

# THE TEXAS STATE UNIVERSITY SYSTEM



## RULES AND REGULATIONS

LAMAR UNIVERSITY  
LAMAR INSTITUTE OF TECHNOLOGY  
LAMAR STATE COLLEGE - ORANGE  
LAMAR STATE COLLEGE - PORT ARTHUR  
SAM HOUSTON STATE UNIVERSITY  
SUL ROSS STATE UNIVERSITY  
SUL ROSS STATE UNIVERSITY RIO GRANDE COLLEGE  
TEXAS STATE UNIVERSITY

Adopted September 1, 1980  
Amended May 19, 2017

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## CHAPTER I. THE BOARD OF REGENTS

### 1. LEGAL HISTORY.

The 32nd Legislature, 1st Called Session in 1911, provided for the control and management of the normal schools by a State Normal School Board instead of by the State Board of Education. This enabling statute was amended in 1913, 1923, 1929, 1949, 1965, 1969, 1975, and 1995 to form the present Board of Regents of The Texas State University System.

The 38th Legislature of 1923 changed the name of the State Normal Schools to State Teacher's Colleges, and the 59th Legislature changed the name to State Senior Colleges. In 1969, the name of each college was changed to university. The 64th Legislature in 1975 changed the name of the Board of Regents, State Senior Colleges, to the present name of Board of Regents of The Texas State University System.

In 1965, legislative change provided that the Board of Regents be organized into Local Committees, with the Local Committee of each Component meeting at least once each year on the campus to plan for future growth and development of that Component. These laws were codified as *Articles 2644, 2644a, and 2647 of Vernon's Texas Civil Statutes (V.T.C.S.)*. A recodification was done in 1971, with titles of *Subtitle E., Chapter 95, "Administration of the State Senior College System," and Chapter 96, "Institutions of The State Senior College System."* *Article 2647, as recodified in Chapter 95, Subtitle E.,* provides for the composition of the Board of Regents, responsibility of the Board, meetings of the Board, authority for the formation of *Rules and Regulations* in the governance functions, and the power to acquire land. In 2005, the legislature created a place on the Board for a non-voting student regent, *Education Code, Section 51.355.*

### 2. AUTHORITY.

- 2.1 Extent of Authority. The Texas Legislature, which is given the duty and authority to provide for the maintenance, support, and direction of The Texas State University System, has delegated to the Board of Regents in *Vernon's Texas Codes Annotated*, the power and authority, in broad terms, to administer the System. The following selected excerpts from *Texas Education Code* provide examples of the authority vested in the Board:

The organization, control, and management of the State University System is vested in the Board of Regents of The Texas State University System.<sup>1</sup> The Board is responsible for the general control and

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<sup>1</sup>*Education Code, Section 95.01.*

management of the Components in the system and may erect, equip, and repair buildings; purchase libraries, furniture, apparatus, fuel, and other necessary supplies; employ and discharge Presidents or principals, teachers, treasurers, and other employees; and fix the salaries of the persons so employed; and perform such other acts as in the judgment of the Board contribute to the development of the Components in the System or the welfare of their students.<sup>2</sup> The Board has authority to promulgate and enforce such rules, regulations, and orders for the operation, control, and management of the system and its Component institutions as the Board may deem either necessary or desirable. When a power is vested in the Board, the Board may adopt a rule, regulation, or order delegating such power to any officer, employee, or committee as the Board may designate.<sup>3</sup>

2.2 Limitations on Authority. The Board has no authority except as delegated to it by law. Knowledge of the limitations of its authority is imputed to all persons, firms, and corporations dealing with the Board.

2.3 Degrees, Certificates and Diplomas

2.31 Award. The *Texas Education Code, Section 95.24*, authorizes the Board to determine conditions for the award of degrees, certificates and diplomas. The Board hereby delegates to the president of each component authority to grant degrees, certificates and diplomas upon the recommendation of the respective faculty, deans, and provosts. All such degrees, certificates and diplomas shall bear the signatures of the component president, the system chancellor, and the chairman of the Board of Regents.

2.32 Revocation. The Board hereby provides notice that the granting of any degrees, certificates or diplomas is specifically conditioned upon the truth of representations made by the student in the admission process and also upon honesty in completion of his or her academic work. When the Board determines that a degree, certificate, diploma, or admission to the institution and/or the academic program was obtained through fraud, mistake, or academic dishonesty, the Board may revoke the degree, certificate, or diploma, provided the Component has afforded the degree, certificate, or diploma recipient due process of law.

### 3. COMPOSITION.

The Board of Regents of The Texas State University System is composed of nine members appointed by the Governor of Texas with the advice and consent of the State Senate. Board members are appointed to serve six-year terms

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<sup>2</sup>*Education Code, Section 95.21 (a).*

<sup>3</sup>*Education Code, Section 95.21 (b).*

expiring February 1 of odd-numbered years, with three members being appointed biennially.

On or after February 1 of each year, the Governor selects a non-voting student regent to serve a one-year term. The student regent has the same powers and duties as members of the Board of Regents, including the right to participate in meetings of the Board, except that he or she may not: a) vote on any matter before the Board; b) make or second any motion before the Board; c) be counted in determining whether a quorum exists; or, d) be counted in determining the outcome of any vote before the Board.

The Board of Regents of The Texas State University System governs the following Components:

3.1 Comprehensive Universities:

3.11 Lamar University in Beaumont;

3.12 Sam Houston State University in Huntsville, including a Multi-Institution Teaching Center ("MITC") at the Woodlands;

3.13 Sul Ross State University in Alpine, including the Rio Grande College with campuses in Del Rio, Eagle Pass, Uvalde, and Castroville.

3.14 Texas State University, including the Round Rock Higher Education Center;

3.2 Two-year Colleges or Institutes:

3.21 Lamar Institute of Technology in Beaumont;

3.22 Lamar State College-Orange; and,

3.23 Lamar State College-Port Arthur.

4. MEETINGS.

All meetings of the Board of Regents shall be open to the public and publicly announced as required by the *Open Meetings Act*.<sup>4</sup> A majority of the members of the Board shall constitute a quorum, and no formal action shall be taken by the Board in the absence of a quorum. Proxies shall not be recognized. Parliamentary procedures in Board meetings shall conform to Robert's Rules of Order when not in conflict with System rules.

4.1 Regular Meetings. Regular meetings of the Board of Regents shall be held quarterly at such time and place as a majority of the Board shall determine.

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<sup>4</sup>*Government Code, Chapter 551.*

- 4.2 Special Called Meetings. Special called meetings of the Board may be called by the Chairman, by a majority of the members of the Board, or by a unanimous vote of members of the Local Committee. Business not stated in the agenda for a special called meeting may be transacted only by consent of a majority of the members of the Board. Telephone conference meetings, as permitted by statute, may be used for called meetings.
- 4.3 Voting. Any regent, including the presiding officer, may make, second, and/or vote on a matter properly before the Board or any committee thereof, provided the regent is not otherwise ineligible to do so because of the ethics provisions of *Chapter VIII* of these *Rules and Regulations* or of state law.
- 4.4 Executive Session. In accordance with *Government Code, Chapter 551*, the Board of Regents may go into executive session to discuss legal and personnel matters. In accordance with *Section 551.071* of the *Open Meetings Act*, the Board reserves the right for legal briefing from the Board's attorney during executive session. Executive sessions of the Board of Regents may be held with the consent of the majority of those members present. No action will be taken by the Board while it is in executive session.
- 4.5 Each member of the Board, the Component Administrations, and the System Administration shall receive a copy of the Board Agenda at least fourteen days in advance of a regular meeting of the Board. A copy of the Board Agenda shall remain permanently on file in the System Administration Office.
- 4.51 Concurrently with the posting of the Board Agenda on the web site of the Secretary of State, the Chancellor shall provide a copy to the Board of Regents.
- 4.52 For every meeting of the Board of Regents, whether it is a regular, special called, or telephonic meeting, the Chancellor shall place, on the TSUS website, a link to the Agenda posted on the website of the Secretary of State.
- 4.6 Public Appearances before the Board. Any person wishing to address the Board shall file a request in writing with the System Administration, stating the subject matter to be discussed with the Board not less than five (5) working days before the date of the requested appearance, so as to permit sufficient time to effect an *Open Meetings Act* posting. Customarily, such appearances are limited to five (5) minutes although the Chairman may extend or limit the time. This *Subsection* notwithstanding, the Board will not grant appearances to faculty, staff or student grievants who have not exhausted their Component remedies or appeals.



5. OFFICERS OF THE BOARD OF REGENTS.

The officers of the Board shall include a Chairman, Vice Chairman, Chancellor, and such other officers as the Board may from time to time or appoint.

5.1 Elected Officers and Responsibilities.

5.11 Chairman of the Board. The Chairman of the Board shall be elected from the membership of the Board at the regular November Board meeting to serve a one-year term to commence immediately upon election. He or she may succeed him or herself one time only. He or she shall appoint the membership of all Board committees; formally execute, in the Board's name, all contracts and documents authorized by the Board; and, otherwise perform such other duties as a board chairman customarily performs.

5.12 Vice Chairman of the Board. A Vice Chairman shall be elected from the membership of the Board at the regular November Board meeting to serve a one-year term to commence immediately upon election. He or she may succeed him or herself one time only.

The Vice Chairman shall preside over meetings of the Board in the absence of the Chairman and shall succeed to the rights and powers of the Chairman in the event the Chairman is absent temporarily from the State.

5.13 Vacancies. If for any reason the office of the Chairman or Vice Chairman becomes vacant, the Board shall meet as soon as practicable (in a special called meeting if necessary) and elect a successor to fill the unexpired term of office.

5.2 Appointed Officers and Responsibilities

5.21 Chancellor. The Chancellor for the System shall be appointed by the Board of Regents, serve as secretary to the Board, and hold office without a fixed term and at the pleasure of the Board.

See *Chapter II, Subsection 3.1*, for a description of the duties and responsibilities of the Chancellor.

5.22 Chancellor Vacancy. A vacancy which occurs in the office of Chancellor shall be filled by an interim appointment. As soon as practicable after learning of the vacancy, the Chairman of the Board shall convene a special called meeting to recommend an Interim Chancellor to serve until a new Chancellor is selected in accordance with law and these *Rules and Regulations*.

- 5.23 Other Employees. All other employees of the System Administrative Office shall be employed without fixed terms by the Chancellor with the approval of the Board Chairman.

6. COMMITTEES OF THE BOARD OF REGENTS.

The Chairman of the Board, as soon as practical following his or her election, shall appoint not more than three Board members, including the Chair, to each of the following standing committees, to terms consecutive with the Chairman's term of office: Planning and Construction, Academic Affairs, Finance and Audit, Rules and Regulations, and Information Resources, and to each Component Local Committee. Additionally, the Chairman shall appoint one regent to each Component Master Plan Committee. Vacancies on the committees may be filled by appointment by the Chairman.

- 6.1 Committee Meetings. In the absence of a Committee member or members at a scheduled meeting of any Committee, the Committee Chair may ask other regents to serve *ad hoc* on the Committee. In the event that no Committee member is present for a scheduled Committee meeting, the Chancellor may either reschedule the meeting, if feasible, or refer all Committee business to the full Board for consideration and disposition.
- 6.2 Board of Regents' Planning and Construction Committee. This Committee has primary responsibility for establishing, in consultation with the Chancellor, the Board's planning and construction agendas and for making recommendations to the Board regarding the planning, construction, maintenance, and use of System and Component buildings and other physical facilities.
- For further information concerning construction, see *Chapter III, Section 4, Construction Procedures.*
- 6.3 Academic Affairs Committee. The Academic Affairs Committee has primary responsibility for submitting recommendations to the Board concerning all courses, programs, and degrees which are offered or proposed by each Component. The Committee shall also examine each Component's Twelfth and Fourth Class Day Enrollment Reports, Small Class Reports, admission standards and degree requirements, faculty qualifications in relationship to subjects taught, catalogue course and program offerings, role and scope, curriculum duplication and general program balance, and curricular emphasis of each Component, reporting thereon to the Board.
- For further information concerning curriculum, see *Chapter III, Section 5, Curriculum Procedures.*
- 6.4 Finance and Audit Committee. This Committee has oversight of all the System and component financial and audit matters and is responsible for making recommendations to the Board respective to:

- 6.41 Approval of budgets, bond sales, depository contracts, and all other financial matters;
- 6.42 Direct oversight of the System's internal audit function, including, but not limited to, the hiring, terms and conditions of employment, and termination of the System Director of Audits and Analysis; approval of his or her budgets; and, review and approval of annual audit plans and reports.

The Committee shall meet at least once a year with the System Director.

For information concerning financial affairs, see *Chapter III, Paragraph 6, Financial Affairs* for information concerning audits, see *Chapter III, Paragraph 7, The Audit Function*.

- 6.5 Rules and Regulations Committee. This Committee has primary responsibility for reviewing such proposed changes to these *Rules and Regulations* as the Chancellor may propose on his or her own initiative or upon the recommendation of a Regent, vice chancellor, or Component president.

For further information, see *Chapter X, Paragraphs 4 Amendment and 6 Mandatory Periodic Review of Rules*.

- 6.6 Board of Regents' Local Committees. At the discretion of the Chair or at the request of the Chancellor, each Local Committee shall convene at least once a year on the campus of the Component to which it is appointed to examine all phases of operations and report to the Board on the same. The Chancellor shall be notified of all the committee meetings and may attend the same at his or her option.

- 6.7 Component Master Plan Committees.

- 6.71 Composition. Each president shall establish and chair (or otherwise designate a chair for) a Component Master Plan Committee whose members shall be approved by the Chancellor or his/her designee. All component constituents shall be represented, including but not necessarily limited to the Board of Regents (whose representative shall be appointed by the Chairman from the membership of the Component's Local Committee); System Administrative Office; Component academic fiscal, student affairs, facilities/planning/construction representatives; faculty; staff; students; and members of the local community (for example, civic, governmental, business and industry leaders).

- 6.72 Responsibilities. The primary responsibility of each Component Master Plan Committee shall be to make recommendations to the President and the Chancellor regarding the development of a Campus Master Plan.

7. HONORARY DOCTORATES

The Board of Regents retains exclusive authority for the conferring of honorary doctoral degrees, in accordance with the following guidelines:

- (a) The granting of honorary doctoral degrees shall be by unanimous consent of the Board members attending a regular or special called meeting.
- (b) Such honorees shall have attained national or statewide prominence or stature in scholarly achievement, attainments that demonstrate unusual creativity, or distinguished service.
- (c) Honorees, who are System administrative officials, faculty, staff, or elected or appointed public officials, shall normally be granted such degrees only after the employment or public service has concluded.

## CHAPTER II. SYSTEM ADMINISTRATION

### 1. FUNCTION.

- 1.1 Definition. The Texas State University System, under the leadership of the Chancellor, provides a variety of services and assistance to the Board, its committees and Components.
- 1.2 Policies and Guidelines. The Board of Regents shall promulgate *Rules and Regulations*, pursuant to which the Chancellor may implement policies or guidelines, which shall be adhered to by the System Components.

### 2. LOCATION.

The System Administration is located in the Thomas J. Rusk State Office Building, Suite 600, 200 East 10th Street, Austin, Texas 78701-2407. The telephone number is (512) 463-1808. The facsimile number is (512) 463-1816. Individual employees may also be reached by e-mailing at: "*firstname.lastname@tsus.edu*."

### 3. OFFICERS OF THE SYSTEM ADMINISTRATION.

- 3.1 Chancellor. The Chancellor is the chief executive officer of The Texas State University System, whose duties are performed under the authority delegated by the Board of Regents. The Chancellor shall have ultimate authority and responsibility for all System Components, acting through chief executive officers regarding matters delegated to them and serve as secretary to, but not be a member of, the Board.

The Board shall select the Chancellor by majority vote. The Chancellor shall hold office without a fixed term and at the pleasure of the Board. At its regular meeting in August of each year, the Board will evaluate the general performance and effectiveness of the Chancellor. This evaluation shall take place before a quorum of the full Board of Regents and in executive session, unless the Chancellor requests a public evaluation. Nothing herein shall be construed to limit the Board's authority to evaluate and meet with the Chancellor at other times regarding his or her performance.

