTION: *Tex. Const. Art. I, Sec. 27*
20. PUBLIC COMMENT: As long as the requirements of the Open Meetings Act (OMA), Government Code Chapter 551, are satisfied and the right of citizens to apply to the board for redress of their grievances is not abridged, the board need not provide a public forum for every citizen wishing to express an opinion on a matter. Reasonable restraints on the number, length, and frequency of presentations are permissible. The board may limit the number of persons it will hear on a particular subject and the frequency with which they may appear, so long as the regulation does not abridge constitutionally guaranteed rights of freedom of speech and to petition, nor unfairly discriminate among views seeking expression. *Atty. Gen. Op. H-188 (1973) [See BD regarding the Open Meetings Act and DGBA, FLD, and GB regarding grievance procedures]*
21. PUBLIC PARTICIPATION: The term “public comment” provides sufficient notice, under the OMA, of the subject matter of public comment sessions where the general public addresses the board about its concerns and where the board does not comment or deliberate except as authorized by Government Code 551.042. The term “public comment” is not adequate notice if, prior to the meeting, the board is aware, or reasonably should have been aware, of specific topics to be raised. *Gov't Code 551.042; Atty. Gen. Op. JC-169 (2000)*
22. RESPONSE TO COMPLAINTS: The governing board of a community college is not required to negotiate or even respond to complaints. However, the board must stop, look, and listen and must consider the petition, address, or remonstrance. *Prof'l Ass'n of Coll. Educators v. El Paso County Cmty District, 678 S.W. 2d 94 (Tex. App. – El Paso 1984, writ ref'd n.r.e.)*
23. DISRUPTION: *Penal Code 42.05; Morehead v. State, 807 S.W. 2d 577 (Tex. Crim. App. 1991)*

DAA (LEGAL) EMPLOYMENT OBJECTIVES – EQUAL OPPORTUNITY EMPLOYMENT

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

Title VII – Discrimination on the Basis of Sex, Race, Color, Religion, or

National Origin Generally: It shall be an unlawful employment practice for an employer to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin or to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin. *42 U.S.C. 2000e-2(a)* Title VII proscribes not only overt discrimination (disparate treatment) but also employment practices that are fair in form but discriminatory in operation (disparate impact). *Wards Cove Packing Co. v. Atonio, 490 U.S. 642 (1989)*

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

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

Training: It shall be an unlawful employment practice for any employer controlling apprenticeship or other training or retraining, including on-the-job training programs, to discriminate against any individual because of his race, color, religion, sex, or national origin in admission to, or employment in, any program established to provide apprenticeship or other training. *42 U.S.C. 2000e-2(a),(d)*

Job Qualification: It shall not be an unlawful employment practice for an employer to hire and employ an employee on the basis of his religion, sex, national origin, or age in those certain instances where religion, sex, national origin, or age is a bona fide occupational qualification. *42 U.S.C. 2000e-2(e)*

Employment Postings: It shall be an unlawful employment practice for an employer controlling apprenticeship or other training or retraining, including on-the-job training programs, to print or publish or cause to be printed or published any notice or advertisement relating to employment by such an employer or membership in or any classification or referral for employment by such a labor organization, or relating to any classification or referral for employment by such an employment agency, or relating to admission to, or employment in, any program established to provide apprenticeship or other training by such a joint labor-management committee, indicating any preference, limitation, specification, or discrimination based on race, color, religion, sex, or national origin, except that such a notice or advertisement may indicate a preference, limitation, specification, or discrimination based on religion, sex, or national origin when religion, sex, or national origin is a

bona fide occupational qualification. 42 U.S.C. 2000(e)-3(b)

Additional Considerations: Sex Discrimination Gender Stereotypes: An employer, including a college district, may not evaluate employees by assuming or insisting that they match the stereotype associated with their group. *Price Waterhouse v. Hopkins*. 490 U.S. 228 (1998)

Additional Considerations: Pregnancy: The terms “because of sex” or “on the basis of sex” include, but are not limited to, because of or on the basis of pregnancy, childbirth, or related medical conditions; and women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected by similar in their ability to inability to work, and nothing in 29 U.S.C. 2000e-2(h) shall be interpreted to permit otherwise. 42 U.S.C. 2000e(k)

Additional Considerations: Equal Pay: No employer having employees subject to any provisions of this section shall discriminate, within any establishment in which such employees are employed, between employees on the basis of sex by paying wages to employees in such establishment at a rate less than the rate at which he pays wages to employees of the opposite sex in such establishment for equal work on jobs the performance of which requires equal skill, effort, or responsibility, and which are performed under similar working conditions, except where such payment is pursuant to a seniority system, a merit system, a system which measures earnings by quantity or quality of production, or a differential based on any other factor other than sex. 29 U.S.C. 206(d); 34 C.F.R. 106.54

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

Title VII – Harassment of Employees on the Basis of Sex, Race, Color, Religion, and National Origin: Harassment violates Title VII if it is sufficiently severe and pervasive to alter the conditions of employment. *Pennsylvania State Police v. Suders*. 542 U.S. 129 (2004). Harassment on the basis of sex is a violation of 42 U.S.C. 2000e-2 (Title VII). The Equal Employment Opportunity Commission (EEOC) has consistently held that harassment on the basis of national origin is a violation of Title VII. An employer has an affirmative duty to maintain a working environment free of harassment on the basis of national origin. 42 U.S.C. 2000e-2; 29 C.F.R. 1606.8(a), 1604.11(a). Title VII does not prohibit all verbal and physical harassment in the workplace. For example, harassment between men and women is not automatically unlawful sexual harassment merely because the words used have sexual content or connotations. *Oncale v. Sundowner Offshore Services, Inc.*, 523 U.S. 75 (1998)

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

1. Has the purpose or effect of creating an intimidating, hostile, or offensive working environment;
2. Has the purpose or effect of unreasonably interfering with an individual’s work performance; or
3. Otherwise adversely affects an individual’s employment opportunities.

Pennsylvania State Police v. Suders, 542 U.S. 129 (2004); *Nat'l Railroad Passenger Corp. v. Morgan*, 536 U.S. 101 (2002); *Meritor Savings Bank v. Vinson*, 477 U.S. 57 (1986); 29 C.F.R. 1604.11, 1606.8

Quid Pro Quo: Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes sexual harassment when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or
2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual.

29 C.F.R. 1604.11(a)

Same-Sex Sexual Harassment: Same-sex sexual harassment constitutes sexual harassment. *Oncale v. Sundowner Offshore Services, Inc.* 523 U.S. 75 (1998)

Sexual Harassment Policy: An employer should take all steps necessary to prevent sexual harassment from occurring, such as affirmatively raising the subject, expressing strong disapproval, developing appropriate sanctions, informing employees of their right to raise and how to raise the issue of harassment under Title VII, and developing methods to sensitize all concerned. 29 C.F.R. 1604.11(f)

Corrective Action: With respect to conduct between fellow employees, an employer is responsible for acts of sexual harassment or harassment in the workplace on the basis of national origin in the workplace where the employer (or its agents or supervisory employees) knows or should have known of the conduct, unless it can show that it took immediate and appropriate corrective action. An employer may also be responsible for the acts of non-employees, with respect to sexual harassment of employees in the workplace or harassment of employees in the workplace on the basis of national origin, where the employer (or its agents or supervisory employees) knows or should have known of the conduct and fails to take immediate and appropriate corrective action. In reviewing these cases, the EEOC will consider the extent of the employer's control and any other legal responsibility that the employer may have with respect to the conduct of such non-employees. 29 C.F.R. 1604.11(d)-(e), 1606.8(d)-(e). When no tangible employment action is taken, an employer may raise the following affirmative defense:

1. That the employer exercised reasonable care to prevent and promptly correct any harassing behavior; and
2. That the employee unreasonably failed to take advantage of any preventive or corrective opportunities provided by the employer or to avoid harm otherwise. *Burlington Industries, Inc. v. Ellerth*, 524 U.S. 742 (1998); *Faragher v. City of Boca Raton*, 524 U.S. 775 (1998).

ADEA – Age Discrimination: It shall be unlawful for an employer:

1. To fail or refuse to hire or to discharge any individual or otherwise discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment because of such individual's age;
2. To limit, segregate, or classify his employees in any way that would deprive or tend to deprive any individual of employment

- opportunities or otherwise adversely affect his status as an employee because of such individual's age; or
3. To reduce the wage rate of any employee in order to comply with *29.U.S.C. Chapter 14*.
It shall not be unlawful for an employer:
 1. To take any action otherwise prohibited under 29 U.S.C. 623(a) where age is a bona fide occupational qualification reasonably necessary to the normal operation of the particular business, or where the differentiation is based on reasonable factors other than age, or where such practices involve an employee in a workplace in a foreign country, and compliance with such subsections would cause such employer, or a corporation controlled by such employer, to violate the laws of the country in which such workplace is located;
 2. To take any action otherwise prohibited under 29 U.S.C. 623(a):
 - a. To observe the terms of a bona fide seniority system that is not intended to evade the purposes of 29 U.S.C. Chapter 14, except that no such seniority system shall require or permit the involuntary retirement of any individual specified by 29 U.S.C. 631(a) because of the age of such individual; or
 - b. To observe the terms of a bona fide employee benefit plan in compliance with 29 U.S.C. 623. No such employee benefit plan shall excuse the failure to hire any individual, and no such employee benefit plan shall require or permit the involuntary retirement of any individual specified by 29 U.S.C. 631(a) because of the age of such individual.
 3. To discharge or otherwise discipline an individual for good cause. 29 U.S.C. 623(1)
It shall be unlawful for an employer to discriminate against any of his employees or applicants for employment because such individual has opposed any practice made unlawful by this section, or because such individual has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or litigation under 29.U.S.C. Chapter 14. 29 U.S.C. 623(d)

ADA and Section 504 – Disability Discrimination: No covered entity, including a college district, shall discriminate against a qualified individual on the basis of disability in regard to job application procedures, hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment. 42 U.S.C. 12112(a); 29 C.F.R. 1630.4(b)

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

Definition of "Disability" : "Disability" means, with respect to an individual:

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

An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability. An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active. *42 U.S.C. 12102(1), (4)(C)-(D); 29 C.F.R. 1630.2(g), (j)(1),.3*

“Regarded as Having Such an Impairment”: An individual meets the requirement of being “regarded as having such an impairment” if the individual establishes that he or she has been subjected to an action prohibited under the ADA because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity. *42 U.S.C. 12102(3)(A); 29 C.F.R. 1630.2(g), (f).*

Transitory and Minor: Item 3 in the definition of “disability,” above, (“regarded as having such an impairment”) shall not apply to impairments that are transitory or minor. A transitory impairment is an impairment with an actual or expected duration of six months or less. *42 U.S.C. 12102(3)(B); 29 C.F.R. 1630.2(j)(1)(ix).*

Mitigating Measures: The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as medication, medical supplies, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy or supplies; use of assistive technology; reasonable accommodations or auxiliary aids or services; or learned behavioral or adaptive neurological modifications. The ameliorative effects of mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity. “Ordinary eyeglasses and contact lenses” are lenses that are intended to fully correct visual acuity or to eliminate refractive error. “Low-vision devices” means devices that magnify, enhance, or otherwise augment a visual image. *42 U.S.C. 12102(4)(E).* “Major life activities” include, but are not limited to:

1. Caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, and working; and
2. The operation of a major bodily function, including functions of the immune system, special sense organs and skin, normal cell growth, and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions. The operation of a major bodily function includes the operation of an individual organ within the body system. *42 U.S.C. 12102(2); 29 C.F.R. 1630.2(i).*

“Physical or Mental Impairment”: “Physical or mental impairment” means:

1. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems, such as

neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic, lymphatic, skin, and endocrine; or

2. Any mental or psychological disorder, such as an intellectual disability (formerly termed “mental retardation”), organic brain syndrome, emotional or mental illness, and specific learning disabilities. *29 C.F.R. 1630.2(h)*

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

1. Satisfies the requisite skill, experience, education, and other job-related requirements of the employment position such individual holds or desires; and
2. With or without reasonable accommodation, can perform the essential functions of such position. Consideration shall be given to the employer’s judgment as to what functions of a job are essential, and if an employer has prepared a written job description before advertising or interviewing applicants for the job, this description shall be considered evidence of the essential functions of the job. *42 U.S.C. 12111(8); 29 C.F.R. 1630.2(m)*

“Reasonable Accommodations”: A covered entity is required, absent undue hardship, to provide a reasonable accommodation to an otherwise qualified individual who meets the definition of disability under the “actual disability” prong or “record of disability” prong, but is not required to provide a reasonable accommodation to an individual who meets the definition of disability solely under the “regarded as” prong. *29 U.S.C. 794, 42 U.S.C. 12112(b)(5); 29 C.F.R. 1630.2(o)(4), .9, 34 C.F.R. 104.11* [See DBB regarding medical examinations and inquiries under the Americans with Disabilities Act]. “Reasonable accommodation” may include:

1. Making existing facilities used by employees readily accessible to and usable by individuals with disabilities: and
2. Job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modification of examinations, training materials or policies, the provision of qualified readers or interpreter, and other similar accommodations for individuals with disabilities. *42 U.S.C. 12111(9); 29 C.F.R. 1630.2(o); 34 C.F.R. 104.12(b)*

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

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

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

Drug Testing: Nothing in this subchapter shall be construed to encourage, prohibit, or authorize the conducting of drug testing for the illegal use of drugs by job applicants or employees or making employment decisions based on the results of such tests. 42

U.S.C. 12114(d); 29 C.F.R. 1630.3(c) [See DHB]

Alcohol Use: The term “individual with a disability” does not include any individual who is an alcoholic whose current use of alcohol prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol abuse, would constitute a direct threat to property or the safety of others. 29 U.S.C. 705(20)(C)(v); 42 U.S.C. 12114(a); 28 C.F.R.