The Chancellor shall assume administrative responsibilities for the System Administration; recommend to the Board the hiring of Component Presidents, the terms and conditions of their employment, and, when appropriate, terminate their employment; maintain the permanent records of the System; advise and assist the Board and Components with legal, financial, personnel, curriculum, governmental relations, development, planning and construction; and employ and maintain System office staff. The Chancellor shall facilitate and assist

with all of the Board's activities and represent the Board and System Components where appropriate.

- 3.2 Vice Chancellor and General Counsel. The Vice Chancellor and General Counsel is the Chief Legal Affairs Officer for The Texas State University System who performs duties under the authority delegated by the Board of Regents through the Chancellor. The Vice Chancellor and General Counsel shall be a member of the State Bar of Texas and is responsible for assisting, monitoring and carrying out all legal activities of the System including, but not limited to, litigation, policies, System procedures, handbooks, manuals, legal opinions, hearings, appeals and Governmental Relations activities. In addition to legal responsibilities, the Vice Chancellor and General Counsel shall be responsible for monitoring Affirmative Action or Diversity Issues; Equal Employment; and Ethics. The Vice Chancellor shall assist the Chancellor, Component Presidents, Director of Governmental Relations and others in the area of Legislative activities.
- 3.3 Vice Chancellor for Governmental Relations. The Vice Chancellor for Governmental Relations ("VCGR") is the chief governmental relations officer of the Texas State University System, performing duties under authority delegated by the Board of Regents through the Chancellor. The VCGR reviews, assists, and advises with matters involving governmental entities, legislation, legislative relations, biennial appropriation requests, legislative presentations, and public relations.
- 3.4 Vice Chancellor for Finance. The Vice Chancellor for Finance is the chief financial officer of the Texas State University System, performing duties under the authority delegated by the Board of Regents through the Chancellor. The Vice Chancellor for Finance is responsible for reviewing, advising, and assisting with Component budgets, budget changes, annual financial reports, quarterly depository reports, investment reports, investment policies, biennial appropriations requests and reports, bond sales, funding sources for contracts, and insurance coverage. The Vice Chancellor for Finance shall also assist both internal and external auditors and the Director of Audits and Analysis with Component audits.
- 3.5 System Director of Audits and Analysis. The System Director of Audits and Analysis ("Director") is the chief auditor and an administrative officer of The Texas State University System who is answerable directly to the Board of Regents through the Finance and Audit Committee. The Director is responsible for hiring, setting the terms and conditions of employment, and termination of all System and component-housed auditors. The Director, who shall be under the day-to-day supervision of the Chancellor, must be a Certified Public Accountant or a Certified Internal Auditor. The Director is responsible for the System's internal audit function and performs special studies and analysis of data as directed by the Board and/or as requested by the Chancellor. At least annually, the Board shall assess the Director's effectiveness.
- 3.6 Vice Chancellor for Contract Administration. The Vice Chancellor for Contract Administration is the chief administrative officer of The Texas

State University System, primarily responsible for contract management and administration of System and Component planning, construction, maintenance, and use of buildings and other physical facilities, including, but not necessarily limited to, long-term planning and construction and administration of policies in the subject area. He or she performs duties under authority delegated by the Board of Regents through the Chancellor.

- 3.7 Vice Chancellor for Academic Affairs. The Vice Chancellor for Academic Affairs is the chief academic officer of The Texas State University System who performs duties under the authority delegated by the Board of Regents through the Chancellor. The Vice Chancellor for Academic Affairs is responsible for providing system-wide leadership, assistance, and coordination among the system Components in maintenance, enhancement, and promotion of academic and research programs, in addition to performing the following specific duties: representing the System on academic matters before professional, grant-making, regulatory, and oversight bodies; encouraging an academic environment that serves the geographic, economic, and cultural diversity of the state; coordinating initiatives relating to content delivery utilizing various technologies; and generally enhancing the System's teacher education mission.

#### 4. OPERATIONS.

##### 4.1 Employment.

4.11 Nepotism Rule. No individual may be employed in the System Administration who is related within the first degree of consanguinity to a member of the Board of Regents, or to an employee in the System Administration. The restrictions of *Government Code, Chapter 573* shall govern the employment of any relative of a member of the Board of Regents. This rule is not retroactive.

4.12 Retirement Programs. The Board of Regents authorizes the System Administration to make retirement programs available to its employees through the Teacher Retirement System of Texas and optional retirement programs.

- 4.2 Expenses and Allowances. Reimbursement of travel and related expenses shall be allowed employees of the System administration, in accordance with Texas *Government Code, Chapter 660*, for the following:

4.21 Attending regular and special meetings of the Board.

4.22 Attending formal meetings of Board committees.

4.23 Visiting a Component on System business.

- 4.24 Attending conferences, workshops, and/or seminars for continuing professional education with approval of the Chancellor.
  - 4.25 Such other special and limited purposes in accordance with State regulations. Verified expense accounts shall be submitted to the Chancellor for approval, and the same shall be subject to review and control by the Board. The Chancellor shall be reimbursed for expenses incurred, which shall be reported quarterly to the Chair of the Finance and Audit Committee.
- 4.3 Financial Reports. All books, records, ledgers, and accounts of System and Component administrations shall be kept and maintained in conformity with recommendations of the State Auditor and the State Comptroller of Public Accounts subject to approval of the Chancellor and Board. All proposed operating budgets and all biennial appropriation requests shall be first examined, considered, and approved by the Chancellor and presented to the Board for review and approval at an open meeting.
- 4.31 Annual Operating Budget. The Chancellor shall prepare or cause to be prepared and submit annually to the Board at its May or August meeting, as specified each year by the Board, proposed budgets for the operation of the System and its Components for the next fiscal period. Copies of all proposed operating budgets shall be submitted in writing to all members of the Board at least eight calendar days in advance of such Board meeting. The proposed operating budgets shall reflect all income estimated and itemized by sources, with all expenditures estimated and itemized by fund, project, or department. Upon adoption by the Board of the operating budget, all subsequent expenditures shall conform therewith. Each change affecting the current operating budget for each fund group which exceeds \$100,000 for the four-year institutions and \$25,000 for the two-year Components shall be subject to Board approval.
- 4.4 Staff Development Program Rules.
- 4.41 Definition. This program is to provide training through workshops, seminars, institutes, training sessions, extension courses, Component courses (with or without academic credit), and other special programs or activities offered either within or outside the State as authorized by *Government Code, Chapter 656*. Such programs must be of concentrated, precise content and designed to improve the individual's professional or technical knowledge in the performance of the individual's present or prospective duties and responsibilities. This program is for selected individual staff members and will be provided on the basis of need of the System and to the extent funds are available.
  - 4.42 Objectives. To improve and enhance the individual's professional and technical knowledge and ability in the



performance of the individual's present or prospective duties and responsibilities.

4.43 Program Elements. This program is generally the type that meets the following criteria: relatively short term, specific in content, and presented outside the employing agency.

4.44 Administration - Eligibility Requirements.

(1) Out-of-Agency Staff Development education and training authorized by the System will be conducted primarily for the benefit of the System.

(2) The training and education must be related to the employee's current or prospective duty assignment during the period of participation.

(3) Such training and education must be approved by the Chairman of the Board of Regents for System Administration personnel or Component Presidents and by the Governor's Office for Regents.

4.45 Administration - Obligations. Employees receiving Out-of-Agency Staff Development authorized by the System will be obligated to fulfill such terms and conditions as the Chairman of the Board of Regents may prescribe compatible with the nature and extent of the training or education.

4.5 The authority to sign Corporate Resolutions on behalf of The Texas State University System and its Components, confirming the person or persons authorized to buy, sell, assign and endorse for transfer certificates representing stocks, bonds or other securities now registered or hereafter registered in the name of the Component is delegated to the Chancellor in consultation with the Board Chair. Requests for such authorization shall be accompanied by a letter from the Component's President in which the names of all persons being authorized to conduct such business are specified.

## 5. MINUTES OF THE BOARD MEETINGS.

The Chancellor shall assure that minutes are prepared and kept of the proceedings of all meetings of the Board of Regents. The minutes shall be indexed as to subject matter and Components. Copies of the minutes should be distributed within thirty working days of a Board meeting to all members of the Board of Regents and the president of each System Component. After approval by the Board, the Chancellor shall timely distribute the minutes to such other state agencies as may be required by law, including but not necessarily limited to the Texas Archives Library.

## CHAPTER III. SYSTEM - COMPONENT OPERATIONS

### 1. ITEMS REQUIRING BOARD APPROVAL.

The following items shall be submitted to the Board of Regents for approval at either a regular Board meeting or a special called Board meeting. Each item shall be presented in the form of a motion to the Board for consideration. Inconclusive, open-ended, or multifarious motions shall not be submitted to the Board.

#### 1.1 Contracts.

1.11 Contracts, purchases, and agreements in the amount of \$1 million or more (contracts, purchases, and agreements between \$500,000 and \$1 million require approval by the Chancellor), whether said amount is income or expenditure, with the exception of:

- (1) Private, governmental, and foundation grants or agreements in which the donor or agency stipulates the purpose for which the funds are to be expended.
- (2) Materials purchased for resale in auxiliary operations and in central supply.
- (3) Materials purchased for normal inventory stock for the physical plant operation.
- (4) Maintenance, testing, and service contracts on elevators, computers, office equipment, campus utility systems, and life safety systems.
- (5) Library subscription services.
- (6) Recurring printing orders.
- (7) Contracts with outside organizations for continuing education or professional programs that use campus facilities.
- (8) Diesel fuel purchased for the operation of a co-generation plant.
- (9) Purchased utilities, including water and waste hauling, but excluding electricity and natural gas, which are subject to approval by the Chancellor.
- (10) Contracts involving planning, design, renovation, or construction of buildings and other physical facilities.
- (11) Indefinite quantity services contracts as described in *Subsection 1.19* of this *Chapter*.

- (12) “Special Employment Contracts” as described in *Subsection 1.13 of Chapter V*.
- 1.12 Financial institution depository contracts, which shall be put out for bid, in accordance with state law, no less frequently than every six (6) years, through the Office of the Vice Chancellor for Finance.
- 1.13 Food services contracts.
- 1.14 Vending machine contracts over \$1 million.
- 1.15 Contracts and agreements with support or development foundations.
- 1.16 Contracts for operation of bookstores on campus.
- 1.17 Contracts for lease of Component golf course and related services.
- 1.18 Leases of personal property, including equipment, for one year or more, involving expected aggregate payments exceeding \$1 million. Payments between \$500,000 and \$1 million must be approved by the Chancellor.
- 1.19 Indefinite quantity services contracts—including but not limited to job order construction contracts, contracts for architectural and/or engineering services, and consulting contracts—with the exception of contracts which expressly provide for a maximum total compensation not exceeding \$1 million, including any renewals. The Chancellor is delegated authority to approve indefinite quantity services contracts that exceed \$1 million but are not greater than \$2 million, including any renewals. For job order construction contracts, the limits of authority delegated in this sub-paragraph shall be \$2 million to the presidents and \$4 million to the Chancellor, including any renewals. Notwithstanding these limits, no individual project with a total project cost in excess of \$1 million may be executed under presidential authority. The Chancellor may further delegate his authority to appropriate System office staff and/or to a Component president.
- 1.20 Amendments, Modifications, Renewals or Extensions. Amendments, modifications, renewals or extensions of contracts and agreements previously approved by the Board must be submitted to the Board. Such items shall undergo the same System Administrative Office review as the original contracts and agreements. This subparagraph shall not apply to options to renew or extend for specified term(s) that were part of a contract or agreement approved by the Board.

- 1.2 Personnel.
  - 1.21 Employment of administrative officers, faculty, and non-classified employees.
  - 1.22 Termination of administrative officers, faculty, and non-classified employees (including resignations, retirements, and discharges).
  - 1.23 Changes of position status of administrative officers, faculty, and non-classified employees.
  - 1.24 Changes in tenure status.
  - 1.25 Dual employment of administrative officers, faculty, and non-classified employees.
  - 1.26 Intra-system Contracts. Agreements between or among system Components or between a Component and employee(s) of a sister institution shall be first approved by the appropriate vice chancellor upon review and approval of the Vice Chancellor and General Counsel.
- 1.3 Financial Matters.
  - 1.31 Operating budgets (including Component employee salaries).
  - 1.32 Each budget adjustment in excess of \$100,000 for the four year institutions and \$25,000 for the two-year institutions.
  - 1.33 Salary supplements.
  - 1.34 Proposals for issuance of bonds.
  - 1.35 Capital leasing projects.
- 1.4 Charges, Fees and Rates. No course fee shall be presented for the Board's consideration unless the Vice Chancellor for Finance has first approved such fee as both reasonable and necessary.
  - 1.41 Registration fees.
  - 1.42 Student services fees.
  - 1.43 Medical services fee.
  - 1.44 Student center fees.
  - 1.45 Student transportation fees.
  - 1.46 Room and board rates.
  - 1.47 Special course fees.

- 1.48 Diploma, certificate, auditing, and extension and correspondence instruction fees.
- 1.49 Board authorized tuition.
- 1.4(10) Designated tuition.
- 1.4(11) International fee.
- 1.4(12) Computer related charges, including but not limited to computer or technology service, computer access and computer use.
- 1.4(13) Concurrently Enrolled Students. Upon prior written approval of the Chancellor, upon the recommendation of the Vice Chancellor for Finance, system component institutions are authorized to waive all or part of the tuition and fees charged by the institution for a student enrolled in a course for which the student is entitled to receive, simultaneously, both:
  - (1) Course credit toward the student's high school academic requirements; and,
  - (2) Course credit toward a degree offered by the institution.

1.5 Construction Matters.

- 1.51 Prior to submission to the Board for consideration and approval, the following items must be first submitted to and approved by the Vice Chancellor for Contract Administration (“VCCA”) in consultation with the Chancellor:
  - (1) Component Comprehensive Facilities Master Plan and any amendments thereto.
  - (2) A Capital Improvements Program (CIP) encompassing the next six years of construction projects needed to preserve, enhance, and add to facilities assets in line with the approved Master Plan. A Component may amend its CIP at any time with Board approval. It is anticipated that the Board will review and approve a revised six-year CIP prior to the beginning of each Fiscal year.
- 1.52 Public Art Program. Believing that a university or college campus should be a pleasant and aesthetic environment that inspires reflection and learning, the Board of Regents directs that one percent of the construction budget of each new major construction project, as defined by the Chancellor, be allocated for the acquisition of works of public art.
  - 1.521 “Public art,” as used in this Paragraph, refers to any visual, pictorial, graphic or sculptural work of art that is commissioned or purchased for purposes of public display.

1.522 Guidelines for Acquisition. The Chancellor may promulgate guidelines or policies (for the acquisition of public art) that address the following:

- (1) The work's provenance, i.e., is it well known and can its authenticity or genuineness be clearly established;
- (2) Whether the vendor or owner can establish clear legal ownership, title, and copyright to the work, as well as his or her right to sell it;
- (3) Whether the artist, living or dead, has achieved recognition or renown through an exhibition history or a provenance of being in public or private collections or museums;
- (4) The work's exhibition history or published references, if any;
- (5) If the artist is not well known, whether the work has aesthetic value or historical significance;
- (6) The contribution an individual work of art can be expected to make to the Component's educational mission, as well as to its existing collection of public art;
- (7) The Component's ability to assure the proper long-term care of the individual work of public art, including security, conservation, and maintenance;
- (8) Whether the work is appropriate to the proposed location or building;
- (9) Such other factors as he or she judges to be appropriate.

1.523 Location of the Art. These works of public art shall be located at or near the site of the construction project or the funds may be aggregated, as described in *subparagraph 1.5243*.

1.524 Aggregation of Funds. Insofar as permissible under the law and applicable to the source of funds, the funds may be aggregated and expended pursuant to the comprehensive art and aesthetic improvement plan, as approved by the Chancellor.

1.525 Separate Budgets. The budgets for such works of public art shall be separate from and in addition to the aesthetic features incorporated into the building itself.

- 1.526 Selection Process. Prior to any such purchase of public art, a Component shall identify to the Chancellor the name, position, title and qualifications of any and all individual(s) responsible for its selection as well as document that selection process in writing.
- 1.53 Landscape Enhancement Program. One percent of the construction cost limitation at the design development phase of each new major construction project, except grounds and landscaping projects, will be allocated to the enhancement of exterior landscape, hardscape, and waterscape features, unless an exception is granted by the Board. These enhancements shall be located either at or near the site of the construction project or, insofar as is permissible under the law and applicable to the source of funds, aggregated and expended pursuant to a comprehensive art and aesthetic improvement plan, as approved by the VCCA, the Chancellor, and Board.
- 1.54 Appeal. Any Component may appeal the requirement to allocate project funds to the Public Art Program and/or Landscape Enhancement Program. Any such appeal shall be decided by the VCCA, with right of further appeal to the Chancellor, and then to the Board.
- 1.55 New Major Construction Project. The term “new major construction project” for purposes of this *Rule* shall mean any new building or addition to an existing building with a total project cost of \$1 million or more. The term “new major construction project” does not include projects that consist solely of improvements to campus infrastructure, athletic fields and stadiums, greenhouses, parking facilities, chill plants, utility plants, and offices and facilities located off-campus. The final decision as to whether a specific project is a “new major construction project” that triggers the requirements of this *Rule* shall be made by the Chancellor or his or her designee.
- 1.56 All agreements for construction, design and associated services for capital projects with a total project cost of \$1 million or more shall utilize standard forms promulgated by the VCCA.
- 1.6 The Texas State University System Policies and Procedures Manual for Planning and Construction (which must also be reviewed and approved by the Vice Chancellor and General Counsel) shall include a comprehensive set of policies and procedures governing the conduct and administration of the system-wide planning, design and construction program. These policies and procedures shall require compliance with all governing Federal and State laws and regulations and shall list all the current building codes that designs will be required to follow. The Board may direct changes to the Chancellor’s published policies and procedures at its discretion.
- 1.7 Each construction project in excess of \$4 million shall require specific Board approval at each of the following stages:

- 1.71 Provision for the project on the Master Plan;
  - 1.72 Inclusion of the project on the CIP;
  - 1.73 At the completion of the Design Development phase (prior to submission of the project to the Texas Higher Education Coordinating Board, when required under Coordinating Board Rules), and prior to starting construction of the project.
- 1.8 The Board delegates to the Chancellor authority to enter into contracts for the design and construction of capital projects with a total project cost under \$4 million and to promulgate policies, and otherwise conduct any and all activities necessary to make each project ready for approval by the Board at the stages listed above. The Chancellor may further delegate his authority to appropriate System office staff and/or to the Component Presidents.
- 1.81 The Chancellor shall be delegated the responsibility and authority to approve and sign contracts for the design and construction of any capital project with a total project cost of \$1 million or more, provided that the project is included in the CIP approved by the Board.
  - 1.82 The President of each Component shall be delegated the responsibility and authority to enter into contracts for the design and construction of any capital project with a total project cost of less than \$1 million.
  - 1.83 Notwithstanding the limits stated in 1.81, the President is delegated the authority to enter into contracts for the purchase of furniture, fixtures and equipment for capital projects approved by the Board, to the extent such items are included in the project budget presented to and approved by the Board.
- 1.9 As soon as practicable after the time each project previously approved by the Board is completed, the Vice Chancellor for Contract Administration shall submit a comprehensive Project Completion Report to the Board.
- 1.(10) Curriculum Matters.
- 1.(10)1 Twelfth and fourth class day reports.
  - 1.(10)2 Course additions, deletions, and changes.
  - 1.(10)3 Degree program additions, deletions, and changes.
  - 1.(10)4 Academic department additions, deletions, and changes.
  - 1.(10)5 Out-of-state course offerings.
- 1.(11) Admission Requirements/Standards. Student admissions standards, entrance requirements, and degree qualifications as determined,



prescribed and recommended by each Component as specified in *Chapter VI, Section 2* of these *Rules and Regulations*.

1.(12) Gift Acceptance.

1.(12)1 Gifts of real property regardless of value.

1.(12)2 Other gifts which exceed \$10,000 in value except cash and securities. When necessary to comply with donor desires, and when recommended by the President of the Component and approved by the Chairman of the Local Committee of the Board, such gifts may be accepted prior to the next Board meeting, but will be reported to the Board at its next regular meeting.

1.(12)3 The President of each Component will report all gifts with a value of at least \$5,000 (including cash, personal property, and intellectual property) to the Chancellor for reporting publicly to the Board. Upon written request of the donor, the Board report and minutes shall not state the donor's name and/or the gift's value.

1.(13) Real Property.

1.(13)1 Purchases, Exchanges, or Sales. The Board retain authority to approve all purchases, exchanges, or sales of Components' real property.

1.(13)2 Leases. All leases involving Components' facilities or real property (whether the Component is a lessor or lessee), require Board approval except the following:

- (1) Ground leases of five (5) years or less;
- (2) Leases that do not exceed the Chancellor's delegated authority under *Paragraph 1.1* of this *Chapter III*; and
- (3) Leases that exceed the presidents' delegated authority under *Paragraph 1.1* of this *Chapter III* are subject to the Chancellor's approval.

1.(14) Naming of Buildings. See *Section 9* of this *Chapter*.

1.(15) Proposed Legislation. Proposed legislation on behalf of the System or its Components, unless, during a legislative session, the Chancellor, after consultation with the Board Chair, determines that the best interests of the System or its Component(s) require pursuit of legislative action.

1.(16) Attorney General Requests. Requests for Attorney General Opinions pertaining to Component or System operations must be requested by the Board Chairman, unless, in the Chancellor's judgment, the best interests of the System or of a Component require immediate action. In such a case, the Chancellor shall notify the Board Chairman prior to, or as soon

as practicable after filing the request, and share the same with the full Board. A Component President is authorized to request a *Public Information Act*<sup>5</sup> (*PIA*) opinion when such opinion relates exclusively to the President's Component. The Chancellor is authorized to request a *PIA* opinion when such opinion relates to the System Administration or to two or more Components. All *PIA* opinion requests shall be submitted through the Vice Chancellor and General Counsel, who shall designate a System *Public Information Act* Coordinator to work with Component *Public Information Act* Coordinators to manage submission of such requests.

1.(17) Holiday Schedules. Holiday schedules deviating from those established by the Legislature.<sup>6</sup>

1.(18) Athletics.

1.(18)1 The addition or reduction of university supported athletic teams.

1.(18)2 Changes in athletic association classification.

## 2. RELATIONSHIP BETWEEN SYSTEM AND COMPONENTS.

2.1 System Affiliation. It is the policy of the Board that membership in the Texas State University System by the components is to be made readily known to those who interact with any component of our system.

2.11 Publications. All official printed documents (including, by way of example only, letterhead, email letterhead, electronic/internet websites, publications and reports, catalogs, handbooks, and campus master plans), created, maintained, or circulated by any System component, shall prominently state that the component is member of The Texas State University System.

2.12 Identification of Regents and Chancellor. Magazines, books, newsletters, annuals and similar publications, shall include the names and home cities of current regents and of the Chancellor.

2.13 Format. Placement of System affiliation shall appear prominently on a single line on the cover and the first page of all such documents and publications.

2.14 Off Campus Signage and Advertisements. Off-campus advertising or signage in which the component's name appears shall clearly state that the component is a member of the Texas State University System.

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<sup>5</sup>*Government Code, Chapter 552.*

<sup>6</sup>*Government Code, Chapter 662.*

- 2.2 Component Communication with Board and System. No Component shall prohibit communication between any member of the Board of Regents or member of the System Administration and any employee or student of the Component. Any direction or instruction from the Board member or System Administration employee will be made to the Component President or a representative designated by the President.

### 3. LEGAL AFFAIRS.

The Office of the General Counsel is designed to provide positive support to the Board, System and Component administrations in the effective discharge of their respective responsibilities. The Vice Chancellor and General Counsel shall have responsibility for all System and Component legal affairs, including, but not limited to, hiring and termination of attorneys, setting of salaries, and otherwise establishing terms and conditions of employment. He or she will be responsible for establishing the annual budgets and staffing levels for the Office of General Counsel subject to approval of the Chancellor.

The following items shall be subject to review, approval, and/or monitoring by the Vice Chancellor and General Counsel or his or her designee prior to execution or implementation:

- 3.1 All Component contracts and agreements (as defined in *Chapter III, Paragraphs 1.11 and 1.12*) shall be reviewed prior to their submission to the Board of Regents. Other contracts and agreements involving the Components may be reviewed at the discretion of the Component or as requested by the Vice Chancellor and General Counsel.
- 3.2 All legal opinions, in whatever form, submitted to the Board of Regents or to be issued for the review of or for reliance upon by parties outside the System or its Components.
- 3.3 All lawsuits brought against or for the System or a Component, together with the resolution or settlement thereof, shall be monitored and/or approved by the System Office or Vice Chancellor and General Counsel.
- 3.4 Modifications of the student and employee handbooks and other policy-setting documents of the Component.
- 3.5 Special personnel contracts.
- 3.6 Major disciplinary proceedings initiated against faculty, staff, or students which involve hearings or appeals shall be transmitted as soon as practicable. If an emergency situation exists, the Component shall inform the System Office or Vice Chancellor and General Counsel of any action taken as soon as possible. Occurrence reports on any employee of a Component against whom disciplinary action is contemplated, exclusive of disciplinary warnings, shall be provided to such office as soon as possible.
- 3.7 Retention, supervision and monitoring of outside legal counsel.

- 3.8 Communications and interactions with the Attorney General's Office or other legal, contractual, or regulatory dealings with state, federal or private organizations, including but not necessarily limited to the NCAA, athletic conferences, and similar agencies.
- 3.9 Sting operations on campus to be conducted by component or outside law enforcement personnel.

#### 4. CONSTRUCTION PROCEDURES.

See *Section 1.5* of this *Chapter* and the Texas State University System *Policies and Procedures Manual for Planning and Construction*.

#### 5. CURRICULUM PROCEDURES.

- 5.1 Curriculum Policies. Each of the Components shall follow the curriculum policies of the Board of Regents and *Education Code, Sections 61.051* and *61.052*.
  - 5.11 Approval of Requests. Each request for new courses, degree programs, or departments must be approved by the Board of Regents with subsequent approval by the Texas Higher Education Coordinating Board before being included in the catalogue.
  - 5.12 Notice of Requests. All requests for curriculum changes must be submitted to the members of the Academic Affairs Committee and the System Administration at least eight calendar days prior to the scheduled Board meeting.
  - 5.13 Nature of Requests. The nature of each request for a curriculum change and its justification shall be set out in a brief written statement. The statement shall show the title and number of the course, the semester credit hour value, and the department in which the course or program will be offered.
  - 5.14 Degree Programs. Each request for a new degree program shall include a request for the new courses which the program requires.
  - 5.15 Graduate Programs. Each request for a graduate program shall be evaluated on the need of the program and qualifications of the faculty.
  - 5.16 Deletions. Any course which has not been taught at anytime for the previous three years, as designated by the Coordinating Board, shall be dropped unless authorized for continuation by the Academic Affairs Committee.
  - 5.17 Committee Considerations. In passing upon requests for new courses, the Academic Affairs Committee shall give

consideration to the number of courses already available in that department and the enrollment in such courses.

- 5.18 Off-Campus Courses. Off-campus courses shall be offered only in accordance with guidelines approved by the Texas Higher Education Coordinating Board.
- 5.19 Short Courses. The Components shall not offer or allow a student to register for any short courses (any course taught over a period of less than three weeks) where the combined academic credit to be earned for all course work attempted would exceed an average of one semester credit hour per contact week. (Effective the fall semester, 1985)
  - 5.1(10) Before any course previously authorized by the Board of Regents and the Texas Higher Education Coordinating Board, can continue to be taught, the course syllabus shall be reviewed once a year by the appropriate departmental chair or head.
  - 5.1(11) Out-of-Country Courses or Programs. As a condition of being permitted to take or participate in Component approved out-of-country courses or programs, a student shall first execute a liability waiver and release of claims in favor of the Board of Regents, the Component, and their officers and employees.
- 5.2 Twelfth and Fourth Class Day Reports. The Academic Affairs Committee shall also examine twelfth and fourth class day reports of each Component. Each Component President shall present to the Board, on appropriate occasions, a twelfth or fourth class day report stating the total number of students (headcount) registered for resident instruction in classes of the Component; the total number of students registered in off-campus extension classes; the total number of students registered in correspondence courses; the total number of full-time faculty equivalents registered; the total number of semester hours taught by each faculty member; the number of semester credit hours taught; the number of full-time student equivalents registered; and the student/teacher ratio. Such enrollment reports shall be submitted by the Component President to members of the Academic Affairs Committee and the Chancellor at the same time as the class reports (CBM-004) are submitted to the Coordinating Board pursuant to its educational data reporting system for senior colleges and universities, and shall be considered by the Board at its next meeting.

See *Chapter I, Subsection 6.2*, for the responsibilities of the Academic Affairs Committee.

## 6. FINANCIAL AFFAIRS.

- 6.1 Insurance Coverage. The Components of The Texas State University System are authorized to purchase policies of insurance as provided by this *Subsection* or for other purposes that may be specifically authorized by statute.

- 6.11 Blanket Fidelity Bonds. Blanket fidelity bonds shall be required to cover all employees of the Components under the governance of the Board. The System's Vice Chancellor for Finance is responsible for coordinating acquisition of the blanket fidelity bonds.
  - 6.12 Director's and Officer's Liability Insurance. Director's and officer's liability insurance shall be required to cover all regents, directors and officers of the System and its Components. The System's Vice Chancellor for Finance is responsible for coordinating acquisition of the Director's and Officer's coverage.
  - 6.13 Intercollegiate Athletic Activities. The Components are authorized to purchase policies of insurance providing for the medical care, treatment, and services for injuries sustained by students while participating in or during supervised practices for intercollegiate athletic activities and to pay the premiums for such insurance out of the Component's auxiliary funds.
  - 6.14 Automobile Liability and Physical Damage. The Components are authorized to purchase liability insurance to insure their administrative officers and other employees from liability arising from the use, operation, and maintenance of automobiles, trucks, tractors, power equipment, aircraft and motor boats or watercraft that are or may be used in the operation of the Component. The System's Vice Chancellor for Finance is responsible for coordinating acquisition of this coverage.
  - 6.15 Property, Equipment Breakdown and Terrorism Insurance. The Components are authorized to purchase insurance for equipment, buildings, and facilities, as allowed by statute. The System's Vice Chancellor for Finance is responsible for coordinating acquisition of this coverage.
- 6.2 Debt Issuance Services
- 6.21 Bond Counsel. The Board shall employ bond counsel to advise and represent it in all matters pertaining to the issuance or proposed issuance of bonds of any type, the pledge of institutional credit, the assumption of deferred fiscal obligations, or the encumbrance of facilities of any Component under the governance of the Board. Bond counsel shall be employed by the Board upon such terms and conditions and under such fee arrangement as the appointing order of the Board shall designate.
  - 6.22 Financial Advisor. The Board shall employ a financial advisor to provide financial advice and represent the Board in concert with bond counsel in all matters pertaining to the issuance or proposed issuance of bonds of any type, the pledge of institutional credit, the assumption of deferred fiscal obligations, and the encumbrance of facilities of any Components under the governance of the Board. The financial advisor shall be

employed by the Board upon such terms and conditions and under such fee arrangement as the appointing order of the Board shall designate.

- 6.3 Institutional Funds. All institutional funds not required to be deposited in the State Treasury must by law be deposited in official depository banks for safekeeping or invested in accordance with the current Depository Funds Policy as adopted by the Board of Regents.

Depository agreements with official depository banks shall be negotiated, as necessary, with those banks approved by the Board and in accordance with the then current policies of the Board. Such depository agreements shall be executed by the Chairman of the Board.

- 6.31 Depository banks selected shall furnish adequate securities to assure safety of these funds. Institutional funds shall be deposited in the depository banks as soon as possible, but in no event later than seven days from the date of collection. Demand deposits and time deposits will be maintained in accordance with the current policies of the Board.

- 6.32 The Board and the Component Presidents may not, by law, borrow money from any person, firm, or corporation to be repaid from institutional funds except as specifically authorized by the Legislature.

- 6.33 As permitted by statute, interest received from depository banks for funds on time deposit shall be credited to the appropriate accounts in either general funds or trust funds, in relationship to the sources of balances on time deposit, provided that deposition of such earning was not specified by the grantor.