35.104

Qualification Standards: It is unlawful for a covered entity to use qualification standards, employment tests, or other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities, on the basis of disability, unless the standard, test, or other selection criteria, as used by the covered entity, is shown to be job-related for the position in question and is consistent with business necessity. 29 C.F.R. 1630.10(a)

Direct Threat to Health or Safety: The term “qualification standards” may include a requirement that an individual shall not pose a direct threat to the health or safety of other individuals in the workplace. “Direct threat” means a significant risk to the health or safety of the individual or others that cannot be eliminated by reasonable accommodation. The determination that an individual poses a “direct threat” shall be based on an individualized assessment of the individual’s present ability to safely perform the essential functions of the job. This assessment shall be based on a reasonable medical judgment that relies on the most current medical knowledge and/or on the best available objective evidence. In determining whether an individual would pose a direct threat, the factors to be considered include the duration of the risk; the nature and severity of the potential harm; the likelihood that the potential harm will occur; and the imminence of the potential harm. 42 U.S.C. 12111(3), 12113(b); 29 C.F.R. 1630.2(r)

Vision Standards and Tests: A covered entity shall not use qualification standards, employment tests, or other selection criteria based on an individual’s uncorrected vision unless the standard, test, or other selection criteria, as used by the covered entity, is shown to be job-related for the position in question and consistent with business necessity. 42 U.S.C. 12113(c); 29 C.F.R. 1630.10(b)

Communicable Diseases: In any case in which an individual has an infectious or communicable disease that is transmitted to others through the handling of food, that is included on the list developed by the U.S. Secretary of Health and Human Services under 42 U.S.C. 12113(e)(1), and that cannot be eliminated

by reasonable accommodation, a covered entity may refuse to assign or continue to assign an individual to a job involving food handling. 42 U.S.C. 12113(e)(2); 29 U.S.C. 705(20)(D); 29 C.F.R. 1630.16(e)

Service Animals: A covered entity that is subject to the jurisdiction of Title I of the ADA (employment discrimination) or to section 504 of the Rehabilitation Act (EMPLOYMENT DISCRIMINATION), shall comply with the reasonable accommodation requirements of those laws with respect to service animals. A covered entity that is not subject to either Title I or section 504 shall comply with Title II of the ADA (discrimination by public entity). An employer that is subject to Title II shall comply with 28 C.F.R. part 35, including the requirements relating to service animals at 28 C.F.R. 35.136 [See FAA]

Military Service: A person who is a member of, applies to be a member of, performs, has performed, applies to perform, or has an obligation to perform service in a uniformed service shall not be denied initial employment, reemployment, retention in employment, promotion, or any benefit of employment on the basis of that membership, application for membership, performance of service, application for service, or obligation. An employer, including a college district, may not discriminate in employment against or take any adverse employment action against any person because such person has taken action to enforce protections afforded any person under 38 U.S.C. Chapter 43 (the Uniformed Services Employment and Re-employment Rights Act of 1994 (USERRA)), has testified or otherwise made a statement in or in connection with any proceeding under USERRA, has assisted or otherwise participated in an investigation under USERRA, or has exercised a right provided for in USERRA. 38 U.S.C. 4311 [See DECB]

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

STATE LAW: An employer commits an unlawful employment practice if because of race, color, disability, religion, sex, national origin, or age the employer fails or refuses to hire an individual, discharges an individual, or discriminates in any other manner against an individual in connection with compensation or the terms, conditions or privileges of employment; or limits, segregates, or classifies an employee or applicant for employment in a manner that would deprive or tend to deprive an individual of any employment opportunity or adversely affect in any other manner the status of an employee. *Labor Code 21.051; 40 TAC 819.12(a)*

An employer commits an unlawful employment practice if it aids, abets, incites, or coerces a person to engage in an unlawful discriminatory practice based on race, color, disability, religion, sex, national origin, or age. 40 TAC 819.12(f)

An employer controlling an apprenticeship, on-the-job training, or other training or retraining program commits an unlawful employment practice if based on race, color, disability, religion, sex, national origin, or age, it discriminates against an individual in admission to or participation in the program, unless a training or retraining opportunity or program is provided under an affirmative action plan approved by federal or state law, rule, or court

order. The prohibition against discrimination based on age applies only to individuals who are at least 40 years of age but younger than 56 years of age. *40 TAC 819.12(d)*

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

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

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

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

1. An employer hiring and employing an employee;
2. An employment agency classifying or referring an individual for employment; or
3. An employer controlling an apprenticeship, on-the-job training, or other training or retraining program admitting or employing an individual in its program. *Labor Code 21.119*

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

1. Indicates a preference, limitation, specification, or discrimination based on race, color, disability, religion, sex, national origin, or age; and

2. Concerns an employee's status, employment, or admission to or membership or participation in a labor union or training or retraining program.

This section does not apply if disability, religion, sex, national origin, or age is a bona fide occupational qualification. *Labor Code 21.059; 40 TAC 819.12(i)*
Bona Fide Employee Benefit Plan: An employer does not commit an unlawful employment practice by applying different standards of compensation or different terms, conditions, or privileges of employment under a bona fide seniority system, merit system, or an employee benefit plan, such as a retirement, pension, or insurance plan, that is not a subterfuge to evade labor Code Chapter 21; or a system that measures earnings by quantity or quality of production. *Labor Code 21.102(a)*

Exception: An employee benefit plan may not excuse a failure to hire on the basis of age. A seniority system or employee benefit plan may not require or permit involuntary retirement on the basis of age except as permitted by Labor Code 21.103. This section does not apply to standards of compensation or terms, conditions, or privileges of employment that are discriminatory on the basis of race, color, disability, religion, sex, national origin, or age. *Labor Code 21.102(b)-(c)*

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

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

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

Additional Considerations – Discrimination Based on Lack of Disability: Nothing in this chapter may be construed as the basis for a claim by an individual without a disability that the individual was subject to discrimination because of the individual's lack of a disability. *Labor Code 21.005(c)*

Additional Considerations – Reasonable Accommodation: It is an unlawful employment practice for a respondent covered under this chapter to fail or refuse to make a reasonable workplace accommodation to a known physical or mental limitation of an otherwise qualified individual with a disability who is an employee or applicant for employment, unless the respondent demonstrates that the accommodation would impose an undue hardship on the operation of the business of the respondent. A showing of undue hardship by the respondent is a defense to a complaint of discrimination made by an otherwise qualified individual with a disability. *Labor Code 21.128(a)-(b)*

Additional Considerations – Official Oppression: A public servant acting under color of his office or employment commits an offense if he intentionally subjects another to sexual harassment. “Sexual harassment” means unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, submission to which is made a term or condition of a person’s exercise or enjoyment of any right, privilege, power, or immunity, either explicitly or implicitly. An offense under this section is a Class A misdemeanor. *Penal Code 39.03(a), (c)-(d)*

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

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

Notices – ADEA: Every employer shall post and keep posted in conspicuous places upon its premises a notice to be prepared or approved by the EEOC setting forth information as the EEOC deems appropriate to effectuate the purposes of the ADEA. *29 U.S.C. 627*

Notices – Section 504 Notice: A recipient of federal funds that employs 15 or more persons shall take appropriate steps to notify applicants and employees, including those with impaired vision or hearing, that it does not discriminate on the basis of disability in violation of Section 504 of the Rehabilitation Act or 34 Part 104. The notification shall state, where appropriate, that the recipient does not discriminate in employment in its program or activity. The notification shall also include an identification of the responsible employee designated pursuant to 34 C.F.R. 104.7(a) (Section 504 coordinator). Methods of initial and continuing notification may include:

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

If a recipient publishes or uses recruitment materials or publications containing general information that it makes available to applicants or employees, it shall include in those materials or publications a statement of its nondiscrimination policy. *34 C.F.R. 104.8*

DBD (LEGAL) EMPLOYMENT REQUIREMENTS AND RESTRICTIONS - CONFLICT OF INTEREST –CHANGE ISSUED 4/2/2014

Conflict Disclosure Statement: The local governmental entity, including a college district, may extend the requirements of Local Government Code 176.003 and 176.004 [see BBFA] to any employee of the local governmental entity who has the authority to approve contracts on behalf of the local governmental entity, including a person designated as the representative of the local governmental entity for purposes of Local Government Code Chapter 271. The local government entity shall identify each employee made subject

to Sections 176.003 and 176.004 and shall provide a list of the identified employees on request to any person. A local governmental entity may reprimand, suspend, or terminate the employment of an employee who knowingly fails to comply with a requirement adopted under this section. *Local Gov't Code 176.005(a)-(b)*. An employee of a local government entity commits an offense if the employee knowingly violates the requirements imposed under this section. The offense is a Class C misdemeanor. *Local Gov't Code 176.005(c)*. It is an exception to the application of Local Government Code 176.005(c) that the person filed the required conflicts disclosure statement not later than the seventh business day after the person received notice from the local governmental entity of the violation. *Local Gov't. Code 176.005(d)*

Holding Civil Office: No person shall hold or exercise at the same time, more than one civil office of emolument, except for offices listed in Texas Constitution Article XVI, Section 40(a), unless otherwise specifically provided. *Tex. Const. Art. XVI, Sec. 40(a); State v. Pirtle, 887 S.W.2d 921 (Tex. Ct. Crim. App. 1994); Atty. Gen. Op. DM-212 (1993)*. State employees or individuals who receive all or part of their compensation either directly or indirectly from funds of the State of Texas and who are not state officers, shall not be barred from serving as members of the governing bodies of school districts, cities, towns, or other local governmental districts, including college districts (other than those in which they are employed). Such state employees or other individuals may not receive a salary for serving as members of such governing bodies, except that a faculty member or retired faculty member of a public institution of higher education may receive compensation for serving as a member of a governing body of a water district created under Texas Constitution Article XVI, Section 59 Texas Constitution Article III, Section 52. *Tex. Const. Art. XVI, Sec. 40(b); Atty. Gen. Op. JM-118 (1983), JM-203 (1984)*.