- 6.4 State Appropriated Funds - Including Local Funds in State Treasury. The Board delegates authority to the Chancellor for the System's Office and the Presidents for their respective Components to sign state vouchers. The Chancellor and Presidents are permitted to delegate this signature authority to other personnel by letter and signature card to the Texas State Comptroller's Office. Local Funds in the State Treasury are to be accounted for and utilized for the Component's operation in accordance with *Education Code, Section 51.008*.

- 6.5 Purchase Vouchers. Each Component President is authorized to delegate signature authority for purchase vouchers to one or more fiscal officers. At the time of approval, purchase vouchers shall have attached all relevant documentation to support the disbursement.

- 6.6 Local Bank Accounts. The Board delegates authority to the Chancellor for the System Administrative Office and the presidents for their respective Components to establish local bank accounts as deemed necessary. All local checks must be signed by at least one Component fiscal officer. A check signer with authorized facsimile signatures may be used on checks for less than \$35,000. All checks in the amount of \$35,000 and over shall have the original signature of two fiscal officers.

Payments in the amount of \$35,000 and over made by Automated Clearing House (“ACH”) shall have the original signature of two fiscal officers on the voucher documentation supporting the payment.

- 6.61 Banks with an Automated Payment Fraud Prevention Process. If the Component’s local bank provides an automated payment fraud prevention process (e.g., positive payee) for payments, the Component may use the electronic signature of one of its fiscal officers for processing checks. Before the payment is finalized by the bank, the Component shall utilize a fraud prevention process to review and approve electronically both check and Automated Clearing House (“ACH”) individual payments exceeding \$50,000.
- 6.7 Financial Reports. All Component books, records, ledgers, and accounts shall be kept and maintained in conformity with recommendations of the State Auditor and the State Comptroller of Public Accounts, subject to approval of the Board. All proposed operating budgets and all biennial appropriation requests shall be examined, considered, and approved by the Board in open meetings.
- 6.71 Annual Operating Budget and Budget Summary. The President of each Component shall prepare and submit annually to the Board at its May or August meeting, as specified each year by the Board, a proposed budget for the operation of the Component for the next fiscal period. Copies of all proposed operating budgets shall be available to all members of the Board and the Chancellor at least eight calendar days in advance of such Board meeting. A budget summary is to be prepared and submitted in writing at least eight calendar days in advance of such Board meeting. The proposed operating budget and budget summary shall be in the form and detail recommended by the Chancellor with the approval of the Board, with all income estimated and itemized by fund, project, or department. A true and correct copy of the adopted operating budget of each Component shall be filed with the System Administration as a public document and a conformed copy delivered to the Chancellor and to all appropriate agencies by the President of the Component. Upon adoption of the operating budgets by the Board, all subsequent expenditures shall conform therewith. Changes in a current operating budget and all transfers of funds between appropriated items shall be subject to Board approval.
- 6.72 Annual Financial Report. The Annual Financial Report shall be prepared in accordance with the provisions of the statutes, the *General Appropriations Act (Article III-Special Provisions and Article IX-General Provisions)*, as may be amended or superseded, and with the requirements established by the Comptroller of Public Accounts. The reports shall be approved by the chief fiscal officer and submitted to the System Administration for inclusion in the Consolidated System-wide Report. This submission should allow sufficient time for



consolidation and subsequent submissions to the required State agencies within the time requirements as specified by State law.

- 6.73 Monthly Operating Report. The chief fiscal officer of each Component under the governance of the Board shall submit one copy of the Monthly Operating Report to the System's Vice Chancellor for Finance on or before the end of the following month. When possible, the report may be submitted electronically. The Monthly Operating Report shall show, as of the last day of the preceding month, a summary statement of budget position, general ledger trial balance by fund groups, statement of realization of estimated income, and statement of departmental and other balances (including appropriations and credits, expenditures and debits, unexpended balances, encumbrances, and unencumbered balances).
- 6.74 Sinking Fund Reports. The chief fiscal officer of each Component shall incorporate in the Annual Financial Report the true condition as of the thirty-first day of August of all bonds, interest, and pledged revenue sinking funds maintained under all bond or warrant obligations of the Component. Each Sinking Fund Report shall identify the bond contract and facility to which it pertains, the sinking fund maintained thereunder (including date established and date of scheduled retirement), the depository and account in which the sinking fund is maintained, and the cash balance on hand in the sinking fund and withdrawals therefrom (if any) during the preceding calendar year. Sinking funds shall be maintained by each Component in accordance with the contractual provisions creating them. Withdrawals from sinking funds, other than required bond and interest payments, shall not be authorized by the Board, except in the manner and to the extent provided in the bond or warrant contract establishing it and upon recommendation of the Local Committee. System-wide issues will be reported by the System Administration beginning with the 1994 Fiscal Year.
- 6.75 Investment Report. A quarterly investment report will be prepared by each Component as prescribed by The Texas State University System Investment Policy for Operating Funds and Endowment Funds. The report shall be posted on the web page of the reporting Component in accordance with state statute and the State Auditor's and System Administrative Office reporting guidelines. Each Component's quarterly investment report is due in the System Administrative Office not later than the last workday of the month following the end of each quarter. A combined report shall be created for use by the Board and for purposes of conveying the information externally as may be required.
- 6.8 Purchase of Food, Refreshments, and Awards with Institutional Funds that are not otherwise restricted. The Board of Regents has determined that the expenditure of institutional funds that are not otherwise restricted for the purchase of food, refreshments, and achievement awards assists

the Components in the System in carrying out their educational functions, promotes education in the State of Texas, and provides an important public purpose. Accordingly, the Board authorizes each Component to use such funds for the purchase of food, refreshments, and achievement awards in accordance with the following guidelines. The President of each Component is delegated the authority to determine if specific expenditures for the purchase of food, refreshments, and achievement awards, using institutional funds, fall within the following objective guidelines established by the Board, and the Component President is authorized to implement this policy through appropriate directives and delegation.

- 6.81 Direct Purpose. Expenditures of Component funds that are not otherwise restricted for food, refreshments, and achievement awards must have one or more of the following guidelines as a direct purpose:
  - 6.811 The recognition or promotion of academic achievement, athletic achievement, scholarship, and/or service to the Component or State.
  - 6.812 The promotion of the communication of intellectual ideas among students, faculty and staff, administrators, and/or representatives of the public.
  - 6.813 The support of student events and activities which are sponsored by the Component.
  - 6.814 The recruitment of highly qualified students, faculty, and staff.
  - 6.815 The promotion of the exchange of ideas with community leaders regarding the Component role in the community.
  - 6.816 The assistance of the Regents, accrediting agencies, officials from other Components, and/or public officials in inspecting and/or reviewing facilities and programs.
  - 6.817 The support of the Component's program of continuing education.
- 6.82 Specific Limitations. Specific guidelines and limitations on the expenditures for food, refreshments, and achievement awards from certain types of auxiliary funds are as follows:
  - 6.821 Funds expended for continuing education conferences, seminars, and short courses must have been included in the continuing education registration fees assessed.
  - 6.822 Funds expended which were received from Component concessions, student services fees, student organizations, and other auxiliary funds must have been previously budgeted.

- 6.823 Other locally generated income and auxiliary funds (not restricted to administrative, education and general, research, plant expansion, loan, endowment, or scholarship programs) may be used to the extent that they have previously been budgeted.
- 6.824 No funds under the control of intercollegiate athletics may be used to purchase alcoholic beverages.
- 6.9 Facsimile Documents. Facsimiles (fax copies) of various authorizations, requests, invoices, and so forth are acceptable as documentation for financial transactions. Original documentation must be retained by the originating party and remain available for inspection/audit.
- 6.(10) Acceptance of Small Gifts. The Board welcomes contributions, both large and small, in aid of the various missions of the Component (see *Chapter III, Subsection 1.(12)*).
- 6.(11) Establishment of Permanent Endowments. The Board encourages creation of permanent endowments at System Components and authorizes each President to set the monetary levels required to establish such endowments.
- 6.(12) Travel Guidelines.
- 6.(12)1 In-State Travel. The Component Presidents, or their respective designees, are authorized to approve the in-state travel for personnel within their Components.
- 6.(12)2 Out-of-State Travel. The Component Presidents, or their respective designees, are authorized to approve out-of-state travel for personnel within their Components, provided the travel request is sought and approved by the President or the President's designee in advance of the travel.
- 6.(12)3 Out-of-Country Travel and Reimbursements. All out-of-country official Component travel and reimbursements (excluding trips to Mexico, Canada, and U.S. territories) require advance approval by the Component President, or his or her designee, and shall be reported annually to the Chancellor and Board. Component Presidents' out-of-country-travel and reimbursements require pre-approval by the Chancellor; and the Chancellor's out-of-country travel and reimbursements require pre-approval by the Board chair. Travel by and reimbursements for regents and system office employees require advance approval by the Chancellor or his or her designee. Before being authorized to embark on such travel, the regent, employee or student must sign a liability waiver and release of claims in favor of the Component, the Board of Regents and their employees.
- 6.(12)4 Official Business. The allocation of funds for individuals to attend out-of-state meetings shall be restricted to expenditures

for official business, and the available funds shall be allocated so as to encourage maximum participation by the faculty and staff.

- 6.(12)5 Exceptions. Any exceptions to the above guidelines shall require prior approval of the Board of Regents.
- 6.(13) Disposal of Property and Equipment. Each Component President may dispose of property or equipment considered surplus because it is obsolete or useless for the Component's needs or purposes. Prior to external disposal in accordance with System and Component regulations, such items may be made available to other system Components.
  - 6.(13)1 In accordance with *Texas Government Code, Section 2175.304(c)*, in disposing of such property, preference shall be given to transferring the property directly to a public school or school district or to an assistance organization designated by the school district before disposing of the property in another manner. If more than one public school or school district or assistance organization seeks to acquire the same property on substantially the same terms, the Component shall give preference to a public school that is considered low-performing by the commissioner of education or to a school district that has a taxable wealth per student that entitles the district to an allotment of state funds under *Education Code, Chapter 42, Subchapter F*, or to the assistance organization designated by such a school district.
  - 6.(13)2 Materials or equipment that can be used for instructional purposes may be transferred directly to a public school or school district, or an assistance organization designated by the school district, at a price or for other consideration to which the Component and the public school or school district or the assistance organization agree or for no consideration as the Component determines appropriate. Surplus instructional property and equipment must first be advertised through the Texas Higher Education Coordinating Board prior to disposition.
  - 6.(13)3 If the Component is unable to dispose of the property as required by *Paragraph 6.(13)1*, the President shall have the authority to dispose of property or equipment with a book value of less than the capitalization value determined by the Comptroller's Office by means of sale on the basis of arm's length negotiation or competitive bid, or by transfer to another state agency or governmental sub-division at a mutually agreed value, or by donation (subject to written approval of the President) to an assistance organization certified by the Texas Facilities Commission.
  - 6.(13)4 Sales of property or equipment with a book value equal to or more than the Comptroller's capitalization amount shall be made on a basis of competitive bids.

- 6.(13)5 Sales of property or equipment less than five years old and with a book value of \$10,000 or more shall be approved in advance by the Chairman of the Finance and Audit Committee.
- 6.(13)6 Surplus computer equipment must be offered to the Texas Department of Corrections prior to disposition under *sub-Sections 3, 4, or 5* above.
- 6.(13)7 Exchange and Disposal of Surplus Library Materials. To facilitate sharing of information resources and reduction of costs, Component libraries may exchange surplus library materials by:
- (1) Offering such materials to local public school or other governmental libraries with preference given to low performing schools per Texas *Government Code, §2175.304*; and/or,
  - (2) Bartering with or exchanging materials with other system libraries; and/or,
  - (3) Making such materials available for exchange through TexShare or appropriate national library materials exchange lists, provided no other system library desires the materials; and/or,
  - (4) After thirty (30) days on TexShare or appropriate national library materials exchange lists, notifying “out-of-print” book dealers and negotiating sale or exchange of materials.
- 6.(14) Premiums from Vendors. Any monetary rebate or rebate in the form of a product or products extended by a vendor by virtue of the Component, its departments, employees, or students having directly or indirectly made purchases from the vendor or committing to make future purchases from the vendor is, if not accounted for as a reduction of expense, a gift to the Component and must be acknowledged as such by the Component's development office. Such monetary gifts shall be placed into a general Component development/enrichment fund to be used in the same manner as other gifts to the Component. Arrangements for the acceptance of product rebates or other forms of consideration must be approved by the appropriate Component Vice President or the President. Excluded from these procedures are the traditional complimentary books or materials used to evaluate textbook adoption decisions, and calendars, pens, coffee cups or other materials bearing the name or logo of the vendor which are intended as advertising.
- 6.(15) Indirect Cost Recovery. All grant proceeds shall be used to support and encourage research and grants (sponsored programs). Eligible uses include:
- (a) conducting pre-grant feasibility studies;

- (b) preparing competitive proposals for sponsored programs;
  - (c) providing carry-over funding for research efforts to provide continuity between externally-funded projects;
  - (d) supporting new researchers, pending external funding;
  - (e) purchasing capital equipment directly related to expanding the research capability of the institution;
  - (f) research or sponsored program administrative costs; and
  - (g) engaging in research programs of critical interest to the general welfare of the citizens of the state of Texas.
- 6.(16) Tax Identification Numbers. Student and other organizations are prohibited from utilizing the Component's federal employer or other tax identification numbers. The only organizations that may utilize such number(s) are those that derive their existence and their funding solely from the Component. Examples include, but are not limited to, residence hall associations and student governments. To qualify for use of the tax number(s), the expenditures must be made from Component accounts and must have a business purpose related to the mission of the Component.
- 6.(17) Electronic Transactions. The Components of The Texas State University System are authorized to process business transactions through various electronic means. This includes, but is not limited to, direct deposit of wage and salary payments, in-coming and out-going wire transfers, ACH, credit/debit cards, and in-house processing. All electronic transactions must incorporate adequate security precautions and written approvals so as to protect the financial integrity of each Component. Signatory authority and documentation is to be consistent with that required for non-electronic transactions.
- 6.(18) Investment Policy. The Components of The Texas State University System may invest their funds in accordance with the Board approved Investment Policy, which is hereby incorporated into these *Rules and Regulations*.
- 6.(19) Wireless Communication Services and Equipment. Each component shall establish policies regulating employee availability, acquisition, and use of wireless communication services and equipment for official business. A component:
- (1) May not enter into any such agreement for the sole and personal benefit of any employee;
  - (2) May support an employee's wireless communications service costs for conducting official business by providing a monthly payroll allowance or reimbursing the employee's business-related costs.

- (3) Must discontinue support if: a) the employee discontinues his or her service plan; b) support exceeds the employee's costs for the plan; or, c) the employee's job duties no longer require wireless communication services; and,
  - (4) Shall inform each affected employee that he or she is solely responsible for any personal federal tax liability incurred as a result of his or her receipt of this benefit.
- 6.(20) Identity Theft Prevention Program ("Red Flags Rule"). Considering the size and complexity of its operations and accounting systems, as well as the nature and scope of its activities, each president shall assure that his or her Component develops an Identity Theft Prevention Program ("Program") that includes reasonable policies and procedures to detect, identify, mitigate, and prevent identity theft.
- 6.(20)1 Program Administrator. Each Component shall name a Program Administrator to be the primary administrator empowered to manage and execute all aspects of the Program, including the engagement of other institutional departments and personnel as necessary to detect, identify, mitigate, and prevent identity theft.
- 6.(20)2 Scope of Regulation. Each Component program shall minimally address the following areas, to the extent applicable to Component operations:
- (1) Issuance of student identification cards that are part of a national debt card (such as Visa or MasterCard);
  - (2) Use of consumer reports or background checks;
  - (3) Handling of consumer accounts that involve multiple payments, including but not necessarily limited to the following:
    - (a) The federal Perkins Loan Program;
    - (b) The federal Family Education Loan Program;
    - (c) Institutional loan programs for students, faculty, or staff;  
or,
    - (d) Institutional tuition (or fee) installment payment plans (Education Code, section 54.007).

## 7. THE AUDIT FUNCTION.

- 7.1 Internal Audits. The Texas State University System (System) internal audit function, rules and policies shall comply with the *International Professional Practices Framework (Internal Auditing Standards)*, as promulgated by The Institute of Internal Auditors and with the *Texas Government Code, Chapter 2102*, the *Texas Internal Audit Act*. The *Rules and Regulations*, as related to the audit function, shall serve as the Texas State University System Internal Audit Charter and the protocols under which the audit function shall operate. The System Director of Audits and Analysis shall develop and maintain internal policies and procedures to comply with the audit function rules.
- 7.11 Definition of Internal Auditing. Internal auditing is an independent objective, assurance and consulting activity designed to add value to an organization; improve its operations; and otherwise assist accomplishment of its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of control, governance, and risk management processes.
- 7.12 Independence and Objectivity of Auditors. Because of the critical nature of the internal audit function to the fiscal, administrative, and operational integrity of the System and its components, the Director of Audits and Analysis and auditors under her or his direct or indirect supervision shall maintain their independence and objectivity of judgment. System and component auditors shall be ineligible to hold any other appointment or title, whether paid or unpaid, with the System or any of its components.
- 7.13 Code of Ethics. In addition to complying with the System Standards of Conduct (see *Chapter VIII*), System and component auditors are also expected to comply with the Code of Ethics outlined in the *International Professional Practices Framework*.
- 7.2 Board, Management and Internal Audit Responsibilities. The Board of Regents is primarily responsible for providing governance, guidance, and oversight of management within the System. Management is responsible for establishing and maintaining adequate internal controls to ensure achievement of System goals and objectives. The internal audit function is designed to provide positive support to the Board, System and Component administrations in the effective discharge of their respective responsibilities.
- 7.3 Reporting Structure. The System Director of Audits and Analysis shall have sole responsibility for all System and Component audit functions and personnel, including, but not limited to, hiring and termination of audit staff, setting of salaries, and otherwise establishing terms and conditions of employment, and establishing the annual budgets and staffing levels for each Component internal audit function. The System Director will timely advise the Chancellor regarding desired audit budget initiatives.



- 7.4 Audit Space. The Chair of the Finance and Audit Committee and the Director of Audits and Analysis will examine annually whether the provision of on-campus office spaces for the audit function creates a perceived conflict of interest or otherwise poses an impediment to the auditors' independence.
- 7.5 Access. The Director and his or her System or Component-housed auditors shall have full, free, and unrestricted access to all activities, records, property, infrastructure, and personnel of System and Component administrations. Any review, whether planned or unplanned, announced or unannounced, may involve the gathering of evidence and testimony from individuals within or outside the System.
- 7.6 Handling of Information Gathered.
- 7.61 Documents. Documents and information obtained during any audit review shall be safeguarded and otherwise handled in a professionally responsible and confidential manner in accordance with Texas Law.
- 7.62 Criminal or Serious Policy Violations. Information obtained during any audit review that may involve criminal or serious policy violations shall be communicated to the Board of Regents, the Chancellor, the component President, and, where appropriate or otherwise required by law, to component and/or outside law enforcement or other oversight agencies.
- 7.7 Nature and Scope of Work. The internal audit activity will evaluate and contribute to the improvement of governance, risk management, and control processes, utilizing a systematic and disciplined approach.
- 7.71 Assurance Services (Audits). Assurance services involve the objective assessment of evidence to provide an independent opinion or conclusion regarding an entity, operation, function, process, system, or other subject matter. The nature and scope of the assurance engagement are determined by the internal auditor. Examples include, but are not limited to:
- (1) Determining the adequacy, efficiency, and effectiveness of System and Component governance, control and risk management processes;
  - (2) Reviewing the reliability and integrity of financial and operating information;
  - (3) Reviewing the effectiveness of processes established to ensure compliance with policies, procedures, and applicable laws and regulations;
  - (4) Evaluating processes related to information systems and data security; the development and deployment of

information systems; and the creation/modification of support infrastructures;

- (5) Reviewing controls designed to safeguard System and Component assets;
- (6) Evaluating economy and efficiency of resource utilization;
- (7) Assessing achievement of results and outcomes as defined by established objectives, goals, and performance measures; and
- (8) Performing follow-up work to ascertain and report on whether management has taken appropriate remedial action on internal and external audit findings or recommendations.

7.72 Consulting Services. Consulting services are advisory in nature and are generally performed at the specific request of management. Examples include but are not limited to:

- (1) Reviewing client-prepared responses to external audit reports;
- (2) Training on fraud prevention, internal controls, and risk assessment processes;
- (3) Analyzing client or third-party prepared data; and
- (4) Scribing client-facilitated risk assessment exercises.

7.73 Fraud Reviews and Internal Investigations of Suspected Defalcation, Misappropriation, and Other Fiscal Irregularities. The Board of Regents has established an Anti-Fraud Policy in *Chapter VIII, Paragraph 1* of these *Rules and Regulations*. The System Director of Audits and Analysis is charged with responsibility for coordinating review and investigative activities as necessary with component Internal Audit Directors, component police departments, the Office of Vice Chancellor and General Counsel, human resources office(s), and appropriate external law enforcement and other oversight agencies. The System Director of Audits and Analysis will make every reasonable and lawful effort to protect the rights and the reputations of those involved in an internal audit review involving allegations of fraud, including the employee/complainant who reports alleged fraud; the individual(s) interviewed during the resultant review; and the individual(s)/entity(ies) against whom the allegations were made.

Fraud review results are not routinely disclosed or discussed with anyone other than those who have a legitimate need to know. In the event that a review substantiates fraudulent activities, the

System Director of Audits and Analysis or his/her designee will prepare and distribute a report in accordance with *Paragraph 7.93* of this *Chapter*. The System Director of Audits and Analysis will communicate substantiated fraud committed by System employees to the State Auditor's Office in accordance with Texas *Government Code §321.022*.

- 7.74 Emergency Appropriations. In the event a component receives emergency appropriations from the state, the receipt, disbursement, and reporting of such appropriations will be subject to review by the System Director and campus auditor.
  - 7.75 Systemwide Compliance Program. The Systemwide compliance program is conducted under the auspices of the audit function and is designed to promote and encourage, through objective assessments and other activities, behavior and compliance with applicable policies, laws, and rules governing higher education.
- 7.8 Audit Risk Assessment and Audit Plan Development.
- 7.81 Component Audit Risk Assessment and Plans. On an annual basis, each Component internal audit director shall perform a risk assessment to be used in developing a Component Audit Plan for the subsequent fiscal year. The risk assessment process shall include input from Component management and utilize other procedures as may be necessary and reasonable to ensure that risks unique to the Component are considered and evaluated in the planning process. Component Audit Plans shall be submitted to the System Director of Audits and Analysis for input and approval. Risk-based testing of contract administration shall be included in the annual audit plan. An assessment as to whether the institution has adopted the rules and policies required by *section 51.9337* of the Texas *Education Code* shall be performed annually.
  - 7.82 System Office Audit Risk Assessment and Plan. The Director shall solicit input from the Finance and Audit Committee, the Chancellor, and vice chancellors regarding the risk assessment to be used in developing an Audit Plan for the System administration. Risk-based testing of contract administration shall be included in the annual audit plan. An assessment as to whether the institution has adopted the rules and policies required by *section 51.9337* of the Texas *Education Code* shall be performed annually.
  - 7.83 Consolidation of Audit Plans. The System Office and Component Audit Plans shall be consolidated into a Systemwide Audit Plan, which will be presented by the Director of Audits and Analysis to the Finance and Audit Committee for approval at the meeting to be held prior to the fourth quarter Board of Regents meeting. The Finance and Audit Committee shall include

discussion of the status of current and subsequent year Audit Plans and submit its recommendations for approval to the full Board.

7.84 Deviations from Audit Plans. Circumstances may require deviations from an Audit Plan. Component-level deviations may be recommended to the Director by the Component internal auditor or initiated by the Director. The Director shall promptly notify the Finance and Audit Committee and the Chancellor of such deviations, which may be approved, in writing, by the Chair of the Committee. Investigations resulting from *EthicsPoint* or other fraud reporting mechanisms are not considered deviations from the Audit Plan.

## 7.9 Audit Reports.

7.91 Content. Each internal audit report shall contain, at a minimum.

- (1) A brief description of the scope and objectives of the audit;
- (2) A brief summary highlighting the audit's significant findings and/or recommendations;
- (3) A summary of management responses and the total financial impact, if any, of recommendations (this summary shall be provided to the Finance and Audit Committee at each regular Board meeting); and
- (4) A detailed discussion of the audit's findings and recommendations including management's written response;

## 7.92 Management Response.

7.921 Time for Response. Management must respond to each audit within two weeks of the issuance of the report draft. Upon a showing of extenuating circumstances by management and the Component-housed auditor's recommendation, the Director may extend the time for response.

7.922 Content of Response. Management responses to each audit shall include:

- (1) A statement of agreement or disagreement with each recommendation.
- (2) In cases where management agrees to implement a recommendation, the response shall include a summary of planned actions, a timetable for implementation, and the names and titles of the

individuals responsible for ensuring implementation of the recommendation.

- (3) In cases where management does not agree to implement a recommendation, the response shall include justification for disagreement. In such cases, the Director may include follow-up comments, addressing the adequacy of the justification provided.
- (4) The President of a Component, who has an audit involving circumstances described in *Paragraph 7.93*, of this *Chapter* shall include in his or her quarterly Board report the status of the recommendations/findings until they have been verified and resolved by the Component auditor to the Director's satisfaction.

7.93 Distribution. The Director shall review, approve, and timely distribute draft audit reports (internal and external) to System or Component administrations, Finance and Audit Committee members, the Board of Regents and outside parties, including the Governor's Office, the Legislative Budget Board, the Sunset Commission, and the State Auditor's Office. The Director shall forward the draft reports, in their entirety to the Board of Regents in instances involving:

- (1) Fraud or theft;
- (2) A financial impact of more than \$20,000 savings or cost;
- (3) Significant instances of non-compliance with Component and/or System rules, policies or procedures, internal controls, state or federal regulations or laws;
- (4) Situations in which a Component auditor has experienced undue management pressure or delay; or,
- (5) Other circumstances (or amounts), which, in the Director's discretion, are material and substantial.

7.94 Delegation. The Director may delegate to Component auditors the task of distributing draft audit reports (internal and external) at their respective Components, as well as a mechanism to inform applicable Component parties of subsequent distribution to the Chancellor, Board members, and mandated external entities. All draft internal audit reports will be submitted to the System Director of Audits and Analysis for review and approval.

7.(10) Communications.

7.(10)1 Periodic Status Reports. The Component auditors shall forward a summary of audit reports and the status of their respective Audit

Plans in a format and time prescribed by the Director for inclusion in the quarterly Board agenda materials.

7.(10)2 Follow-Up Audit Work. The Director shall prescribe a follow-up audit tracking system for use by the Component auditors to ensure timely follow-up on all audit recommendations.

7.(10)3 By Component President. To keep the Component auditors more informed as to proposed operational changes at each Component, the President shall share, with the Component-housed auditor, distribution lists of committee meetings and meeting agendas for upcoming selected committee meetings. Upon written request of the Director and/or the Component auditor, the President shall provide access to and copies of specific committee minutes and agendas.

7.(10)4 External Audit Communications. The System Director of Audits and Analysis shall act as the System and Component general liaison with the State Auditor's Office. Each Component auditor shall function as the on-site liaison between that Component and the State Auditor's Office or other external auditors. The auditor shall notify the Director of any external audit work, planned entrance and exit conferences, and significant audit issues promptly and timely upon notification by the State Auditor's Office or external auditors.

## 8. ELECTRONIC FINANCIAL TRANSACTIONS.

System Component financial obligations involving, but not necessarily limited to, procurement of goods and services; payroll payments and reimbursements to employees and others; processing of student loans, grants, work study and other payments; and other financial transactions requiring the outflow of funds, whether general revenue or institutional, shall be by electronic transfer to: a) the recipient's bank (or other financial institution) account; or, b) a reloadable debit card. Any person may elect in writing to receive payment by warrant or check rather than electronically.

## 9. NAMING INITIATIVES: FACILITIES, STATUES AND MONUMENTS, ACADEMIC PROGRAMS, AND BUILDING PLAQUES.

9.1 Naming of Component Facilities and Erecting of Statues or Monuments. The Board of Regents retains exclusive authority for the permanent naming of buildings and other geographic areas on Component or System-owned or controlled property ("Facilities") or for the erecting of statues or monuments, in accordance with the following guidelines:

- (1) Naming of facilities or erecting of statues or monuments shall be by unanimous consent of the Board members attending at a regular or special called meeting.

- (2) Facilities shall be named or statues or monuments erected only for persons who have made outstanding or meritorious contributions to the Component or the System or who have attained the highest distinction in their respective fields of endeavor.
  - (3) Facilities may be named or statues or monuments erected for entities that have supported the Component or the System in an exceptional or noteworthy way.
  - (4) When the naming of facilities or the erecting of statues or monuments is contemplated as part of a special private-fund development effort or campaign, the prospective contributor shall be informed that any naming is subject to Chancellor and Board approval. Any brochures or other communications, in whatever form, that advertise naming opportunities shall clearly state that all such namings are subject to Board approval.
  - (5) Naming facilities or erecting statues or monuments in honor of Component or System administrative officials, faculty, staff, or elected or appointed public officials shall normally occur only after the employment or public service has concluded.
  - (6) Nothing in this Rule shall be construed to require Board approval of informal or functional names or designations of Facilities that do not contain the name of a person or entity.
- 9.2 Naming of Academic Programs. The Board of Regents retains exclusive authority for naming academic programs at the Components. Such honorees shall normally have attained national or statewide stature in their fields of endeavor or otherwise significantly contributed to the development of a Component.
- 9.3 Building Plaques. Building plaques shall be provided on all new buildings, major landscaping projects, and major renovations where the function of the building changes or the building is substantially renovated. Existing building plaques shall remain in the case of renovation projects.

The Building Plaque text shall contain the name of the building on the date of its dedication; the Component name; and the names of the Governor, the Regents, Chancellor, and Component president serving at the time of Board approval of the project; the year in which the project was approved by the Board; the Architect or Engineer; and the General Contractor or Construction Manager. The plaque is subject to approval by the Planning and Construction Committee Chairman in a format and design that complies with standards and guidelines approved and published by the Chancellor from time to time.

10. CONTRACTS, PURCHASES, AND AGREEMENTS.

10.1 Pecuniary Interest. No member of the Board of Regents shall enter into the discussion, make motions, or vote on a contract, purchase, or agreement of any character in which the member directly or indirectly has pecuniary interest. The provisions of *Government Code, Chapter 572* shall be observed.

10.2 Authority.

10.21 All contracts, purchases, and agreements in the amount of \$1 million or more as defined in *Chapter III, Subsections 1.11 and 1.12*, shall be submitted to the Board of Regents for approval (Contracts, purchases, and agreements between \$500,000 and \$1 million require approval by the Chancellor). All such contracts and agreements shall be submitted to the Chancellor for review by the Vice Chancellor and General Counsel prior to submission to the Board. The Vice Chancellor and General Counsel shall advise the Board of any contract or agreement that may have adverse legal ramifications.

The President of each Component shall be delegated the authority to approve increases to the approved contracts, purchases, and agreements in an amount not to exceed ten (10) percent of the original approved amount or \$50,000, whichever is less.

10.22 The President of each Component shall be delegated the responsibility and authority to enter into contracts, purchases, and agreements for sums less than \$500,000 whether said amount is income or expenditure, including but not limited to, interlocal contracts with Texas local government entities, and interagency cooperation agreements between a Component and another state agency, and to enter into all grants and agreements funded by private individuals, governmental agencies, and foundations without regard to the amount, unless otherwise limited by the Board. At the request of the Component President, the Vice Chancellor and General Counsel will provide advice and assistance with regard to such contracts, purchases, grants, and agreements. Upon a specific request by a member of the Board, the Chancellor, or the Vice Chancellor and General Counsel, the Component President shall submit designated contracts and agreements to the Chancellor for review by the Vice Chancellor and General Counsel.

10.23 The President may delegate power to contract, purchase, or enter into agreements of less than \$500,000, including but not limited to, interlocal contracts with Texas local government entities, and interagency cooperation agreements between a Component and another state agency, to other employees of the Component. Such delegation must be specific and in writing to be effective. The President will remain responsible for all contracts, purchases, and agreements for sums under \$500,000, and for the proper administration of all grants and agreements funded by private



individuals, governmental agencies, and foundations, regardless of delegation of power to contract, purchase, or enter into agreements.