Intellectual Property: It is not a violation of Government Code Chapter 572 or any other statute, rule, regulation or the common law of the State of Texas for:

1. An employee of an institution of higher education, including a college district, who conceives, creates, discovers, invents, or develops intellectual property, to own or be awarded any amount of equity interest or participation in, or, if approved by the institutional governing board, to serve as a member of the board of directors or other governing board or as an officer or an employee of, a business entity that has an agreement with the state or a political subdivision of the state relating to the research, development, licensing, or exploitation of that intellectual property; or
2. An individual, at the request and on behalf of a university system or an institution of higher education, to serve as a member of the board of directors or other governing board of a business entity that has an agreement with the state or a political subdivision of the state relating to the research, development, licensing, or exploitation of intellectual property in which the university system or institution of higher education has an ownership interest.

The employee or individual must report to the appropriate person or persons at the institution at which the person is employed or on behalf of which the person is serving the name of such business entity in which the person has an interest or for which the person serves as a director, officer, or employee. The governing board of each institution shall include in the appropriate annual

report required by Education Code 51.005 the information provided to it under this section during the preceding fiscal year. *Education Code 51.912 [See CT]*
DBD (LOCAL) EMPLOYMENT REQUIREMENTS AND RESTRICTIONS – CONFLICT OF INTEREST – DATE ISSUED 4/2/2014

Disclosure General Standard: An employee shall disclose to his or her immediate supervisor a personal financial interest, a business interest, or any other obligation or relationship that in any way creates a potential conflict of interest with the proper discharge of assigned duties and responsibilities or with the best interest of the College District.

Specific Disclosures:

Substantial Interest: The College President shall file an affidavit with the Board President disclosing a substantial interest, as defined by Local Government Code 171.002, in any business or real property that the College President or any of his or her relatives in the first degree may have.

Any other employee who is in a position to affect a financial decision involving any business entity or real property in which the employee has a substantial interest as defined by Local Government Code 171.002 shall file an affidavit with the College President, however, the employee shall not be required to file an affidavit for the substantial interest of a relative.

Interest in Property: The College President shall be required to file an affidavit disclosing interest in property in accordance with Government Code 553.002.

Conflicts Disclosure Statement: No employee other than the College President shall be required to file the conflicts disclosure statement, as promulgated by the Texas Ethics Commission and as specified by Local Government Code 176.003-.004. [See BBFA]

Non-school Employment: An employee shall disclose in writing to his or her immediate supervisor any outside employment that in any way creates a potential conflict of interest with the proper discharge of assigned duties and responsibilities or with the best interest of the College District.

Intellectual Property: College District employees are encouraged to publish and copyright and invest and patent materials and objects of their own creation that shall contribute to the advancement of knowledge. It is the desire of the College District to encourage this to protect its interest and its personnel in the relation of the disclosure of scientific and technological developments (including inventions, discoveries, trade secrets, and computer software) and the responsibility of the College District to ensure that public funds and property are not used for personal gain. The author, creator, or inventor is free to benefit from royalties and monies accruing from such publication or invention subject to the following guidelines:

1. All classes of intellectual property, scientific and technological developments, and materials or objects created on the employee's own time without the use of College District facilities, equipment, materials, or support shall be the sole property of the creator.
2. Materials or objects created by employees at College District expense or on College District time or using College District facilities or equipment shall be the property of the College District. The College District, in return for unrestricted license to use and reproduce original work without royalty payment, shall transfer to

the creator of that work full ownership of any present or subsequent copyright/patent in accordance with the following paragraph:
In the event that materials or objects are sold to entities outside the College District, all income shall go to the College District until all developmental expenditures incurred by the College District for that project, including stipends paid to the developer (over and above contract salary), prorated support staff salaries, supplies, and other expenses related to the creation of the materials or objects, are recovered. Thereafter, all remuneration as a result of copyright publication or patented sale shall go to the creator(s) of the materials or objects.

3. The College District shall ensure equity and management participation on the part of the inventor or inventors in business entities that utilize technology created at the institution of higher education.
4. No College District employee shall realize a profit from materials sold exclusively to College District students.
5. When instructional material developed by the faculty is sold in the bookstore for a profit, the publisher of the materials must be approved by the Vice President for Academic Affairs.

Employee Intention: Any College District employee who intends to create any materials or objects developed wholly or partially using College District time, equipment, materials, or facilities and who intends to copyright, patent, or otherwise merchandise those materials or objects shall inform the College President through the appropriate administrator of his or her intent. The College District shall initiate an institutional review of scientific and technological disclosures, including consideration of ownership and appropriate legal protection.

Production of Educational Materials: Personnel who work in divisions or units that produce educational materials may not realize a profit from the sale of those materials. In the case of any materials produced exclusively by these units, the copyright shall be held by the College District. Materials produced under an externally funded grant shall be guided by the terms of the grant.

DCA (LEGAL) CONTRACT AND AT-WILL EMPLOYMENT: TERM CONTRACTS – UPDATED 4/2/2014

Property Interest: A contract of employment with the College District creates a property interest in the position only for period of time stated in the contract. Such a contract creates no property interest of any kind beyond the period of time stated in the contract. *Perry v. Sinderman, 408 U.S. 593 (1972); Board of Regents of State Colleges v. Roth, 408 U.S. 564 (1972)*

Administrator Contracts: The governing board of an institution of higher education, including a college district, may enter into an employment contract with an administrator that is to be paid in whole or in part from appropriated funds only if, before the date the contract is executed, the governing board determines that the contract is in the best interest of the institution.

A contract entered into by the governing board under this section may not:

1. Provide for employment for more than three years;
2. Allow for severance or other payments on the termination of the contract to exceed an amount equal to the discounted net present

cash value of the contract on termination at a market interest rate agreed upon in the contract;

3. Allow for development leave that is inconsistent with Education Code 51.105; or
4. Award tenure in any way that varies from the College District's general policy on the award of tenure.

The College District may not pay a salary to a person who is reassigned from an administrative position to a faculty or other position at the College District that exceeds the salary of other persons with similar qualifications performing similar duties.

Education Code 51.948(a)-(c)

"Administrator" means a person who has significant administrative duties relating to the operation of the College District, including the operation of a department, college, program, or other subdivision of the institution. *Education Code 51.948(g) (1)*

Faculty Contracts: "Contract" means an agreement between an institution of higher education or its authorized agent and a faculty member that establishes the terms of the faculty member's employment, including the faculty member's responsibilities and salary, for an academic year. *Education Code 51.943(a)(1)*

"Faculty member" means a person who is employed full time by an institution of higher education as a member of the faculty whose primary duties include teaching or research. The term does not include:

1. A person employed in the classified personnel system of the institution or a person employed in a similar type of position if the institution does not have a classified personnel system; or
2. The person who holds faculty rank but who spends a majority of the person's time for the institution engaged in managerial or supervisory activities, including a chancellor, vice chancellor, president, vice president, provost, associate or assistant provost, dean, or associate or assistant dean.

Education Code 51.943(a)(2). Education Code 51.943.(a)(2)

Offer Deadline: Except as provided by Education Code 51.943(c), an institution of higher education, including a college district that determines it is in its best interest to reappoint a faculty member for the next academic year shall offer the faculty member a written contract for that academic year not later than 30 days before the first day of the academic year. *Education Code 51.943(b)* For the purposes of this section, an institution of higher education is not required to provide an annual contract to tenure or tenure-track faculty but must provide tenure and tenure-track faculty with any written notification required in the institution's tenure policy of a change in a term of employment according to the policies of the institution, but no later than the 30th day prior to the change. *Education Code 51.943(c)*. This section does not prohibit an institution of higher education from entering into a contract with a faculty member for a period longer than an academic year.

Education Code 51.943(f)

Notice if Unable to Comply: If the institution of higher education is unable to comply with Education Code 51.943(b), the institution shall:

1. Provide the faculty member with written notification that the institution is unable to comply;
2. Include in the written notification reasons for its inability to comply; and
3. Specify in the written notification a time by which it will offer a written contract to the faculty member for the applicable academic year. *Education Code 51.943(d)*

Failure to Offer: If the institution does not offer the faculty member a written contract before the 61st day after the first day of the academic year and the institution retains the faculty member for that academic year without a written contract, the institution must retain the faculty member for that academic year under terms and conditions, including terms governing the faculty member's compensation, that are at least as favorable to the faculty member's employment for the preceding academic year, unless the institution and the faculty member subsequently enter into a different written contract. *Education Code 51.943(e)*

No Additional Rights: Nothing in this section shall be deemed to provide a faculty member who does not hold tenure additional rights, privileges or remedies or to provide an expectation of continued employment beyond the period of a faculty member's current contract. *Education Code 51.943(g)*

DCA (LOCAL) CONTRACT AND NONCONTRACT EMPLOYMENT: TERM CONTRACTS

Professional Personnel: The contracts of all full-time faculty members shall be considered in March of the first year of employment, February of the second year of employment, and January in the third year of employment.

One Year Contracts: At initial employment and during the second and third year of employment, instructors shall receive only a one year term contract.

Three Year Contracts: After three years of service, an instructor may be awarded a three year contract. This contract may be considered annually for an extension to a maximum contract term of three years.

DCC (LEGAL) CONTRACT AND AT-WILL EMPLOYMENT: The employment-at-will doctrine is the law of Texas, under which an employer has no duty to an employee regarding continuation of employment. *Jones v Legal Copy, Inc., 846 S.W.2d (Tex. App-Houston [1st Dist] 1993)*

The employment-at-will doctrine places no duties on an employer regarding an employee's continued employment and thus bars contract and tort claims based on the decision to discharge an employee. *Sabine Pilot Serv., Inc. v Hauck, 687 S.W.2d 733 (Tex. 1985)*

In Texas, at-will employment is presumed unless shown otherwise. *Gonzales v Galveston Ind. Sch. Dist., 865 F. Supp. 1241 (S.D.Tex. 1994)*

DDA(LOCAL) Personnel Positions – Qualifications and Duties: The College President or designee shall define the qualifications, duties, and responsibilities of all positions and shall ensure that job descriptions are current and accessible to employees and supervisors.

DEB (LOCAL) ELIGIBILITY FOR TUITION-FREE CLASSES: Employees who work full-time and are hired to work twelve months per year and their immediate family (husband, wife, or dependent children) shall be eligible for free tuition for all college credit classes and adult continuing education classes. Lab and other required fees must be paid by the employee.

The employee or member of the employee's family shall report to the Vice President for Academic Affairs office for a scholarship letter.

DF (LEGAL) RETIREMENT PROGRAMS

An employer, including a college district, shall not require the retirement of any employee on the basis of age. *29 U.S.C. 631; Education Code 51.922*

Teacher Retirement System: Membership in the Teacher Retirement System of Texas includes all employees of the public school system, such as college district employees. Membership in the retirement system may only be established through employment with a single employer on at least a half-time basis. *Gov't. Code 822.001-.002; Atty. Gen. Op H-871 (1976)* Participation in TRS is subject to Government Code Chapters 822-825 and 34 Administrative Code Part 3.

Optional Retirement Program: The governing board of each institution of higher education, including each college district, shall provide an opportunity to participate in the optional retirement program (ORP) to all faculty members in the component institutions governed by the board. Eligibility to participate in the optional retirement program is subject to rules adopted by the Coordinating Board, 19 Administrative Code 25.1-25.6. *Gov't Code 830.10(a)-(b); 19 TAC 25.4(e)*

"Faculty member" means a person who is employed by the College District on a full-time basis in any of the following positions:

1. A member of the faculty whose duties include teaching or research.
2. An administrator responsible for teaching and research faculty.
3. An athletic coach, associate athletic coach, or assistant athletic coach whose primary activity is coaching.
4. A professional librarian, a president, a vice president, or other professional staff person whose national mobility requirements are similar to those of faculty members and who fills a position that is subject to nationwide searches in the academic community.

Gov't. Code 4 821.001, 830.101

An employee who meets the eligibility criteria in 19 Administrative Code 25.4(a) shall be provided an ORP election period during which an election to participate in ORP may be made by signing and submitting the appropriate forms to the ORP employer. The initial ORP eligibility date shall be the first day of employment in an ORP-eligible position. The ORP election period shall begin on an employee's initial ORP eligibility date and shall end on the earlier of the date the employee makes an ORP election by signing and submitting the appropriate forms to the ORP employer; or the 90th calendar day after the employee's initial ORP eligibility date, and including the 90th calendar day. If the 90th calendar day after the initial ORP eligibility date falls on a weekend or holiday, the deadline shall be extended until the first working day after the 90th calendar day. An employee who is eligible to elect ORP shall have only one opportunity during his or her lifetime, including any future periods of employment in Texas public higher education, to elect ORP in lieu of the applicable retirement system, and the election may never be revoked. Failure to elect ORP during the 90-day ORP election period shall be a default election to continue membership in the applicable retirement system. *19 TAC 25.3(7), (12), .4(f); Atty. Gen. Op. H-1184 (1978)*

Governmental Excess Benefit Arrangement: An institution of higher education, including a college district, may establish a governmental excess benefit arrangement as provided by Section 415(m) of the Internal Revenue Code of 1986 (26 U.S.C. Section 415(m)) for the purpose of providing to participants in the optional retirement program any portion of a participant's benefits that would otherwise be payable under the terms of the program except for the

limitation on benefits imposed by Section 415 of the Internal Revenue Code of 1986 (26 U.S.C. Section 415). The governing board of an institution of higher education may take any action necessary to establish and implement a governmental excess benefit arrangement authorized in accordance with Government Code 830.004(c). *Gov't Code 830.004(c)*

DG (LEGAL) EMPLOYEE RIGHTS AND PRIVILEGES

Employee Free Speech: College District employees do not shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.

However, neither an employee nor anyone else has an absolute constitutional right to use all parts of a school building or its immediate environs for unlimited expressive purposes. When a public employee makes statements pursuant to his or her official duties, the employee is not speaking as a citizen for First Amendment purposes, and the Constitution does not insulate the communications from employer discipline. *Garcetti v. Ceballos*, 126 S.Ct. 1951 (2006); *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 292 U.S. 503 (1969) [See also GF]

Whistleblower Protection: A state or local governmental entity, including a college district, may not suspend or terminate the employment of, or take other adverse personnel action against, an employee who in good faith reports a violation of law by the College District or another public employee to an appropriate law enforcement authority.

A report is made to an appropriate law enforcement authority if the authority is a part of a state or local governmental entity or the federal government that the employee in good faith believes is authorized to:

1. Regulate under or enforce the law alleged to be violated in the report; or
2. Investigate or prosecute a violation of criminal law.

Gov't Code 554.002

A supervisor who in violation of Government Code Chapter 554 suspends or terminates the employment of a public employee or takes an adverse personnel action against the employee is liable for a civil penalty not to exceed \$15,000. *Gov't Code 554.008*

Definitions: "Public employee" means an employee or appointed officer other than an independent contractor who is paid to perform services for a state or local governmental entity. *Gov't Code 554.001(4)*

A "good faith" belief that a violation of the law occurred means that:

1. The employee believed that the conduct reported was a violation of law; and
2. The employee's belief was reasonable in light of the employee's training and experience.

Wichita County v Hart, 917 S.W.2d 779 (Tex. 1996)

A "good faith" belief that a law enforcement authority is an appropriate one means:

1. The employee believed the governmental entity was authorized to:
 - a. Regulate under or enforce the law alleged to be violated in the report, or
 - b. Investigate or prosecute a violation of criminal law; and
2. The employee's belief was reasonable in light of the employee's

training and experience.

Tex. Dept. of Trans. V Needham, 82S.W.3d 314 (Tex. 2002)

Whistleblower Complaints: A public employee whose employment is suspended or terminated or who is subjected to an adverse personnel action in violation of Government Code 554.002 is entitled to sue for injunctive relief, actual damages, court costs, and reasonable attorney fees, as well as other relief specified in Government Code 554.003. A public employee whose employment is suspended or terminated in violation of Government Code Chapter 554 is entitled to reinstatement to the employee's former position or an equivalent position, compensation for wages lost during the period of suspension or termination, and reinstatement of fringe benefits and seniority rights lost because of the suspension or termination. *Gov't Code 554.003*

Initiate Grievance: A public employee must initiate action under the grievance or appeal procedures of the employing state or local governmental entity relating to suspension or termination of employment or adverse personnel action before suing under Chapter 554. The employee must invoke the applicable grievance or appeal procedures not later than the 90th day after the date on which the alleged violation of Chapter 554 occurred or was discovered by the employee through reasonable diligence. *Gov't Code 554.006(a)-(b)* Legal Action: If a final decision is not rendered before the 61st day after the date procedures are initiated under Government Code 554.006(a), the employee may elect to:

1. Exhaust the applicable procedures, in which event the employee must sue not later than the 30th day after the date those procedures are exhausted to obtain relief under Government Code Chapter 554; or
2. Terminate procedures, in which event the employee must sue within time remaining under Government Code 554.005 to obtain relief under Government Code Chapter 554. *Gov't Code 554.006(c)-(d)*

Burden of Proof: A public employee who sues under Chapter 554 has the burden of proof, except that if the suspension or termination of, or adverse personnel action against, a public employee occurs not later than the 90th day after the date on which the employee reports a violation of law, the suspension, termination, or adverse personnel action is presumed, subject to rebuttal, to be because the employee made the report. *Gov't Code 554.004(a)* Affirmative Defense: It is an affirmative defense to a suit under Chapter 554 that the employing state or local governmental entity would have taken the action against the employee that forms the basis of the suit based solely on information, observation, or evidence that is not related to the fact that the employee made a report protected under Chapter 554 of a violation of law. *Gov't Code 554.004(b)*

Notice of Rights: A state or local governmental entity shall inform its employees of their rights under Chapter 554 by posting a sign in a prominent location in the workplace. The attorney general shall prescribe the design and content of the sign. *Gov't Code 554.009*

Prohibitions: A state officer or employee, including a college district employee, may not use official authority or influence or permit the use of a program administered by the state agency of which the person is an officer or employee to interfere with or affect the result of an election or nomination of a candidate or to achieve any other political purpose. A state employee may not coerce, attempt to coerce, command, restrict, attempt to restrict, or prevent the payment, loan, or contribution of anything of value to a person or political

organization for a political purpose. *Gov't Code 556.004(c)-(d)*

Notice by Electronic Media: If a state law requires the College District to provide written notification to its officers or employees of any requirement, right, duty, or responsibility provided by state law, the College District may provide the notification by use of electronic media.

The College District may adopt rules and guidelines to ensure that notification provided by electronic media is effective and that any required notification is provided to officers and employees who do not have access to electronic media. *Education Code 51.965*

Protection of Nurses: A person, including a college district, may not suspend, terminate, or otherwise discipline, discriminate against, or retaliate against a nurse who refuses to engage in an act or omission as provided by Occupations Code 301.352(a-1) or a person who advises a nurse of the nurse's rights under Occupations Code 301.352. *Occupations Code 301.352(a)* A nurse may refuse to engage in an act or omission relating to patient care that would constitute grounds for reporting the nurse to the Board of Nurse Examiners under Occupations Code Chapter 301, Subchapter 1; that constitutes a minor incident, as defined at Occupations Code Section 301.419; or that violates Occupations Code Chapter 301 or a rule of the Board of Nurse Examiners if the nurse notifies the person at the time of the refusal that the reason for refusing is that the act or omission constitutes grounds for reporting the nurse to the Board of Nurse Examiners or is a violation of Occupations Code Chapter 301 or a rule of the Board of Nurse Examiners. *Occupations Code 301.352(a-1)*

DGA (LEGAL) **EMPLOYEE RIGHTS AND PRIVILEGES: FREEDOM OF ASSOCIATION**

Rights: A state employee, including a college district employee, has the rights of freedom of association and political participation guaranteed by the state and federal constitutions except as provided by Government Code 556.004.. *Code 556.003*

Labor Organizations: An individual may not be denied public employment, including employment by the college district, because of the individual's membership or nonmembership in a labor organization. *Gov't Code 617.001* "Labor organization" means any organization in which employees participate and that exists in whole or in part to deal with one or more employers concerning grievances, labor disputes, wages, hours of employment, or working conditions. *Gov't Code 617.001*

Collective Bargaining Prohibited: An official of the state or of a political subdivision of the state, including a college district, may not enter into a collective bargaining contract with a labor organization regarding wages, hours, or conditions of employment of public employees. An official of the state or of a political subdivision of the state may not recognize a labor organization as the bargaining agent for a group of employees. *Gov't Code 617.002(a),(c)*

Strikes Prohibited: College District employees may not strike or engage in an organized work stoppage against the College District. However, the right of an individual to cease work shall not be abridged if the individual is not acting in concert with others in an organized work stoppage. *Gov't Code 617.003(a), (c)*

Penalties: Any College District employee who violates Government Code 617.003(a) forfeits all civil service rights, reemployment rights, and any other rights, benefits, or privileges the employee enjoys as a result of public employment or former public employment. *Gov't Code 617.003(b)*

DGA (LOCAL) Professional Organizations: Faculty members are allowed to participate in professional organizations. When the faculty members can demonstrate that an education-related purpose will be served, departmental budgets may assist

in the payment of expenses of attending the meetings of the organizations.

Political Issues: Employees of the college shall not solicit support of any political candidate, partisan or nonpartisan, or support of any issue or any referendum matter, during working hours on college property.

College personnel shall be free, as citizens, to express their opinions through letter-to-the-editor or other media. In such cases, college personnel shall refrain from identifying themselves as representatives of the college. College letter-heads shall not be used for such personal correspondence.

Employees of the college shall be free, as citizens, to participate in political activity and serve as political party or public officials, whenever consistent with state law, except during working hours on college property.

DGBA (LEGAL) PERSONNEL-MANAGEMENT RELATIONS – EMPLOYEE GRIEVANCES

United States Constitution: A College District shall take no action abridging the freedom of speech or the right of the people to petition the Board for redress of grievances. *U.S. Const. Amend. I, XIV*

The Board may confine its meetings to specified subject matter and may hold nonpublic sessions to transact business. But when the 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.*, 291 U. S. 563, 568 (1968) [See DG]

Texas Constitution: Employees 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. 1, Sec. 27*

There is no requirement that the Board negotiate or even respond to complaints. However, the Board must stop, look, and listen and must consider the petition, address, or remonstrance. *Pr of 'l Ass 'n of College Educators v. El*

Paso County Cmty (College) District, 678 S.W.2d 92 (Tex. App.—El Paso 1984, writ ref'd n.r.e.)

Federal Laws – Section 504: 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 540 of the Rehabilitation Act of 1973 regulations). Such procedures need not be established with respect to complaints from applicants for employment. *34 CFR 104.7(b), 11*

Americans with Disabilities Act: The 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 the Code of Federal Regulations, Title 28, Part 35 (Americans with Disabilities Act regulations). *28 CFR 35.107, 35.104*

Title IX: The College District that receives federal financial assistance, directly or indirectly, shall adopt and publish grievance procedures providing for prompt and equitable resolution of employee complaints alleging any action prohibited by Title IX of the Education Amendments of 1972. *34 CFR 106.8(b); North Haven Board of Education v. Bell*, 456 U.S. 512 (1982)

State Laws: Wages, Hours, Conditions of Work: Government Code Chapter 617 (prohibition against collective bargaining and strikes, see DGA) does not impair the right of employees to present grievances concerning their wages, hours of employment, or conditions of work, either individually or through a

representative that does not claim the right to strike. Gov't Code 617.005 The term "conditions of work" should be construed broadly to include any area of wages, hours, or conditions of employment, and any other matter that is appropriate for communications from employees to employer concerning an aspect of their relationship. *Atty. Gen. Op. JM-177 (1984)*; *Corpus Christi Fed. Of Teachers v. Corpus Christi Indep. Sch. Dist.*, 572 S.W.2d 663 (Tex. 1978) The Statute protects grievances presented individually or individual grievances presented collectively. *Lubbock Prof'l Firefighters v. City of Lubbock*, 742 S.W.2d 413 (Tex. App.—Amarillo 1987, writ ref'd n.r.e.)