- 10.24 The President shall not enter into any faculty or personnel contracts or agreements which are not subject to approval of the Board unless the authority for such action has been previously delegated to the President by the Board.
- 10.3 Contract Vendor Employee Background Check Policies. System Components shall engage in due diligence in awarding contracts to vendors of services, who will maintain permanent staffing on the campus.
- 10.31 Due Diligence on Vendors. Before awarding a contract to a vendor of services, who will permanently place employees on the campus where such employees will be working with or around students, the Component shall:
- (1) During the bidding or negotiation process, notify prospective vendors, in writing, of the requirements of this paragraph;
  - (2) Secure credit and criminal background checks on the vendor's officers and managers dealing with or on the campus; and,
  - (3) Research prior or pending claims against the vendor (e.g., negligent hiring claims).
- 10.32 Content of Contracts. All contracts in which the vendor permanently places employees on the campus, working with or around students, shall include the following provisions and requirements:
- (1) A general liability policy, providing primary coverage and naming the Component, System, Regents, and their employees as additional insureds;
  - (2) Indemnity and/or hold harmless clauses, protecting the Component, the System, Regents, and their employees from third party claims, caused, in whole or in part, by the actions or omissions of vendor, its employees, or other persons that the vendor causes to be on the campus;
  - (3) A representation by the vendor that it has conducted the following background checks on its officers, employees, or other persons it causes to be on the campus:
    - (a) Sex offender and criminal history databases where the above individuals will be placed permanently on the campus, working with or around students;

- (b) Criminal history and credit history background checks where the above individuals will be handling money, informational technology, or other security-sensitive areas as determined by the president;
- (4) That the president may require the vendor to remove any person from the campus that, in his or her judgment, poses a danger to health or safety;
- (5) An “independent contractor” clause.

10.4 Form and Procedure. All contracts, purchases, and agreements covered by *Subsection 10.21* of this *Chapter* of these *Rules and Regulations* shall be entered into in the official name of the Board after each instrument is considered and approved in open meeting. Each instrument shall identify the Component on whose behalf it is made and shall be recorded in the minutes of the meeting at which it is approved. The original copy of an executed instrument shall be filed by the Chancellor in the System Administration as a permanent record of the Board. Executed copies of the instrument shall be delivered to the party with whom it is made and to the President of the Component. Additional copies of any contract or agreements may be executed and delivered as the Board may determine.

Endorsement Format. All contracts approved by the Board of Regents shall be endorsed by the contractor, firm, or agency, by and through its authorized representatives. On behalf of the System, the contracts shall have signature blocks, indicating “Examined and Recommended” by the president, as applicable, the Chancellor, and the Board committee through which the contract passed, if applicable. A signature line shall be provided for the Vice Chancellor and General Counsel, indicating “Approved as to legal form.” Upon approval by the Board, the Chairman’s signature shall indicate “APPROVED by the Board of Regents of the Texas State University System on [date] at [place].” The Chairman’s name shall appear along with his or her title.

The following is the endorsement form to be used:

**[Contractor]**

\_\_\_\_\_  
Name, Title, Authority

\_\_\_\_\_  
Date

**TEXAS STATE UNIVERSITY SYSTEM**

Examined and Recommended:

\_\_\_\_\_  
President

\_\_\_\_\_  
Date

\_\_\_\_\_  
Chancellor \_\_\_\_\_

\_\_\_\_\_  
Date

[If applicable:

\_\_\_\_\_  
The Honorable \_\_\_\_\_  
Chair, \_\_\_\_\_ Committee]

\_\_\_\_\_  
Date

Approved as to legal form:

\_\_\_\_\_  
Vice Chancellor and General Counsel

APPROVED by the Board of Regents on  [date of meeting]  at  [place of meeting] .

\_\_\_\_\_  
The Honorable \_\_\_\_\_  
Chairman of the Board

\_\_\_\_\_  
Date

#### 10.5 Contract Reporting

10.51 On a quarterly basis, each Component and System Office personnel shall report to the System Administrative Office Procurement Director the following information as to any Component or System contract, as the case may be, for goods or services that has a value exceeding \$1 million:

- (1) Compliance with financial provisions and delivery schedules under the contract;
- (2) Corrective action plans required under the contract and the status of any active corrective action plan; and
- (3) Any liquidated damages assessed or collected under the contract.

10.52 The Component or System Administrative Office, as the case may be, shall verify (1) the accuracy of any information reported under *Subparagraph 10.51* that is based on information provided by a contractor, and (2) the delivery time of goods and services scheduled for delivery under the contract.

## 11. COPYRIGHT POLICY.

### 11.1 Policy Statement and Purpose.

Copyright is the ownership and control of the intellectual property in original works of authorship. The purpose of The Texas State University System copyright policy is to outline the respective rights which a Component and members of its faculty, staff, and student body have in copyrightable materials created by them while affiliated with the Component and, if necessary, how those ownership rights shall be determined.

Copyright ownership shall remain with the creator of the work except as otherwise provided by *Section 11.2* of this policy.

Nothing in this policy precludes copyright owners/creators from entering into written agreements between or among themselves governing ownership, use, licensing, or sharing of revenues related to works owned by a component, faculty, staff, or students. Provisions of this policy shall be considered the default provisions with respect to disputes over ownership where no separate written agreements are in place.

### 11.2 Ownership of Copyright.

11.21 Component faculty, staff, and students own the copyright of works they create on their own initiative and own time without the use of substantial Component resources.

11.22 Consistent with academic tradition, the Component shall grant to their faculty and staff the copyright of works they create within the scope of their employment which are created in the fulfillment of their teaching and scholarly responsibilities. The Component shall retain a non-exclusive, nontransferable, perpetual, and royalty-free license to make educational uses of such works.

11.23 Students own the copyright in works created in their role as a student, including research papers, essays, theses, dissertations, published articles, and visual works of art and/or audio/visual/digital recordings of artistic performances. Works created at the direction of or under contract with Component faculty or staff as part of a student's employment with the Component are considered works for hire.

11.24 Where two or more individuals create a work and their contributions are inseparable, interdependent, and intended as a single work, the work shall be deemed a joint work. Copyright of the work shall be jointly owned by the creators. Each creator may individually register, enforce, or commercially exploit the copyright with or without approval by all joint owners, provided the other joint owners receive an equal share of any proceeds, unless otherwise agreed in writing.

- 11.25 If a work is directed or contracted by the Component on a work for hire basis, then the Component owns the copyright.
- 11.26 Copyright ownership in works that are created pursuant to sponsored or third-party research funding, including works funded by grants, shall be determined in accordance with the terms of any agreement governing such funding. If any such agreement is silent as to ownership, then the Component shall own the copyright of such works
- 11.3 Distribution of Copyright Royalties.
- 11.31 Royalty income received by a Component through the sale, licensing, leasing, or use of copyrightable material in which a Component has a property interest may be shared with the creator(s) and the Component where the material originated. When such sharing occurs, any distribution which grants the creator more than fifty percent (50%) of royalties shall require approval of the Board of Regents. In the event of multiple creators, the proper distribution of the fifty percent (50%) creators' share shall be determined by the creators through a written agreement
- 11.32 In the event that a creator contributes a personal work to a Component, a written agreement accepting such contribution shall be executed. The terms of the agreement shall include a statement governing the division of royalties between the Component and the creator.
- 11.33 In cases of extramural funding, the terms of the funding agreement shall govern the division of any royalties that may result from commercialization of materials resulting therefrom. In the event that the funding agreement vests royalty rights in a Component, and does not provide any royalty share for the creator, the creator shall be entitled to the same proportionate share he or she would have received if the work had not been extramurally funded. Such a royalty payment to the creator, however, may not violate the terms of the funding agreement. Such share shall be a proportion of whatever share is owned by the Component under the terms of the funding agreement and this policy.
- 11.4 Revision of Materials. Materials owned by a Component under the terms of this policy shall not be altered or revised without providing the creator a reasonable opportunity to assume the responsibility for the revision. If the creator declines the opportunity to revise such material, the assignment of responsibility for the revision will be made by the President.
- 11.5 Withdrawal of Materials. Materials owned by a Component shall be withdrawn from use when the Component in consultation with the creator deems such use to be obsolete or inappropriate. No withdrawal

or other discontinuance shall take place that would violate the terms of any licensing or other agreement relating to the materials.

- 11.6 Noncompetitive Use. Copyright of courseware developed without specific direction or significant support of the Component shall remain with the employee. No royalty, rent, or other consideration shall be paid to the employee or former employee when that courseware or a modification thereof is used for instruction by the Component. The employee or former employee shall take no action that limits the Component's right to use the instructional materials and shall provide written notice on the courseware itself indicating the Component's right of use. See *Chapter V, Paragraph 4.76* of these *Rules* for the policy on noncompetitive use of employee-owned courseware.

11.7 Use of Copyrighted Software.

The Texas State University System and its Components are committed to: (1) providing faculty, staff and students with the computer hardware and software necessary to perform their respective job tasks and instructional assignments; (2) protecting its computer environment from viruses; and, (3) maintaining compliance with the U.S. copyright laws and software license agreements and discouraging copyright infringement. This policy applies to all Component computer users, including faculty, staff, and students. Employees and students, who illegally duplicate software and/or its documentation or otherwise fail to comply with Component third party software license agreements, will be subject to disciplinary action up to and including termination of employment or expulsion from school.

- 11.71 The use of Component-owned or leased hardware or software is limited to Component business or instruction-related activities. Software that has not been purchased or licensed by the Component or for which the individual user cannot demonstrate or certify purchase or license for business or instructional use may not be loaded onto Component-owned or leased computers.

- 11.72 Copyright Compliance. Users of licensed software must read and comply with the license agreement. When a Component has contracted for a site or enterprise license, copying of the software media up to the number of licenses may be allowed, depending on the license agreement. The software user generally may:

- (1) Make only one backup copy of the software for archival purposes. If the underlying license is discontinued, this copy must be destroyed.
- (2) Make a copy if it is required as an essential step (and NOT AS A MERE CONVENIENCE) in installing the software on the computing equipment.

- 11.73 Federal law requires compliance with the following restrictions when using software acquired by the Component:

- (1) A user shall not install software on more than one computer, unless written evidence exists that the Component has purchased the software and the license gives the purchaser the right to install it. Should a user find such software, the user should immediately uninstall the software, remove the files from the computer, and destroy any media copies.
- (2) Manuals, and other copyrighted materials, shall not be copied without specific, written permission of the publisher.
- (3) Upgrading a software package does not release the software user from the terms of the original agreement, unless the software developer changes the license agreement. The old version of the software may not continue to be used on a different computer or be distributed for use to others.
- (4) When concurrent use is allowed by the license agreement, the number of concurrent users of a local area network (LAN) version of purchased software may not exceed the number of licensed users.

11.74 License Agreements. Each manufacturer includes a license agreement package with its software that details any restrictions on its use. Component users must comply with the vendor's license provisions regarding the use of the software, even though the individual user has not personally signed the license agreement. License agreements differ among the various software vendors and some may grant additional rights, such as allowing use on a portable or home computer. The Component shall hold the user responsible for reading, understanding and complying with provisions of the license agreement for each software package.

11.75 Component Responsibility. Each Component shall publish software copyright policies and operating procedures that articulate specific steps implementing this *Subparagraph 11.7* and covering, at a minimum, the following topics:

- (1) Guidelines for use of Component computer hardware and software;
- (2) Computer and Software Use—User Education;
- (3) Software Selection, Budgeting & Acquisition;
- (4) Software Inventory, Audit & Copyright Compliance.

## 12. PATENT POLICY.

- 12.1 Purpose. The Components within The Texas State University System are dedicated to instruction, research, and public service. It is the policy of the Board of Regents of the System that each Component carry out its scholarly work in an open and free atmosphere and publish results obtained therefrom freely. The Board recognizes that patentable inventions and discoveries may arise on occasion in the course of scholarly work conducted by the employees and students of its Component. It is the purpose of this policy to insure that such inventions and discoveries are used and controlled in a fashion that maximizes their benefit to the public, the inventor, and the System.
- 12.2 Applicability. This policy shall apply to all persons employed by a Component of The Texas State University System and to anyone using facilities owned or under the supervision of a Component in connection with the development of a patentable product.
- 12.3 Condition of Employment and Enrollment. The patent policy of the Board of Regents, as amended from time to time, shall be deemed to be a part of the conditions of employment of every employee of each Component, including student employees, and of the conditions of enrollment and attendance by every student at each Component.
- 12.4 Ownership. Except as otherwise described in this policy, every invention or discovery or part thereof that results from research or other activities carried out at a Component, or that is developed with the aid of the Component's facilities, staff, or through funds administered by the Component, shall be the property of the Component.
- 12.5 Inventions Made on Own Time. Inventions or discoveries made by Component employees or students in their personal time and not involving the use of Component facilities are the property of the inventor except in case of conflict with any other applicable agreement.
- 12.51 For purposes of this policy, an individual's "personal time" shall mean time other than that devoted to normal or assigned functions in teaching, extension, Component service, or direction or conduct of research on Component premises or utilizing "Component facilities".
- 12.52 The term "Component facilities" shall mean any facility, including equipment and material, available to the inventor as a direct result of the inventor's affiliation with the Component, and which would not be available to a non-Component individual on the same basis.
- 12.53 Persons who claim that inventions or discoveries are made on personal time and without the use of Component facilities have the responsibility to disclose all such inventions to the Component in accordance with the disclosure procedures applicable to inventions made on Component time or with the use of Component facilities. It shall be the responsibility of the



inventor to demonstrate the basis of the inventor's claim that only personal time and no Component facilities were utilized.

- 12.54 If the inventor so desires, inventions or discoveries made on personal time and without the use of Component facilities may be assigned to the Component. Under this arrangement, the procedures will be the same as for inventions or discoveries made by Component personnel on Component time or with the use of Component facilities and materials.
- 12.6 Patents Arising From Government Sponsored Research. Patents on inventions or discoveries arising from research financed by federal, state, or local government may be controlled by the terms of the grants and contracts specified by the government agency sponsoring the research, or by applicable law. In some cases, the sponsoring government agency may claim rights to patents resulting from the sponsored research.
- 12.61 Except as provided by law or by government-supported grants or contracts, or when no patent rights are claimed by the government agency, or when such rights are waived by the government, patents arising from government sponsored research are controlled by this Patent Policy.
- 12.62 When a patent arising out of research supported under government grants or contracts is owned by a Component that Component will, if requested, agree to a non-exclusive royalty-free license for use of such patent by the sponsoring government agency.
- 12.63 If such a patent is owned by the sponsoring government agency, the Component shall be free to use the invention so covered for its own scientific and educational purposes without payment of royalty or other charge, consistent with applicable law.
- 12.7 Patents Arising From Research Sponsored by Non-Governmental Entities. Each Component must ensure that its facilities and the results of the work of its employees are applied in a manner which best serves the interests of the public. Likewise, the legitimate interests of a private sponsor who provides financial or other support to research carried out through the Component must be considered.
- 12.71 Components should normally reserve the right to ownership of patents on inventions or discoveries arising out of research supported in whole or in part by grants or contracts with non-governmental organizations or firms. Contracts or agreements which are entered into between a Component and such organizations or firms should contain clauses setting forth such a reservation unless deviations therefrom are requested by the sponsor and approved by the Component consistent with the public interest.
- 12.72 In the interest of fair treatment to the non-governmental sponsors of research, upon request special provisions may be negotiated

which grant ownership of patents arising out of research sponsored by a non-governmental organization or firm to the sponsor of such research. In such cases, the Component should: (1) retain the right to use the invention or discovery for its own research, educational, and service purposes without the payment of royalty fees, (2) require the sponsor to use due diligence in the commercial use of the invention, and (3) retain the right to freely publish the results of its research after a reasonable period necessary to protect the rights of the parties and to allow for the filing of a patent application.