Representative: The College District cannot deny an employee's representative, including an attorney, the right to represent the employee at any stage of the grievance procedure, so long as the employee designates the representative and the representative does not claim the right to strike. *Lubbock Prof'l Firefighters v. City of Lubbock*, 742 S.W.2d 413 (Tex. App.—Amarillo 1987, writ ref'd n.r.e.) *Sayre v. Mullins*, 681 S.W.2d 25 (Tex. 1984) The College District should meet with employees or their designated representatives at reasonable times and places to hear grievances concerning wages, hours of work, and conditions of work. The right to present grievances is satisfied if employees have access to those in a position of authority to air their grievances. However, that authority is under no legal compulsion to take action to rectify the matter. *Att'y. Gen. Op.H-422 (1974)*; *Corpus Christi Indep. Sch. Dist v. Padilla*, 709 S.W.2d (Tex. App.—Corpus Christi, 1986, no writ)

Open Meetings Act: Government Code Chapter 551 does not require a governmental body, including the College District board of trustees, to conduct an open meeting to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of an employee or to hear a complaint or charge against an employee. This section does not apply if the employee who is the subject of the deliberation does not apply if the employee who is the subject of the deliberation or hearing requests a public hearing. Gov't Code 551.074 [See BDA]

Closed Meeting: The Board may conduct a closed meeting on an employee complaint to the extent required or provided by law. [See BDA]

Whistleblower Complaints: Before bringing suit, a College District employee must initiate action under the grievance or appeal procedures of the employing state or local governmental entity relating to suspension or termination of employment or adverse personnel action before suing under Government Code Chapter 554 (whistleblowers). Gov't Code 554.005 [See DG]

DGBA (LOCAL) PERSONNEL-MANAGEMENT RELATIONS: EMPLOYEE COMPLAINTS (Updated 3/18/2015)

Informal Process: The Board encourages employees to discuss their concerns with their supervisor or other appropriate 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.

Formal Process: An employee may initiate the formal process described below by timely filing a written complaint form. Even after initiating the formal complaint process, employees are encouraged to seek informal resolution of their concerns. An employee 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.

Complaints Against Supervisors: Complaints alleging a violation of law by a supervisor may be made to the College President or designee. Complaint forms alleging a violation of law by the College President may be submitted directly to the Board or designee.

Notice to Employees: The College District shall inform employees of this policy through appropriate College District publications.

Freedom from Retaliation: Neither the Board nor any College District employee shall unlawfully retaliate against an employee for bringing a concern or complaint. [See DG]

Whistleblower Complaints: Whistleblower complaints shall be filed within the time specified by law. Such complaints shall first be filed in accordance with LEVEL THREE, below. Time lines for the employee and the College District set out in this policy may be shortened to allow the Board to make a final decision within 60 days of the initiation of the complaint. [See DG]

Complaints: In this policy, the terms “complaint” and “grievance” shall have the same meaning.

Other Complaint Processes: Employee 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 DGBA after the relevant complaint process: A complaint or appeal form 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: Complaint forms must be filed:

1. Within 15 days of the date the employee 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, employees shall file Level One complaints with their immediate supervisor. If the only administrator who has authority to remedy the alleged problem is the Level Two or Level Three administrator, the complaint may begin at Level Two or Level Three, respectively, following the procedure, including deadlines, for filing the complaint form at Level One.

If the complaint is not filed with the appropriate administrator, the receiving administrator must note the date and time the complaint form was received and immediately forward the complaint form to the appropriate administrator. The appropriate administrator shall investigate as necessary and schedule a conference with the employee 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 employee a written response within then 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 other relevant documents or information the administrator believes will help resolve the complaint.

LEVEL TWO: If the employee did not receive the relief requested at Level One or if the time for a response has expired, the employee may request a conference with the vice president or designee to appeal the Level One decision. The appeal notice must be filed in writing, on a form provided by the College District, 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 employee may request a copy of the Level One record. The Level One record shall include:

1. The original complaint form and any attachments.
2. All other documents submitted by the employee 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 presented by the employee at Level One and identified in the Level Two appeal notice. At the conference, the employee may provide information concerning any documents or information relied upon 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 employee 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 employee did not receive the relief requested at Level Two or if the time for a response has expired, the employee may request a conference with the College President or designee to appeal the Level Two decision. The appeal notice must be filed in writing, on a form provided by the College District, within ten days after receipt of a response or, if no response was received, within ten days of the response deadline at Level Two. 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 employee 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 employee may provide information concerning any documents or information relied upon by the administration for the Level Two decision. The Level Three administrator or designee may set reasonable time limits for the conference. The Level Three administrator shall provide the employee 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 Three administrator may consider the Level One and Level Two records, 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 employee did not receive the relief requested at Level Three or if the time for a response has expired, the employee 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 days after receipt of a response or, if no response was received, within ten days of the Level Three response deadline. The College President or designee shall provide the Board with a record of the Level Three complaint. The employee 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 Level Three administrator 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 employee 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 employee 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 employee or the employee'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 the Board does not make 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.

DH (LEGAL) EMPLOYEE STANDARDS OF CONDUCT

Public Servants: All College District employees are public servants and therefore subject to Title 8 of the Penal Code, regarding offenses against

public administration, including bribery and corrupt influence (Chapter 36), perjury and other falsification (Chapter 37), obstructing governmental operation (Chapter 28), and abuse of office (Chapter 39). *Penal Code 1.07(a)(41), Title 8* [See DBD]

Drug and Alcohol Abuse Program: A person other than an individual shall not receive a grant from a Federal agency unless the person agrees to provide a drug-free workplace by:

Federal Drug-Free Workplace Act:

1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violations of the prohibition [see DI(EXHIBIT)];
2. Establishing a drug-free awareness program to inform employees about the dangers of drug abuse in the workplace; the grantee's policy of maintaining a drug-free workplace; available drug counseling, rehabilitation, and employee assistance programs; and the penalties that may be imposed on employees for drug abuse violations;
3. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by item 1;
4. Notifying the employee in the statement required by item 1 that as a condition of employment in the grant the employee will abide by the terms of the statement; and notify the employer of any criminal drug statute conviction for a violation occurring the workplace no later than five days after the conviction;
5. Notifying the granting agency within ten days after receiving notice under item 4 from an employee or otherwise receiving actual notice of a conviction;
6. Imposing a sanction on, or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by, any employee who is convicted, as required by 41 U.S.C. 8104; and
7. Making a good faith effort to continue to maintain a drug-free workplace through the implementation of items 1 to 6. *41 U.S.C. 8103(a)(1)*

Sex Offender Registration: Not later than the seventh day after the date on which the person begins to work or the first date the applicable authority by policy allows the person to register; a person required to register under Chapter 62, Code of Criminal Procedure, who is employed or carries on a vocation at a public or private institution of higher education 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 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 Section 62.02(b). The person shall notify the authority for campus security or the local law enforcement authority not later than the seventh day after the date of termination of the person's status as a worker at the institution.

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

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

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

[See also GAA]

Code of Criminal Procedure 62.153(a)-(d),(f)

DH (LOCAL) **EMPLOYEE STANDARDS OF CONDUCT:** All College District employees shall perform their duties in accordance with the state and federal law, College District policy, and ethical standards.

All College District personnel shall recognize and respect the rights of students, other employees, and members of the community and shall work cooperatively with others to serve the best interests of the College District. Employees wishing to express concern, complaints, or criticism shall do so through appropriate channels. [See DGBA]

Ethical Standards: The College District holds all employees to the ethical standards expressed in the Texas Community College Teachers Association Code of Professional Ethics. Note: The Texas Community College Teachers Association Code of Professional Ethics is available at <http://www.tccta.org/links/ethics.pdf>.

Violations: Employees shall comply with the standards of conduct set out in this policy and with any other policies, regulations, and guidelines that impose duties, requirements, or standards attendant to their status as College District employees. Violation of any policies, regulations, or guidelines may result in disciplinary action, including termination of employment. [See DDC and DM series]

Electronic Media: Electronic media includes all forms of social media, such as text messaging, instant messaging, electronic mail (e-mail), web logs (blogs), electronic forums (chat rooms), video-sharing websites, editorial comments posted on the internet, and social network sites. Electronic media also includes all forms of telecommunication, such as landlines, cell phones, and web-based applications.

Record Retention: An employee shall comply with the College District's requirements for records retention and destruction to the extent those requirements apply to electronic media. [See CIA]

Personal Use: Employees shall be held to the same professional standards in their public use of electronic media as they are for any other public conduct. If an employee's use of electronic media violates state or federal law or College District policy, or interferes with the employee's ability to effectively perform his or her job duties, the

employee is subject to disciplinary action, up to and including termination of employment.

Safety Requirements: All employees shall adhere to College District safety rules and regulations and shall report unsafe conditions or practices to the appropriate supervisor.

Alcohol and Drugs: A copy of this policy, the purpose of which is to eliminate drug abuse from the workplace, shall be provided each employee at the beginning of each year or upon employment.

Employees shall not manufacture, distribute, dispense, possess, use, or be under the influence of any of the following substances during working hours while at the College District or at College District-related activities during or outside of usual working hours:

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. Alcohol or any alcoholic beverage.
3. Any abusable glue, aerosol paint, or any other chemical substance for inhalation.
4. Any other intoxicant, or mood-changing, mind-altering, or behavior-altering drugs.

An employee need not be legally intoxicated to be considered “under the influence” of a controlled substance.

Exceptions: An employee who manufactures, possesses, or dispenses a substance listed above as part of the employee’s job responsibilities, or who uses a drug authorized by a licensed physician prescribed for the employee’s personal use shall not be considered to have violated this policy.

The College President is authorized by the Board to permit the serving and consumption of alcohol at appropriate College District functions.

NOTICE: Each employee shall be given a copy of the College District’s notice regarding a drug-free workplace. [See DO (EXHIBIT)]

Arrests, Indictments, Convictions, and Other Adjudications: An employee shall notify his or her immediate supervisor within three calendar days of any arrest, indictment, conviction, no contest or guilty plea, or other adjudication of the employee for any felony or offense involving moral turpitude.

Moral Turpitude: Moral turpitude includes but is not limited to:

1. Dishonesty, fraud, deceit, theft, misrepresentation;
2. Deliberate violence;
3. Base, vile, or depraved acts that are intended to arouse or gratify the sexual desire of the actor;
4. Felony possession, transfer, sale, distribution, or conspiracy to possess, transfer, sell or distribute any controlled substance defined in Chapter 481 of the Health and Safety Code;
5. Acts constituting public intoxication, operating a motor vehicle while under the influence of alcohol, or disorderly conduct, if any two or more acts are committed within any 12-month period; or
6. Acts constituting abuse under the Texas Family Code.

DHA (LOCAL) EMPLOYEE STANDARDS OF CONDUCT: SEXUAL HARASSMENT:

Definition: Sexual harassment is verbal or physical conduct that denigrates or shows hostility or aversion toward an employee, student, or group of employees or students because of his or her gender and that:

1. Has the purpose or effect of creating an intimidating, hostile, or offensive working or academic environment;
2. Has the purpose or effect of unreasonably interfering with an individual's performance of duties or studies; or
3. Otherwise adversely affects an individual's employment or academic opportunities.

Harassing conduct includes (1) epithets, slurs, negative stereotyping, or threatening, intimidating, or hostile acts that relate to gender and (2) written or graphic material that denigrates or shows hostility or aversion toward an individual or group because of gender and that is placed on walls, bulletin boards, or elsewhere on District premises, or is circulated in the workplace.

Employee-to-Employee: Employees shall not engage in conduct constituting sexual harassment of other employees [See DHA (EXHIBIT)]

Employees who believe they have been sexually harassed by other employees are encouraged to come forward with complaints. College District officials or their agents shall investigate promptly all allegations of sexual harassment of employees by other employees, and officials shall take prompt and appropriate disciplinary action against employees found to have engaged in conduct constituting sexual harassment of employees.

Complaint procedure: For the purpose of the following complaint process, "days" mean calendar days.

An employee who believes he or she has been or is being subjected to any form of sexual harassment shall bring the matter to the attention of the appropriate administrator, immediate supervisor, or Title IX coordinator for employees. No procedure or step in this policy shall have the effect of requiring the employee alleging harassment to present the matter to a person who is the subject of the complaint.