- 12.8 Component Patent Committee. The President of each Component shall appoint a Component Patent Committee, consisting of no less than three members, one of whom shall be designated by the President to serve as chairman of the Committee. Such Committee shall perform the duties delineated in this policy and such other duties as may be assigned to it by the President.
- 12.9 Duty to Disclose Discoveries and Inventions. All individuals covered by this policy have a duty to disclose in writing their inventions and discoveries promptly to the pertinent Component Patent Committee.
  - 12.91 The duty to disclose arises as soon as the individual has reason to believe, based on his or her own knowledge or upon information supplied by others, that the invention or discovery may be patentable.
  - 12.92 Certainty about patentability is not required before a disclosure should be made.
  - 12.93 Individuals shall execute such declarations, assignments, or other documents as may be necessary in the course of invention evaluation, patent prosecution, or protection of patent rights, to insure that title in such inventions shall be held by the Component, where this policy indicates the Component shall hold title, or by such other parties as may be appropriate under the circumstances.
- 12.(10) Review By Patent Committee. The Component Patent Committee, after receiving disclosure of an invention, shall forward a recommendation to the Component President concerning such discovery. Such recommendation shall include: (1) the committee's opinion whether the Component has an ownership interest in the invention in question, or whether such invention was one developed on personal time and without use of Component facilities, and (2) whether and how the Component should assert and exploit its ownership interest in any invention or discovery.
- 12.(11) Waiver of Component Interests.
  - 12.(11)1 If the Component President, after reviewing the recommendation of the Component Patent Committee, concludes that an invention or discovery is one developed on

personal time and without the use of Component facilities, the President shall advise the inventor that the Component asserts no ownership interest in the invention or discovery.

- 12.(11)2 If the Component President, after reviewing the recommendation of the Component Patent Committee, concludes that a Component should not assert and exploit its interest in an invention developed on Component time or with the use of Component facilities, the inventor shall be notified that he is free to obtain and exploit a patent in his own right, and the Component shall not have any further rights, obligations or duties thereto except as it may specifically reserve.
- 12.(12) Patent Management. The President of each Component, or any person designated by him, is authorized to negotiate with reputable agencies or firms to secure for each Component arrangements for the management of inventions and discoveries in which the Component decides to assert and exploit its ownership interest.
  - 12.(12)1 Such management may include, but is not limited to, competent evaluation of invention and discovery disclosures, expeditious filing of applications for patents, and licensing and administration of patents.
  - 12.(12)2 A Component is authorized to administer its own patent management and licensing program without the use of a patent management agent, if it determines that such arrangement may better serve Component and public interests.
- 12.(13) Licenses. The President of each Component may grant licenses for the use of inventions and discoveries in which the Component has an ownership interest.
  - 12.(13)1 It is recognized under some circumstances the granting of an exclusive license may be appropriate because in the absence of such a condition some inventions or discoveries may not reach the market place for the public benefit.
  - 12.(13)2 Normally, an exclusive license may be granted for a period not to exceed five years, although the President may grant a longer period of exclusive license when he deems it advisable.
- 12.(14) Royalties.
  - 12.(14)1 In consideration of the disclosure and assignment of invention rights, the inventor, or the inventor's heirs, successors, and assigns, normally shall receive fifty percent (50%) of the net royalties or other net income arising from an invention or discovery, after a deduction for administrative and patent management costs. Administrative

and patent management costs include, but are not limited to, the costs associated with the patenting, licensing, and protection of patent rights. The remaining fifty percent (50%) of net royalties shall accrue to the Component responsible for the invention or discovery. Special facts concerning an invention or discovery may warrant a different distribution of royalties.

- 12.(14)2 Agreements with respect to royalties shall be in writing and signed by the inventor and the President of the Component.
- 12.(14)3 Any agreement which grants the inventor more than fifty percent (50%) of the net royalties shall require approval of the Board of Regents.
- 12.(15) Disposition of Income. In the disposition of any net income accruing to a Component from patents, first consideration will be given to the promotion of research.
- 12.(16) Avoidance of Conflicts.
  - 12.(16)1 Any employee covered by *Sections 12.(17)2, 12.(18)1, or 12.(18)2* of this *Chapter* shall report in writing to the Component President, or his designee, the name of any business entity as referred to therein in which the person has an interest or for which the person serves as a director, officer, or employee and shall be responsible for submitting a revised written report upon any change in the interest or position held by such person in such business entity. These reports shall be accumulated in the office of the President (or designee), who shall immediately thereafter file his report with the System Administration. Upon approval by the Board of Regents, the report shall be submitted to the Governor and Legislature as required by the *Texas Education Code, Section 51.912*.
  - 12.(16)2 Prior to signing any consulting agreement that deals with patent rights, trade secrets, or the like, where any Component time, facilities, materials, or other resources are involved, Component personnel and students must bring the proposed agreement to the attention of the appropriate administrators of the Component and either obtain a waiver of Component rights or otherwise modify the consulting agreement to conform with this policy, as is determined by the Component in its discretion.
- 12.(17) Equity Interests.
  - 12.(17)1 Owned by the Component. In agreements with business entities relating to rights in inventions and discoveries owned by a Component, the Component may receive equity interests as partial or total compensation for the rights conveyed.

- 12.(17)2 Owned by an Employee. In accordance with *Texas Education Code, Section 51.912*, and subject to review and approval by the President of a Component, employees of a Component who conceive, create, discover, invent, or develop inventions or discoveries may hold an equity interest in a business entity that has an agreement with the Component relating to the research, development, licensing or exploration of those discoveries or inventions.
- 12.(17)3 The Component may negotiate, but shall not be obligated to negotiate, an equity interest on behalf of any employee as a part of an agreement between the Component and a business entity relating to inventions and discoveries conceived, created, discovered, invented, or developed by the employee and owned by the Component.
- 12.(17)4 Dividend income and income from the sale or disposition of equity interests held by a Component pursuant to agreements relating to inventions and discoveries shall belong to the Component and shall be distributed in accordance with the provisions of this policy. Dividend income and income from the sale or disposition of an equity interest held by a Component employee pursuant to an agreement between the Component and a business entity relating to rights in inventions and discoveries conceived, created, discovered, invented, or developed by such employee shall belong to the employee.
- 12.(18) Business/Management Participation.
- 12.(18)1 By Employees. Any Component employee who conceives, creates, discovers, invents, or develops an invention or discovery shall not serve as a member of the board of directors or other governing board, or as an officer or an employee (other than as a consultant in accordance with Component and Regent policies and regulations) of a business entity that has an agreement with the Component relating to the research, development, licensing, or exploitation of that invention or discovery without prior review and approval by the President of the Component.
- 12.(18)2 For the Component. When requested and authorized by the Board of Regents, an employee may serve on behalf of the Board as a member of the board of directors or other governing board of a business entity that has an agreement with a Component relating to the research, development, licensing, or exploitation of inventions and discoveries.

13. ABANDONED AND UNCLAIMED PERSONAL PROPERTY.

Abandoned and unclaimed personal property of value, including, but not limited to, computers, tablets, cellular phones and other technologies capable of storing digitized data; state or federal identification; wallets; purses; credit cards; watches; jewelry; cameras; textbooks; or backpacks discovered on a System Component campus shall be immediately turned over to the campus security or police department for safekeeping and standardized handling. Other articles of property that do not meet the defined value shall be forwarded to the location designated by the Component for property storage. Property shall be considered abandoned if it appears from the circumstances under which the Component comes into possession of the property that the owner has thrown it away or has voluntarily left or lost it without any intent or expectation to regain it.

Abandoned and unclaimed personal property acquired by the campus security or police department of a system Component or the Component's property storage department shall be held for a minimum of one hundred and twenty (120) days from the time the property is acquired or discovered. If the property is reclaimed during that time, the Component may charge the owner a reasonable storage fee. Campus security or police will develop appropriate procedures to assure the return, if possible, of unclaimed personal property of value to the proper owners. Such procedures shall be published in all appropriate Component handbooks and catalogs.

After one hundred and twenty (120) days, and after appropriate property checks which reflect the value of the property have been made (such as, but not limited to the National Crime Information Center), all items of value and non-valued items may be sold as part of a normal Component surplus property sale.

14. INDEMNIFICATION OF REGENTS AND EMPLOYEES.

The System and/or the Components shall indemnify all members of the Board of Regents, former members of the Board of Regents, employees, former employees, and persons serving on the board of a foundation, corporation, or association at the request and on behalf of the System or one of the Components in accordance with the provisions of the *Texas Civil Practice and Remedies Code, Chapter 104*.

15. REPORTING OF WRONGFUL OR FRAUDULENT CONDUCT.

The System's "Anti-Fraud" policy appears as part of the System *Ethics Code* in *Chapter VIII* of these *Rules and Regulations*.

16. USE OF AUTHORITY.

Power to Authorize Expenditures Out of System Funds. No expenditure from funds under the control of the Board or Component shall be made, no debt or obligation shall be incurred, and no promise shall be made in the name of the

System, any of its Components, or of the Board by any member of the respective faculties or staffs of the System or any of its Components except:

- 16.1 In accordance with general or special budgetary apportionments authorized in advance by the Board and entered into its minutes; or,
- 16.2 In accordance with authority specifically vested by the Board in a committee of the Board; or,
- 16.3 In accordance with authority to act for the Board when it is so specifically vested in the Component President and with the monetary limitations as set forth by these *Rules and Regulations* or by special action by the Board.
- 16.4 It shall be the duty of the several Component administrative officers to see that all claims for payments of items not authorized as indicated above are refused and returned unpaid.
- 16.5 There shall be no sale to or purchase from the System or its Components by the Component President, unless purchased as surplus property and/or at a duly authorized public auction. This *Subsection* shall not apply to goods and services which the system or its Component universities make available for purchase by faculty and staff or on the open market by the general public.

17. “BEST VALUE” PROCUREMENT.

*Section 51.9335(a)-(e)* of the *Texas Education Code* authorize institutions of higher education to use “best value” procurement process which provide greater autonomy and flexibility in the procurement of goods and services. The following guidelines shall govern “best value” procurement for the System and Components.

- 17.1 The System and Components may acquire goods and services by the method that provides the “best value” to the institution, including:
  - (1) competitive bidding;
  - (2) competitive sealed proposals;
  - (3) catalogue purchase;
  - (4) group purchasing program; or,
  - (5) an open market contract.
- 17.2 In determining what is “best value” the System and Components shall consider:
  - (1) the purchase price;

- (2) the reputation of the vendor and of the vendor's goods and services;
- (3) the quality of the vendor's goods and services;
- (4) the extent to which the goods or services meet the Component's needs;
- (5) the vendor's past relationship with the Component and/or the System;
- (6) the impact on the ability of the Component to comply with laws and rules relating to historically underutilized businesses and to the procurement of goods and services from persons with disabilities;
- (7) the total long-term cost to the Component of acquiring the vendor's goods or services;
- (8) the use of material in construction or repair to real property that is not proprietary to a single vendor unless the Component provides written justification in the request for bids for use of the unique material; and,
- (9) any other relevant factor that a private business would consider in selecting a vendor

17.3 The System and each Component shall establish purchasing rules and guidelines based upon the procurement rules established by the Board. All procurements shall be made in accordance with all applicable federal, state and local laws, *Rules and Regulations*, and the Board's "best procurement" *Rules and Regulations*.

18. HISTORICALLY UNDERUTILIZED BUSINESSES.

- 18.1 Purpose. The Texas State University System Board of Regents promotes full and equal opportunity for all businesses to provide the goods and services needed to support the mission, administrative, and logistical operations of system Components. The Board commits its Components to a good faith effort to increase purchases and contract awards with Historically Underutilized Businesses (HUB) firms through race, ethnic, and gender neutral means and consistent with the state's goals for HUB participation and overall social advancement and economic prosperity.
- 18.2 Scope. This policy applies to acquisition of commodities, professional and other services, and construction by the System Administrative Office and Component institutions, including auxiliary enterprises, regardless of funding source (treasury or non-treasury funds).
- 18.3 Incorporation by Reference. The Historically Underutilized Business Program *Rules and Regulations* promulgated and, from time to time, amended by the Texas Procurement and Support Services (TPASS) are



adopted into and shall become part of these *Rules and Regulations* as if fully set out herein (see website address – <http://www.window.state.tx.us/procurement/prog/hub>).

19. INFORMATION TECHNOLOGY “IT”.

- 19.1 Purpose. The Texas State University System considers information technology critical to fulfillment of its mission and has made significant investments in information technology assets and capabilities. In order to assure that System and component networks are effectively and properly managed; to protect these assets against unauthorized access, disclosure, modification or destruction; and to assure the security, availability, integrity, utility, authenticity, and confidentiality of information, including server hardware and software, each component institution shall develop and disseminate an institutional policy statements consistent with the policy guidelines as referenced in Section 19.2 (See *Texas Administrative Code, Title 1, Part 10, Chapter 202, Subchapter C (TAC 202)*).
- 19.2 Policy components. Each component shall adopt an information technology policy addressing the following areas and that are consistent with the associated TSUS “IT” Policy Guidelines:
- (1) *Network Management*, including network purpose; address and device management; oversight roles and responsibilities; usage responsibilities; and, threat and incident response; (See *Appendix TSUS IT Policy Guideline 03-02 Network Management*);
  - (2) *Information Security*, including purpose; organization; risk assessment; asset management; human resources security; physical and environmental security; communication and operations management; access control; information systems acquisition, development and maintenance; information security incident management; business continuity management; and legal, regulatory, and contractual compliance; (See *Appendix TSUS IT Policy Guideline 02-02*);
  - (3) *Appropriate Use of Information Technology Resources*, including general purpose; individual versus institutional purpose, personal versus official representation; limitations on availability of information technology resources; privacy and confidentiality of electronic documents; TSUS institutional responsibilities; consequences of failure to comply with informational technology policy; (See *Appendix TSUS IT Policy Guideline 01-02*) and,
  - (4) *Server Management*, including server purpose and function; server management roles and responsibilities; conformance with server management best practices; and, threat and incident response. (See *TSUS Appendix IT Policy Guideline 04-02*).

- 19.3 Central Review and Oversight. Each component shall develop policies and mechanisms, providing for chief information officer or other central review and oversight of all component information technology acquisitions, including, but not limited to, computing hardware, software, and hosting services, regardless of source of funds.

20. SMOKING AND TOBACCO POLICY.

- 20.1 Purpose. The Texas State University System is committed to providing a safe, healthy, and pleasant environment for its faculty, staff, and students. To that end, each component shall develop a comprehensive institutional policy creating a smoke-free and tobacco-free environment on the premises of the component.
- 20.2 Scope. The policy shall apply to all faculty, staff, students, employees of contractors, and visitors of the component and shall address the use of tobacco products, including smoke and smokeless tobacco, in component owned or leased premises.

21. INTERCOLLEGIATE ATHLETICS.

- 21.1 Statement of Values. The Texas State University System Board of Regents believes that participation in athletics is an appropriate part of the academic experience and that a well-balanced intercollegiate athletics program in which both men and women enjoy equal opportunity to participate is likewise of institutional benefit. To this end, the Board is committed to assuring integrity and accountability in the administration of such programs while fostering careful institutional oversight of day-to-day operations.
- 21.2 General Principles. Consistently with the Association of Governing Boards of Colleges and Universities' 2007 *Statement on Board Accountability*, the Board adopts the following general principles:
- (1) Individual Missions. Each Component's educational values, practices, and missions shall guide the decision to establish intercollegiate athletics programs and the standards by which they are conducted.
  - (2) Presidential Authority. Responsibility and authority for the administration of athletics departments, including all basic policies, personnel and finances are vested in the presidents.
  - (3) Equal Treatment. Every student athlete shall receive fair and equitable treatment within the letter and spirit of *Title IX* of the *Education Amendments of 1972*.
  - (4) Funding Oversight. All funds raised and expended in connection with intercollegiate athletics programs shall be accounted for through the Component's accounting system. Athletics

department budgets shall be developed and monitored in accordance with the Component's general budgeting procedures.

- (5) Non-University Income. Income from non-Component sources for coaches and athletics administrators is subject to presidential review and approval. When the income involves Component's facilities, trade or service names or marks, the arrangement shall be memorialized in a written contract.
- (6) Notification of Possible Major Infraction. Each Component shall have established processes to review information concerning potential major violations of NCAA or NJCAA legislation. One step in that process shall be the immediate notification by the Component to the Chancellor and the Vice Chancellor and General Counsel of the Component's receipt of a Notice of Inquiry from NCAA or NCJAA enforcement staff concerning a possible major violation since that could result in corrective, punitive, or disciplinary actions by the NCAA or NJCAA, the athletic conference, or the Component itself. The notification shall include the nature of the alleged major infraction; the NCAA, NJCAA, conference, or institutional bylaw involved; the plan for investigating the allegation; and a corrective action plan. The Chancellor shall timely notify the Board as appropriate.
- (7) Audit. The System Director of Audits and Analysis shall conduct periodic audits of intercollegiate athletics and related activities and report the same in accordance with processes established elsewhere in these *Rules and Regulations*.