Level One: The employee shall request a conference with his or her immediate supervisor by submitting the complaint in writing or by requesting a conference. If the complaint is made orally, the supervisor receiving the complaint shall reduce it to writing.

The immediate supervisor shall hold the conference as soon as possible, but in any event within seven days after receipt of the complaint. The immediate supervisor shall ordinarily have seven days following the conference within which to investigate and respond. The employee shall be informed if extenuating circumstances delay the investigation.

Level Two: If the outcome of the conference at Level One is not to the employee's satisfaction, the employee may request a conference with the College President or designee to discuss the complaint. The request should be in writing and shall be filed within seven days following receipt of a written response or, if no written response is received, within seven days of the response deadline.

The College President or designee shall hold the conference as soon as possible but in any event within seven days after receipt of the written request. The College President or designee shall have seven days following the conference within which to respond.

Level Three: If the outcome at Level Two is not to the employee's satisfaction or if the time for a response has expired, the employee may submit to the College President or designee a written request to place the complaint on the agenda of the next regular Board meeting. The College President shall place the matter on the agenda for the next regular Board meeting. [See BD (LOCAL)]. The complaint shall be included as an item on the agenda posted with notice of the meeting. Announcing a decision in the employee's presence constitutes communication of the decision.

The College President or designee shall provide the Board with copies of the employee's original complaint, all responses, and any written documentation previously submitted by the employee and the administration.

Closed Meeting: The Board may hear the allegation of sexual harassment in closed meeting, if posted in accordance with law, unless an open hearing is requested in writing by the employee or Board member against whom the complaint or charge is brought.

Employee-to-student: Employees shall not engage in conduct constituting sexual harassment of students. Sexual harassment includes any unwelcome sexual advances, requests for sexual favors, and other verbal (oral or written), physical, or visual conduct of a sexual nature.

Reporting/Investigation: Employees who have reason to believe that a student is being sexually harassed or sexually abused by a College District employee shall report their suspicion to their immediate supervisor, or Title IX coordinator.

DHA (EXHIBIT): NOTICE OF EMPLOYEE RIGHTS:

What is the College District policy concerning sexual harassment? The College District forbids employees from engaging in conduct that constitutes sexual harassment of other employees or of students.

The College District encourages employees to come forward with allegations of sexual harassment or misconduct in the workplace. Employees who report sexual harassment will not be subjected to adverse treatment for reporting the harassment.

What is sexual harassment? "Sexual harassment" includes, but is not limited to, unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature. Such conduct constitutes sexual harassment when submission to such conduct is made a term or condition of employment or has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. "Sexual harassment" includes same-sex harassment when the harassment constitutes discrimination because of sex.

What laws address sexual harassment? Title VII is a federal law that prohibits discrimination on the basis of race, color, religion, sex, or national origin. The Texas Labor Code, Section 21.051, makes it an unlawful employment practice for an employer to discriminate on the basis of race, color disability, religion, sex, national origin, or age.

Title VII does not prohibit genuine but innocuous differences in the way men and women routinely interact with members of the same sex and of the opposite sex. It forbids only behavior so objectively offensive as to alter the "conditions" of the victim's employment.

What do I do if I believe I have been the victim of sexual harassment?

Employees are encouraged to report allegations of sexual harassment as soon as possible.

What will happen once I file a complaint? Whether you report your problem to an appropriate administrator, your supervisor, or the Title IX coordinator, the process will be the same. If you have made your complaint orally, the supervisor will reduce it to writing and ask you to verify that it has been transcribed accurately. The supervisor will hold a conference with you as soon as possible, but at the latest, within seven calendar days. Following the conference, the supervisor ordinarily will have seven calendar days to offer a response, unless the investigation takes longer to resolve. You will be informed if there is a delay in the response.

What if I'm not happy with my supervisor's response? The College District provides a three-level complaint process. If you are not satisfied with the initial

outcome, you may appeal to the College President or the College President's designee. The College President or designee will hold another conference with you and attempt to resolve the situation. If you still feel that the problem has not been solved, you may appeal to the Board of Trustees.

How will the College District respond to claims of sexual harassment? The College District will respond promptly to all allegations of sexual harassment. Prompt remedial action, reasonably calculated to end the harassment, will be taken when claims are substantiated.

Will my complaint be confidential? To the greatest extent possible, complaints will be treated in a confidential manner. Limited disclosure may be necessary in order to complete a thorough investigation.

DHA (LOCAL) In considering and investigating allegations that an employee has sexually harassed a student [see DHC (LOCAL)]; the investigation shall proceed from the presumption that the employee's conduct was unwelcome.
[See also FLDA (LOCAL), which contains the complaint procedure for students alleging sexual harassment or sexual abuse by an employee.]

DHC (LOCAL) EMPLOYEE STANDARDS OF CONDUCT: HARASSMENT: Employees shall not engage in harassment motivated by race, color, religion, national origin, disability, or age and directed toward students or College District employees. A substantiated charge of harassment against a student or employee shall result in disciplinary action.

Definitions: The term "harassment" includes repeated, unwelcome, and offensive slurs, jokes, or other oral, written, graphic, or physical conduct relating to an individual's race, color, religion, national origin, disability, or age that creates an intimidating, hostile, or offensive educational or work environment.

Reporting: Employees who believe they have been harassed are encouraged to promptly report such incidents to the appropriate administrator. If the administrator is the subject of a complaint, the employee shall report the complaint directly to the College President.

Investigations: Any allegations of harassment of students or employees shall be investigated and addressed.

Oral complaints shall be reduced to writing to assist in the College District's investigation. To the greatest extent possible, complaints shall be treated as confidential. Limited disclosure may be necessary to complete a thorough investigation.

Protection from Retaliation: The College District shall not retaliate against an employee who in good faith reports perceived harassment.

Complaint Process: An employee may appeal the decision of the supervisor regarding the investigation into the allegations in accordance with DGBA.

DI (LEGAL) EMPLOYEE WELFARE

Hazard Communication Act Notice: The College District shall post and maintain adequate notice, at locations where notices are normally posted, informing employees of their rights under this chapter. If the director does not prepare the notice under Health and Safety Code 502.008, the employer shall prepare the notice promulgated by the Texas Department of State Health Services (DSHS) in the workplace. *Health and Safety Code 502.017(a)*

Education and Training: An employer shall provide an education and training program for employees who use or handle hazardous chemicals. "Employee" means a person who may be or may have been exposed to hazardous chemicals in the person's workplace under normal operating conditions or foreseeable emergencies, and includes a person working for a political subdivision of this state. Workers such as office workers or accountants who encounter hazardous chemicals only in non-routine, isolated instances are not employees for purposes of these requirements. *Health and Safety Code 502.003(10), .009(a)*

An employer shall develop, implement, and maintain at the workplace a written hazard communication program for the workplace in accordance with Health and Safety Code 502.009. An employer shall keep the written hazard communication program and a record of each training session given to employees, including the date, a roster of the employees who attended, the subject covered in the training session, and the names of the instructors. Those records shall be maintained for at least five years by the employer. The department shall have access to those records and may interview employees during inspections. *Health and Safety Code 502.009(g)*

DI (LOCAL) EMPLOYEE WELFARE

Drug-Free Awareness Program: The College District shall maintain a drug-free environment and shall establish, as needed, a drug-free awareness program complying with federal requirements. [See DH] The program shall provide applicable information to employees in the following areas:

1. The dangers of drug use and abuse in the workplace.
2. The College District's policy of maintaining a drug-free environment. [See DH(LOCAL)]
3. Drug counseling, rehabilitation, and employee assistance programs that are available in the community, if any.
4. The penalties that may be imposed on employees for violation of drug use and abuse prohibitions.

Employee Responsibility: All fees or charges associated with drug/alcohol abuse counseling or rehabilitation shall be the responsibility of the employee.

EXHIBIT A: DRUG-FREE WORKPLACE NOTICE

The College District prohibits the unlawful manufacture, distribution, dispensation, possession, or use of controlled substances, illegal drugs, inhalants, and alcohol in the workplace.

Employees who violate this prohibition will be subject to disciplinary sanctions. Sanctions may include:

1. Referral to drug and alcohol counseling or rehabilitation programs;
2. Referral to employee assistance programs;
3. Termination from employment with the College District; and
4. Referral to appropriate law enforcement officials for prosecution.

As a condition of employment, an employee must:

1. Abide by the terms of this notice; and
2. Notify the college president, in writing, if the employee is convicted for a violation of a criminal drug statute occurring in the workplace. The employee must provide the notice in accordance with college district policy.

This notice complies with the requirements of the federal Drug-Free Workplace Act (41 U.S.C. 702).

SOURCES FOR INFORMATION ON ILLEGAL DRUGS

1. Commonly Abused Drugs:
<http://www.nida.nih.gov/drugsofabuse.html>
2. Federal Trafficking Penalties:
<http://www.usdoj.gov/dea/agency/penalties.htm>
3. Comparative Pharmacological Profiles of Abused Drugs:
<http://www.tcada.state.tx.us/research/slang/compare98.pdf>

EXHIBIT C: ALCOHOL ABUSE AND DRUG PREVENTION PROGRAM FOR STUDENTS AND EMPLOYEES

In compliance with Section 1213 of the Higher Education Act of 1965 and amended in 1989, Frank Phillips College is committed to the elimination of alcohol abuse and illicit drug use. Since substance abuse disrupts the special environment of personal growth on our college campus, this pamphlet has been designed to provide information about the policy, applicable sanctions, health risks, and the availability of counseling, treatment, and rehabilitation for Frank Phillips College students and employees. Compliance with this policy is required of all students and employees at Frank Phillips College.

Alcohol and Drug Policy: Violations of federal, state, and local laws relative to theft, possessing, manufacturing of, selling, transmitting, or using intoxicants, narcotics, or other drugs that constitutes alcohol abuse and illicit drug use are subject to college sanctions.

Legal Sanctions: Violations render all guilty members of the college community subject to immediate dismissal and/or removal from that individual's current status at Frank Phillips College, making them subject to off-campus authorities and the possibility of fines and/or confinement. College sanctions will be in accordance with the procedures outlined in the Student Handbook, College Catalog, and Faculty/Staff Manual.

Health Risks: Alcohol abuse can lead to alcoholism, premature death, and complications of the brain, heart, liver, and other body organs. It is a prime contributor to suicide, homicide, motor vehicle deaths, and other so-called "accidental cause" of death. Alcohol interferes with psychological functions, disrupts occupational effectiveness, and is involved in most cases of child abuse and interpersonal difficulties.

Illicit drug use can result in a wide range of health problems including drug addiction, death by overdose or withdrawal, seizures, heart problems, infections, liver disease, and chronic brain dysfunction (i.e., memory loss, hallucinations, paranoia, and psychosis).

Counseling, Treatment, and Rehabilitation: Employees and students who have a substance abuse problem are encouraged to seek immediate assistance which is available through the following agencies:

Cedar Creek Hospital
7200 SW 9th Avenue
Amarillo, TX

Cedar Creek Hospital
Satellite Offices
1-800-926-0044

(806) 354-7500 or 1-800-926-0044

PARC (www.theparc.net)
413 S.W. 6th
Amarillo, TX

Hereford, Texas
(806) 364-4357

(806) 358-6696 or 1-800-228-1501

Pampa, Texas
Resource Center
1-800-926-0044

DLA-R (LOCAL) STATUS OF EMPLOYMENT: EVALUATION

Criteria for faculty evaluation shall be as follows:

1. Classroom management function pertains to measurable in class operational techniques and control of the learning environment.
2. Professional advancement function pertains to measurable activities the teacher undertakes to improve his or her abilities as a teacher.
3. Institutional advancement function pertains to those measurable activities a teacher undertakes to improve relationships between and/or within disciplines or to advance the college in general.
4. Community service function pertains to those measurable activities a teacher undertakes to improve relationships between the college and the community at large.
5. Student involvement function pertains to those measurable activities a teacher undertakes to improve the educational environment of students outside the regular classroom.

The above criteria shall be evaluated by the Vice President for Academic Affairs/Chief Academic Officer and discussed with each faculty member at an annual review.

DMA (LOCAL) TERMINATION OF EMPLOYMENT: TERM CONTRACTS

Resignation: Any employee serving under a term contract may relinquish his or her position and leave the employment of the District at the end of any school year without penalty, provided such employee submits a written resignation to the Vice President for Academic Affairs/Chief Academic Officer prior to April 1 of the school year in which he or she resigns. A prepaid certified or registered letter of resignation is considered submitted upon mailing.

The employee may resign with the consent of the Vice President for Academic Affairs/Chief Academic Officer at any time mutually agreeable.

Abolition of Position: Abolition of a position shall be on action by the Board on recommendation of the College President.

DMAA (LEGAL) TERM CONTRACTS TERMINATION MID-CONTRACT

Grounds for Dismissal: Any employee may be dismissed for good cause before the completion of the term fixed in his or her contract.

Notice: Before any employee is dismissed, the employee shall be given reasonable notice in writing of the proposed action and the grounds, set out in sufficient detail to fairly enable him or other to show any error that may exist.

Hearing: If, upon written notification, the employee desires to be heard and to contest the proposed action of the Board, he or she shall give the Board written notice. The hearing shall be set on a date that affords the employee reasonable time to prepare an adequate defense.

Cleveland Bd. Of Educ. V. Loudermill, 470 U.S. 532 (1985); Ferguson v. Thomas, 430 F.2d 852 (5th Cir. 1970); Bexar Ct y. Sheriff's Civ. Serv. V. Davis, 802 S.W.2d 659 (Tex. 1990;

The Board may conduct the hearing in open session or in closed session unless the employee requests a public hearing, in which case the hearing shall be open to the public. *Gov't Code 551.074*

At the hearing before the Board, the employee may employ counsel. The Employee also has the right to hear the evidence upon which the charges are based, to cross-examine all adverse witnesses, and to present evidence of innocence or extenuating circumstances. Prior to dismissal, the Board shall determine the existence of good cause for termination. Such determination shall be based solely on the evidence presented in the hearing. Ferguson v. Thomas, 430 F.2d 852 (5th Cir. 1970)

Grievance Rights of Faculty Members: A faculty member has a right to present a grievance, in person, to a member of the College District's administration designated by the Board on an issue related to the nonrenewal or termination of the faculty member's employment at the College District.

A College District may not by contract, policy, or procedure, restrict a faculty member's right to present a grievance under Education Code 51.960. A college district may adopt a method for presenting, reviewing, and acting on a grievance filed under Education Code 51.960.

"Faculty member" means a person employed full time by a college district as a member of the College District's faculty, including professional librarians, whose duties include teaching, research, administration, or the performance of professional services. The term does not include a person who holds faculty rank but who spends the majority of the person's time for the College District engaged in managerial or supervisory activities, including a chancellor, vice chancellor, president, vice president, provost, associate or assistant provost, dean, or associate or assistant dean.

Education Code 51.960

Suspension: The employee may be suspended with pay pending the outcome of the dismissal hearing. Moore v. Knowles, 482 F.2d 1069 (5th Cir. 1973)

DMAA (LOCAL) TERM CONTRACTS: TERMINATION MID-CONTRACT

An employee may be terminated mid-contract for good cause as determined by the Board following a hearing held for that purpose in accordance with law.

Suspension with Pay: A term contract employee may be suspended with pay or placed on administrative leave by the College President during an investigation of alleged misconduct by the employee or at any time the College President determines that the College District's best interest will be served by the suspension or administrative leave.

Grievance Filed Under Education Code 51.960: The Board designates the director of human resources as the person to whom a faculty member may present a grievance on an issue related to his or her dismissal.

If a faculty member wishes to present a grievance under Education Code 51.960, it is recommended that he or she file a request to present the grievance within ten working days after final action on the dismissal proceeding.

Once a request to present a grievance has been filed, the conference shall normally be scheduled within seven working days.

DMAB (LEGAL) TERM CONTRACTS: NONRENEWAL: The Board may decide by vote or inaction not to offer any employee further employment with the College District beyond the term of the contract for any reason or no reason. Perry v. Sindermann, 408 U.S. 593(1972); Board of Regents of State Colleges v. Roth, 408 U.S. 564 (1972)

Grievance Rights of Faculty Members: A faculty member has a right to present a grievance, in person, to a member of the College District's administration designated by the Board on an issue related to the nonrenewal or termination of the faculty member's employment at the College District.

A College District may not by contract, policy, or procedure, restrict a faculty member's right to present a grievance under Education Code 51.960. A College District may adopt a method for presenting, reviewing, and acting on a grievance filed under Education Code 51.960.

"Faculty member" means a person employed full time by a College District as a member of the College District's faculty, including professional librarians, whose duties include teaching, research, administration, or the performance of professional services. The term does not include a person who holds faculty rank but who spends the majority of the person's time for the College District engaged in managerial or supervisory activities, including a chancellor, vice chancellor, president, vice president, provost, associate or assistant provost, dean, or associate or assistant dean.

Education Code 51.960

DMAB (LOCAL) TERM CONTRACT NONRENEWAL

Nonrenewal: Employees may be nonrenewed at the end of their contract term. Nonrenewal shall not be based on an employee's exercise of rights guaranteed by the Constitution or be based unlawfully on an employee's race, color, religion, sex, national origin, disability, or age.

The employee may request an appearance before the Board providing that a request for such appearance is made in writing to the College President within ten days of the employee's receipt of the letter of nonrenewal. The College President shall notify the employee of the date of the appearance and the procedures to be followed. Notice shall be given at least ten days prior to the scheduled appearance.

Grievance Filed Under Education Code 51.960: The Board designates the director of human resources as the person to whom a faculty member may present a grievance on an issue related to his or her nonrenewal.

If a faculty member wishes to present a grievance under Education Code 51.960, it is recommended that he or she file a request to present the grievance within ten working days after final action on the nonrenewal proceeding.

Once a request to present a grievance has been filed, the conference shall normally be scheduled within seven working days.

FLD (LOCAL) STUDENT COMPLAINTS: SEXUAL HARASSMENT:

Sexual Harassment by Students: Students shall not engage in sexual harassment toward another student or a District employee. A substantiated charge of sexual harassment against a student shall result in disciplinary action. [See FM series]

Sexual Harassment by employees investigations: District employees are prohibited from sexually harassing students. [See also FLDA (LEGAL) and DHA (LEGAL) and (LOCAL)]

All reports of sexual harassment that are not minor shall be referred to the Title IX coordinator. Oral complaints shall be reduced to writing to assist in the District's investigation. To the greatest extent possible, complaints shall be treated as confidential. Limited disclosure may be necessary to complete a thorough investigation.

Protection from Retaliation: The District shall not retaliate against a student who in good faith reports perceived sexual harassment or sexual abuse.

Complaint Process: For the purposes of the following complaint process, "days" mean calendar days.

Level One: A student who has a complaint alleging sexual harassment by other student(s) or sexual harassment or sexual abuse by an employee may request a conference with the appropriate administrator, designee, or the Title

IX coordinator for students. The student may be accompanied by an advisor at the initial conference and throughout the complaint process. The initial conference with the student ordinarily shall be held with a person who is the same gender as the student. The conference shall be scheduled and held as soon as possible, but in any event within seven days of receipt of the complaint. At the conference, the persons bringing the complaint shall be informed of the right to file a complaint with the Office of Civil Rights.

The appropriate administrator or designee or the Title IX coordinator shall coordinate an appropriate investigation, which ordinarily shall be completed within seven days of receipt of the complaint. The student shall be informed if extenuating circumstances delay the investigation.

Nothing in the complaint process shall have the effect of requiring a student alleging sexual harassment to report the matter to a person who is the subject of the complaint.

Level Two: If the resolution of the complaint at Level One is not to the student's satisfaction, the student has seven days to request a conference with the College President or designee, who shall schedule and hold a conference. Prior to or at the conference, the student shall submit a written complaint that includes a statement of the complaint, any evidence in its support, the resolution sought, the student's signature, and the date of the conference with the appropriate administrator, designee, or Title IX coordinator.

Level Three: If the resolution of the complaint at Level Two is not to the student's satisfaction, the student may submit to the College President or designee a written request to place the complaint on the agenda of the next regular Board meeting. The complaint shall be included as an item on the agenda posted with notice of the meeting. Announcing a decision in the student's presence constitutes communication of the decision.

Closed Meeting: The Board shall hear complaints alleging sexual harassment by student or sexual harassment by employees in closed meeting, unless otherwise required by the Open Meetings Act. [See BD (LEGAL) and BDA (LEGAL)].

GCA (LEGAL) PUBLIC INFORMATION PROGRAM: ACCESS TO INFORMATION

Public Information: "Public Information" means information that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business by the Board or for the Board and to which the Board has a right of access as well as by an individual officer or employee of a governmental body in the officer's or employee's official capacity and the information pertains to official business

of the governmental body. The definition of “public information” applies to and includes any electronic communication created, transmitted, received, or maintained on any device if the communication is in connection with the transaction of official business. *Gov’t Code 552.002(a)*

Availability: Public information is available, at a minimum, to the public during the College District’s normal business hours. *Gov’t Code 552.021*

Unless they are expressly confidential under other law, categories of public information that are not excepted from required disclosure under this policy include:

1. A completed report, audit, evaluation, or investigation made of, for, or by the Board, except as provided in Government Code 552.108.
2. The name, sex, ethnicity, salary, title, and dates of employment of each employee and officer of the College District.
3. Information in an account, voucher, or contract relating to the receipt or expenditure of public funds.
4. The name of each official and the final record of voting on all proceedings of the Board.
5. All working papers, research material, and information used to estimate the need or expenditure of public funds or taxes by the Board, on completion of the estimate.
6. A description of the College District’s organization and where, from whom, and how the public may obtain information, submit information or requests, and obtain decisions.
7. A statement of the general course and method by which the College District’s functions are channeled and determined, including the nature and requirements of all formal and informal policies and procedures.
8. A rule of procedure, description of forms available or the places where forms may be obtained, and instructions relating to the scope and content of all papers, reports, or examinations.
9. A substantive rule of general applicability adopted or issued by the Board and a statement of general policy or interpretation of general applicability formulated and adopted by the Board.
10. Any amendment, revision, or repeal of the information described in items 6-9.
11. Final opinions and orders issued in adjudication of cases.
12. A policy statement or interpretation adopted or issued by the Board.
13. Administrative manuals and instructions to staff that affect a member of the public.
14. Information regarded as open to the public under the College District’s policies.
15. Information that is in a bill for attorney’s fees and that is not privileged under the attorney-client privilege or confidential under other law.
16. Information that is also contained in a public court record.
17. A settlement agreement to which the Board is a party.

A court in this state may not order the Board or the College District’s officer for public information to withhold from public inspection any category of public information described above or to not produce the information for inspection or duplication, unless the information is expressly made confidential under other law.

Gov't Code 552.022

Investment Information: Certain College District investment information, as specified by Government Code 552.0225, is public information and not excepted from disclosure. *Gov't Code 552.0225*

Personal Information- Employee/Board Member: Each College District employee, other than peace officers, and Board member and each former employee and Board member shall choose whether to allow public access to College District-held information relating to the person's home address, telephone number, or social security number, or any other information that reveals whether the person has family members. Employees and Board members shall state their choice to the College District's main personnel officer in a signed writing not later than the 14th day after employment begins, election or appointment to the Board occurs, or service with the College District ends. If an employee or Board member fails to state his or her choice within 14 days, the information is available to the public. However, an employee or Board member may make a written request at any time to the personnel officer to open or close the information relating to the person's home address, telephone number, social security number, or any other information that reveals whether the person has family members. *Gov't Code 552.024*

Personal Information – Peace Officers/Security Officers: College District-held information relating to the home address, home telephone number, or social security number of peace officers or security officers commissioned by the Board of Private Investigators and Private Security Agencies, or any information that reveals whether the person has family members, is confidential and may not be disclosed if the person chooses to restrict public access to the information and notifies the College District on a form provided by the College District, accompanied by evidence of the individual's status. *Gov't Code 551.1175*

E-Mail Addresses Confidential: An e-mail address of a member of the public that is provided for the purpose of communicating electronically with the College District is confidential and not subject to disclosure unless the member of the public affirmatively consents to its release.

Exceptions: This confidentiality does not apply to an e-mail address:

1. Provided to the College District by a person who has a contractual relationship with the College District or by the contractor's agent;
2. Provided to the College District by a vendor who seeks to contract with the College District or by the vendor's agent;
3. Contained in a response to a request for bids or proposals, contained in a response to similar invitations soliciting offers or information relating to a potential contract, or provided to the College District in the course of negotiating the terms of a contract or potential contract; or
4. Provided to the College District on a letterhead, coversheet, printed document, or other document made available to the public.

The College District may also disclose an e-mail address for any reason to another governmental body or to a federal agency.

Gov't Code 552.137

Participant in Address Confidentiality Program: Information relating to a participant in the Address Confidentiality Program for Victims of Family Violence, Sexual Assault, and Stalking under Code of Criminal Procedure Chapter 56, Subchapter C is confidential, except as provided by Code of Criminal Procedure 56.90, and may not be disclosed. *Code of Criminal*

Procedure 56.88

Victims of Certain Crimes: A College District employee who is also a victim under Code of Criminal Procedure Chapter 56, Subchapter B may elect whether to allow public access to information held by the College District that would identify or tend to identify the victim, including a photograph or other visual representation of the victim. An election under this subsection must be made in writing on a form developed by the College District, be signed by the employee, and be filed with the College District before the third anniversary of the latest to occur of one of the following:

1. The date the crime was committed;
2. The date employment begins; or
3. The date the governmental body develops the form and provides it to employees.

If the employee fails to make an election, the identifying information is excepted from disclosure until the third anniversary of the date the crime was committed. In case of disability, impairment, or other incapacity of the employee, the election may be made by the guardian of the employee or former employee.

Gov't Code 552.132

Information Excepted from Public Disclosure: The Board or the officer for public information voluntarily may make part or all of its records available to the public, unless the disclosure is expressly prohibited by law or the records are confidential by law. *Gov't Code 552.007*

Categories of information that are excepted from disclosure to the public include:

1. Information considered to be confidential by law, either constitutional, statutory, or by judicial decision. *Gov't Code 552.101*
2. Information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, and transcripts from institutions of higher education maintained in files of professional employees; however, the degree obtained and the curriculum on the transcripts shall be subject to disclosure. *Gov't Code 552.102*
3. Information relating to litigation of a civil or criminal nature to which the College District is, or may be, a party or to which an officer or employee of the College District, as a consequence of the office or employment, is or may be a party, but only if the litigation is pending or reasonably anticipated at the time the College District's public information officer receives the request. *Gov't Code 552.103*
4. Information that, if released, would give advantage to competitors or bidders. The requirement of Government Code 552.022 that a category of information listed under 552.022(a) is public information and not excepted from required disclosure unless expressly confidential under law does not apply to information that is excepted from required disclosure under this paragraph. *Gov't Code 552.104*
5. Information pertaining to the location of real or personal property for a public purpose prior to public announcement of the project, or information pertaining to appraisals or purchase price of real or personal property for a public purpose prior to the formal award of contracts for the property. *Gov't Code 552.105*

6. Drafts and working papers involved in the preparation of proposed policies. *Gov't Code 552.106*
 7. Information the College District's attorney is prohibited from disclosing because of a duty to the College District under the Texas Rules of Evidence or the Texas Disciplinary Rules of Professional Conduct or information that a court order has prohibited from disclosure. *Gov't Code 552.107*
 8. Under certain circumstances, information (except basic information about an arrested person, an arrest, or a crime) held by a law enforcement agency or prosecutor, including:
 - a. Information that deals with detection, investigation, or prosecution of crime; and
 - b. An internal record or notation that is maintained for internal use in matters relating to law enforcement or prosecution.
- Gov't Code 552.108*
9. Private correspondence and communications of an elected office holder relating to matters the disclosure of which would constitute an invasion of privacy. *Gov't Code 552.109*
 10. A trade secret obtained from a person and privileged or confidential by statute or judicial decision. *Gov't Code 552.110(a)*
 11. Commercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained. *Gov't Code 552.110(b)*
 12. Interagency or intra-agency memoranda or letters that would not be available by law to a party in litigation with the College District. *Gov't Code 552.111; City of Garland v Dallas Morning News, 22 S.W.3d351 (Tex. 2000)*
 13. An audit working paper of an audit of the College District auditor. If information in an audit working paper is also maintained in another record, that other record is not excepted. *Gov't Code 552.116*
 14. Student records, except to College District personnel, the student, or the student's parents, guardian, or spouse. The College District is not required to release student records, except in conformity with FERPA. *Gov't Code 552.114, 552.026 [See FL]*
 15. Information that relates to the home address, home telephone number, or social security number of the following persons, or that reveals whether the person has family members:
 - a. A current or former College District employee or Board member, except as provided by Section 552.024; or
 - b. A peace officer or a security officer commissioned by the Board of Private Investigators and Private Security Agencies, regardless of whether the officer complies with Section 552.1175.

Gov't Code 552.117

16. A photograph that depicts a peace officer, the release of which would endanger the life or physical safety of the officer, unless:
 - a. The officer is under indictment or charged with an offense by

information;

- b. The officer is a party in a fire or police civil service hearing or a case in arbitration; or
- c. The photograph is introduced as evidence in a judicial proceeding.

If a photograph is exempt from public disclosure as described above, it may be made public only if the officer gives written consent.

Gov't Code 552.119

17. Test items developed by a state-funded educational institution. *Gov't Code 552.119*

18. The certified agenda or tape recording of a closed meeting, unless a court order makes it available for public inspection and copying. *Gov't Code 551.104(c)*

19. Records of a school library or library system that identify or serve to identify a person who requested, obtained, or used a library material or service, unless the records are disclosed:
- a. Because the library determines that disclosure is reasonably necessary for the operation of the library and the records are not confidential under other state or federal law;
 - b. To a person with a special right of access under Government Code 552.023; or
 - c. To a law enforcement agency or prosecutor under a court order or subpoena.

Gov't Code 552.124

20. The name of an applicant for College President, except the Board must give public notice of the name or names of the finalists being considered for that position at least 21 days before the date of the meeting at which final action or a vote is to be taken on the applicant's employment. *Gov't Code 552.123[See BF]*

21. Motor vehicle record information that relates to:
- a. A motor vehicle operator's or driver's license or permit issued by an agency of this state;
 - b. A motor vehicle title or registration issued by an agency of this state; or
 - c. A personal identification document issued by an agency of this state or a local agency authorized to issue an identification document.

The motor vehicle record information described above may be released only in accordance with Transportation Code Chapter 730.

Gov't Code 552.130

22. An informer's name or information that would substantially reveal the identity of an informer, unless:

- a. The informer or the informer's spouse consents to disclosure of the informer's name.
- b. The informer planned, initiated, or participated in the possible violation.

“Informer” means a student or former student or an employee or former employee of the College District who has furnished a report of another person’s possible violation of criminal, civil, or regulatory law to the College District or the proper regulatory enforcement authority.

Gov’t Code 552.135

23. Information in a commercial book or publication purchased or acquired by the College District for research purposes, if the book or publication is commercially available to the public. The College District is not required to make copies of commercially available information, but the College District shall allow the inspection of information in a book or publication that is made part of, incorporated into, or referred to in a rule or policy of the College District. *Gov’t Code 552.027*

24. Information that relates to economic development negotiations involving the Board and a business prospect that the Board seeks to have locate, stay, or expand in or near the College District, if that information relates to:

- a. A trade secret of the business prospect; or
- b. Commercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained.

25. Unless and until an agreement is made with the business prospect, information about a financial or other incentive being offered to a business prospect by the Board or by another person.

After an agreement is made, information about a financial or other incentive being offered is no longer exempted from public disclosure if the information is about a financial or other incentive being offered to the business prospect:

- a. By the Board; or
- b. By another person, if the financial or other incentive may directly or indirectly result in the expenditure of public funds by the College District or a reduction in revenue received by the College District from any source.

Gov’t Code 552.131

26. Information that relates to computer network security or to the design, operation or defense of a computer network. The following information is confidential:

- a. A computer network vulnerability report; and
- b. Any other assessment of the extent to which data processing operations, a computer, or a computer program, network, system, or software of the College District or of a contractor of the College District is vulnerable to unauthorized access or harm, including an assessment of the extent to which the College District’s or contractor’s electronically stored information is vulnerable to alteration, damage, or erasure.

Gov’t Code 552.136

Military Discharge Records: A military veteran's Department of Defense Form DD-214 or other military discharge record that first comes into the possession of the College District on or after September 1, 2003. The record is confidential for the 75 years following the date it comes into the possession of the College District in accordance with Government Code Section 552.140. A College District that obtains information from the record shall limit the use and disclosure of the information to the purpose for which the information was obtained. *Gov't Code 552.140*

Social Security Numbers: The Social Security number of a living person. The Social Security number is not confidential, however. The College District may redact the Social Security number of a living person from any information the College District discloses to the public without the necessity of requesting a decision from the attorney general. *Gov't Code 552.147*

Investment information: Certain College District investment information, as specified by Government Code 552.143, is not public information and is excepted from disclosure. *Gov't Code 552.143*

GF (LEGAL) **STUDENT AND COMMUNITY USE OF COLLEGE DISTRICT FACILITIES**
Prohibited Acts: An officer or employee of the College District who is acting or purporting to act in an official capacity may not, because of a person's race, religion, color, sex, or national origin:

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

Civil Practices and Remedies Code 116.001

Forum for Communication: The College District may create a public forum of a place or channel of communication for use by the public at large for assembly

and speech, for use by certain speakers, or for the discussion of certain subjects. *Perry Educ. Ass'n v. Perry Local Educators' Ass'n*, 460 U.S. 37

(1983); *Chiu v. Plano ISD*, 260 F.3d 330 (5th Cir. 2001)

The College District is not required to allow persons to engage in every type of speech when the College District establishes a limited public forum; the College District may be justified in reserving its forum for certain groups or for the discussion of certain topics. The College District shall not discriminate against speech on the basis of viewpoint, and any restriction must be reasonable in light of the purpose served by the forum. *Good News Club v. Milford Cent. Sch.*, 533 U.S. 98 (2001); *Lamb's Chapel v. Cent er Moriches*

Union Free Sch. Dist., 508 U.S. 384, 113 S. Ct. 2141 (1993)

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

Facilities as Polling Places: The College District shall make its buildings

available for use as polling places in any election that covers territory in which the buildings are located. If more than one authority requests the use of the buildings for the same day and simultaneous use is impractical, the College District shall determine which authority may use the building. *Election Code 43.031(c)*

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

Political Party Conventions: The College District shall not assess a charge for the use of a school building for a precinct, county, or senatorial district convention, except for reimbursement for the actual charges resulting from use of the building for the convention. The College District shall provide an itemized statement of expenses to the reimbursing authority. *Election Code 174.0631*

Distribution of Nonschool Literature: Activities such as distributing literature, displaying signs, petitioning for change, and disseminating information concerning issues of public concern are protected by the First Amendment. *Schenck v. Pr-Choice Network*, 519 U.S. 357 (1997) (recognizing leafleting and commenting on matters of public concern as protected speech); *Boos v. Barry*, 485 U.S. 312 (1988) (recognizing public signs as protected speech); *Meyer v. Grant*, 486 U.S. 414 (1988) (recognizing the solicitation of signatures for a petition drive as protected speech)

If the College District creates a forum for the distribution of nonschool literature, the College District may impose time, place, and manner regulations and may reserve its facilities for their intended purposes, communicative or otherwise, as long as the regulation on speech is reasonable and not an effort to suppress expression merely because public officials oppose the speaker's view. *Perry Educ. Ass'n v. Perry Local Educators' Ass'n*, 460 U.S. 37 (1983)

Use of College District Mail System: Unless it has been opened to the public, by policy or practice, a school mail system is not a public forum.

The College

District may create a limited public forum in its campus mailboxes. *Perry Educ. Ass'n v. Perry Local Educators' Ass'n*, 460 U.S. 37 (1983) [See also CHE]