## 22. SEXUAL MISCONDUCT POLICY.

The System's "*Sexual Misconduct*" policy, formulated to address and redress the problem of sexual misconduct on Component campuses, is incorporated into, and made a part of these *Rules and Regulations* as *Appendix A-6*. Each System Component shall adopt this policy as its campus sexual assault policy.

## 23. CHILD ABUSE REPORTING POLICY AND TRAINING.

- 23.1 Purpose. The Texas State University System is committed to maintaining a supportive and safe educational setting, one that enhances the well-being of all members of its community and strives to create a secure environment for children.
- 23.2 Policy. Each Component shall adopt an institutional policy that governs: (i) the reporting of child abuse and neglect; and, (ii) training to detect the same (see, respectively, *Chapter 261, Family Code* and *Education Code, Section 51.9761*). The policy shall include the following provisions:
  - (1) A person having cause to believe that a child's physical or mental health or welfare has been adversely affected by abuse or neglect by any person shall immediately make a report to:

- (a) any local or state law enforcement agency;
  - (b) the Department of Family and Protective Services; or
  - (c) the state agency that operates, licenses, certifies, or registers the facility in which the alleged abuse or neglect occurred.
- (2) If a professional (as defined by *Section 261.101, Family Code*) has cause to believe that a child has been or may be abused or neglected (as defined by *Section 261.001 or 261.401, Family Code*) or that a child is a victim of an offense under *Section 21.11, Penal Code*, the professional shall make a report not later than the 48th hour after he or she first suspects abuse, neglect or other infraction. A professional may not delegate to or rely on another person to make the report.
- (3) A person or professional shall make a report in the manner required by this Paragraph if he or she has cause to believe that an adult was a victim of abuse or neglect and determines, in good faith, that disclosure of the information is necessary to protect the health and safety of another child or an elderly person (as defined in *48.002, Human Resources Code*):
- (4) The requirement to report applies without exception to an individual whose personal communications may otherwise be privileged, including an attorney, a member of the clergy, a medical practitioner, a social worker, a mental health professional, an employee or member of a board that licenses or certifies a professional, and an employee of a clinic or health care facility that provides reproductive services.
- 23.3 Training. Each component institution shall provide training for employees who are professionals that includes:
- (1) techniques for reducing a child's risk of sexual abuse or other maltreatment;
  - (2) factors indicating a child is at risk for sexual abuse or other maltreatment;
  - (3) the warning signs and symptoms associated with sexual abuse or other maltreatment and recognition of those signs and symptoms; and
  - (4) the requirements and procedures for reporting suspected sexual abuse or other maltreatment.

## CHAPTER IV. PRESIDENTS OF THE COMPONENTS

### 1. APPOINTMENT.

The Chancellor shall recommend to the Board a candidate for the presidency of each Component. The Board, by majority vote, at a lawfully-called meeting, shall appoint Component presidents. The President shall not have tenure as President but may hold tenure as a member of the faculty of the Component.

### 2. AUTHORITY, DUTIES AND RESPONSIBILITIES.

2.1 Authority. The President shall be answerable to the Chancellor and shall have discretionary powers broad enough effectively to administer the Component within the policies and guidelines as set forth by the Chancellor and Board of Regents.

2.11 House. As a condition of employment, the President of each System Component is required to reside in lodging furnished to him/her as the official residence of the President for the convenience of the Component (if such lodging has been provided); to maintain an office therein with telephone service from the President's office in the Component's administration building; and to use such properties as part of the official performance of his/her duties by holding official functions and other matters relative to the position occupied.

2.12 Automobiles. The Components of the Texas State University System are authorized to lease or purchase automobiles for use by the Presidents and Chancellor of the System in carrying out the duties and responsibilities of their respective office. The purchase price, lease fees and any insurance and maintenance cost shall be paid from non-E&G funds.

2.2 Delegation of Authority. The President of each Component has the following duties and responsibilities:

2.21 Developing and maintaining efficiency and excellence within the component, including maintenance of appropriate accreditations.

2.22 Making recommendations to the Chancellor and the Board on Component matters that require Board approval.

2.23 Carrying out all Chancellor and Board orders affecting the Component.

2.24 Interpreting System policies to the faculty and staff; representing and interpreting the Component's programs, needs and interests to the Board and the general public.

- 2.25 Recommending appropriate operating budgets and supervising expenditures under approved budgets.
- 2.26 Nominating to the Chancellor and Board the appointment, reappointment, promotion, retention, or dismissal of all members of the faculty and administrative officers as defined in *Chapter V, subparagraph 1.123*.
- 2.27 Developing and maintaining efficient personnel programs for all employees.
- 2.28 Managing efficiently Component business affairs and physical property; recommending additions and alterations to the physical plant; and developing long range plans for all component programs and physical facilities.
- 2.29 Serving as presiding officer at official meetings of Component faculty and staff and as an ex officio member of each college or school faculty.
- 2.2(10) Appointing campus committees, councils, and teams, and appointing or establishing procedures for the appointment of faculty, and staff. The authority of these bodies is limited to reviewing, offering suggestions, and making recommendations on matters related to their purpose. They will submit their reviews, recommendations and suggestions through channels to the President, who has responsibility and authority for making decisions, subject to the final authority of the Chancellor and the Board of Regents.
- 2.2(11) Causing to be prepared and submitted to the System Administration for review the faculty, staff, and student handbooks for the governance of the Component.
- 2.2(12) Leading private fund development support for the Component in accordance with policies and procedures established in these *Rules and Regulations*.
- 2.2(13) Administering all Component contracts, agreements, or purchases as delegated under the System *Rules and Regulations*.
- 2.2(14) Power to Suspend. Suspending, without prior notice or hearing, and immediately removing from the campus, any employee or student whose presence poses a continuing danger to persons or property or an ongoing threat of disrupting the component, notifying, as soon as possible, the Chancellor and the Vice Chancellor and General Counsel of such action. In such cases, the president will set a hearing before the appropriate administrator or committee on the employee's or student's case as soon thereafter as is practicable unless otherwise waived by the employee or student.

- 2.2(15) Campus Police. Employing campus peace officers in conformity with the Texas Commission on Law Enforcement Officers and Standards and *Texas Education Code, Section 51.203* and recommending their approval to the Chancellor and to the Board.
- 2.2(16) Motor Vehicles. Promulgating rules governing operation and use of motor vehicles on component property including vehicle registration fees, fines, and penalties.
- 2.2(17) Establishing Fees. Establishing the rate of other incidental fees or charges assessed under the authority of *Texas Education Code, Chapter 54*, including, but not limited to, fees or charges for library fines, microfilming, thesis or doctoral manuscript reproduction or filing, application processing, laboratory breakage, bad checks, schedule changes, late registration, student publication, special courses or programs which are fully paid by privately funded scholarships, and installment payments within the limits set by the *Texas Education Code* and these *Rules and Regulations*.
- 2.2(18) Grants and Contracts. Accepting grants from and contracts with federal, state, and other government agencies and private foundations, advancing funds as necessary to finance such grants and contracts in which the Component will be reimbursed.
- 2.2(19) Scholarships. Expending any line-item appropriations for "Scholarships" as authorized in the *General Appropriations Act*.
- 2.2(20) Highest Ranking High School Graduate Scholarships. Issuing scholarships each year to the highest ranking graduate of each accredited high school of this state, exempting the graduates from the payment of tuition during both semesters of the first regular session immediately following their graduation, in accordance with *Texas Education Code, Section 54.301*. This exemption is granted for any one of the first four regular sessions following the individual's graduation from high school when in the opinion of the Component's President, the circumstances of an individual case, including military service, merit the action.
- 2.2(21) General Property Deposit Scholarship. Issuing new and continuing scholarships from the General Property Deposit (GPD) forfeiture scholarships account per *Texas Education Code, Section 54.5021*. Future annual forfeiture of GPD may be directed to either the GPD forfeiture scholarship account, the GPD forfeiture endowment account, or a combination of the two, as allowed by statute. The President or a designee, is authorized to transfer funds annually from the endowment account to the scholarship account for the awards prescribed in the statute.

- 2.2(22) Senior Citizens Exemption. Exempting persons age 65 years and over from the payment of tuition for up to six hours per semester or summer term, space permitting, per *Texas Education Code, Section 54.365*.
- 2.2(23) Distance Learning Fee Exemption. Waiving certain fees for students enrolled only in distance learning courses or other off-campus courses of each Component, per *Texas Education Code, Section 54.218*.
- 2.2(24) Disabled Peace Officer Exemption. Exempting disabled peace officers from tuition and required fees for undergraduate courses for which space is available, provided the student meets all criteria specified in *Texas Education Code, Section 54.352*.
- 2.2(25) Exemptions from Tuition. Exempting qualified students from the payment of tuition and/or required fees as may be authorized by *Texas Education Code, Chapter 54*.
- 2.2(26) Component Travel Policy. Establishing a travel policy for each Component's non-Education and general (E&G) funds to assure that travel expenditures are made in a manner that is uniformly and consistently applied across all non E&G funds.

### 3. BENEFITS.

- 3.1 Housing. The President of each System Component is required to reside in lodging furnished to him/her as the official residence of the President (if such lodging is available); to maintain an office therein with telephone service from the President's office in the Component's administration building; and to use such property as part of the official performance of his/her duties by holding official functions and other matters relative to the position occupied.
- 3.2 Automobiles. The System and its Components are authorized to lease or purchase automobiles or otherwise provide automobile allowance for use by the Presidents and Chancellor in carrying out the duties and responsibilities of their respective offices. The lease fees and any insurance and maintenance costs shall be paid from designated or restricted gift funds accepted for such purpose and/or auxiliary enterprise generated funds. Lease of other vehicles shall not be allowed without prior approval of the Board.



4. VACANCIES.

The Chancellor may fill, by interim appointment, any vacancy that occurs in the position of President at any Component. The interim President shall serve until the Board approves a new President, pursuant to *Section 1* above.

In emergency situations where it is apparent that the Component President will be unable to perform his/her duties for at least four (4) weeks, the Chancellor after conferring with the Board chair and vice chair may appoint an interim President to serve until the President is able to resume his/her responsibilities. The Component President shall keep on file in the System Administration Office, at all times, the name of a designated second-in-command to act on his/her behalf when the President is not available.

5. COUNCIL OF PRESIDENTS.

The Chancellor shall convene a council, consisting of Presidents of the System Components, to meet for the beneficial exchange of information that is of common interest to the Components. Conflicts between or among the presidents shall be brought to the Chancellor for resolution and subsequently to the Board of Regents on appeal.

6. SUBMISSIONS FOR BOARD APPROVAL.

6.1 The President of each System Component shall submit to the System Administration in writing items that he or she recommends be considered at a regular Board meeting not less than twenty-one (21) days in advance of the meeting, setting forth, in reasonable detail a) an explanation of each proposed Board order or recommendation; b) the cost and source of the funds involved; c) appropriate supporting enclosures; and d) proposed Board orders, drafted with clarity and brevity to reflect the precise action requested of the Board. Multifarious or dissimilar orders for Board consideration will not be accepted.

6.2 Any proposed order not timely submitted to the Chancellor shall also include written justification for the lack of timeliness as well as the ramifications of non-action by the Board, the merit of the order, and the cost and source of funds involved. The Chancellor shall determine whether or not to submit the same to the Board.

6.3 For curriculum information to be reported to the Board, see *Chapter III, Section 5, Curriculum Procedures*.

7. EVALUATION.

7.1 The Chancellor shall review annually the general performance and effectiveness of each President, presenting to the Board his or her written opinions, advice, and recommendations as to the President's employment, subsequent to which the Board shall meet with the Chancellor and President being evaluated. This evaluation shall take

place before a quorum of the full Board of Regents, and in executive session, unless the subject President requests a public evaluation.

- 7.2 The Presidents of the Components shall periodically evaluate the effectiveness of all administrative officers who report directly to them and establish procedures for the evaluation of the effectiveness of all other administrators.

## 8. TERMINATION.

The Chancellor may, by interim action, terminate the appointment of a Component President when in his/her judgment the interests of the System or of the Component require termination. The President shall not have a right to a hearing before the Board unless he/she makes a *prima facie* showing that the decision to terminate constitutes violation of a right guaranteed by the laws or Constitution of the State of Texas or of the United States. If the President has tenure at the Component, termination as a member of the tenured faculty shall be only for good cause shown; and, he/she shall be entitled to a tenure revocation hearing as specified in *Chapter V*.

## CHAPTER V. COMPONENT PERSONNEL

### 1. COMPONENT EMPLOYEES.

#### 1.1 Definitions.

A Component or System office employee is any person who is under the authority and in the paid service of a Component which is under the jurisdiction and control of the Board of Regents of The Texas State University System, other than independent contractors or consultants.

1.11 A faculty employee is an employee with a specified academic rank holding a teaching appointment for a fixed term as determined by the President of the Component and approved by the Board of Regents (see *Section 4* of this *Chapter*).

1.12 A staff employee is any employee other than a faculty employee.

1.121 Unclassified staff employees include administrative officers and other administrative and professional personnel who are serving without fixed terms and who are not included in the Component's classification plan (see *Sections 3 and 5* of this *Chapter* and the exception provided for in *Section 1.13* of this *Chapter*).

1.122 Classified staff employees include those personnel who are appointed without fixed terms to those job classes in the Component's classification plan which requires similar duties, skills, and qualifications including but not limited to secretarial, clerical, technical, paraprofessional, protective service, skilled crafts, and labor/service/maintenance (see *Section 5* of this *Chapter*).

1.123 Administrative officers are vice presidents, deans, and other administrative personnel with delegated executive authority as determined by the President. The President shall file with the System Administration the title of any administrative personnel other than Vice Presidents and Deans to whom executive authority has been delegated.

1.13 Special Employment Contracts. Notwithstanding the Board's employment-at-will policy, in exceptional cases, where the Component President determines that the nature of the particular profession demands special consideration, the Component may enter into a special employment contract for a term not greater than three (3) years with an individual as an unclassified staff member. If the employee is paid wholly from non-appropriated funds, the contract term may not exceed five (5) years. Contracts in excess of the president's authority shall be subject to the Chancellor's review and approval.

- 1.131 Each contract must include a provision permitting its termination for cause (as defined in the contract) without penalty.
- 1.132 An employee under such a contract may be reassigned to other duties within the Components, retaining his or her base salary for a period not to exceed one (1) year, after which he or she shall be compensated until the contract expires at a rate not to exceed the salaries of other similarly situated employees. If the compensation for the contract is paid from non-appropriated funds, Components may include contract buyout terms in lieu of a reassignment provision.
- 1.133 If an employee is also provided a concurrent teaching appointment, the System's *Rules and Regulations* related to faculty will govern the teaching appointment.

## 2. GENERAL.

### 2.1 Employment.

2.11 Non-Discrimination Policy. The Texas State University System, including its Components, is an equal opportunity/- affirmative action employer and complies with all applicable federal and state laws regarding non-discrimination and affirmative action, including *Title IX* of the *Education Amendments of 1972* and *Section 504* of the *Rehabilitation Act of 1973*. The Texas State University System, including its Components, is committed to a policy of non-discrimination and equal opportunity for all persons regardless of race, sex, color, religion, national origin or ancestry, age, marital status, disability, or veteran status, in employment, educational programs, and activities and admissions.

### 2.12 Hiring and Promotions.

2.121 The President or other administrative officers of the Component will investigate thoroughly the character, integrity, scholastic attainment, and other qualifications of prospective members of the administration before nominating them to the Board or before exercising any delegated authority for making appointments.

2.122 Each Component may require a physical examination, performed by qualified medical personnel approved by the Component, of applicants to be employed. The expense of the examination will be paid by the Component.

- 2.13 Salaries. No Component employee's salary (not including longevity payments) paid from any source of funds will exceed the Component President's salary designated by the Legislature in the *General Appropriations Act* unless a list of such employees and their positions is included as a supplemental schedule in the original annual operating budget presented to the Chancellor and Board of Regents for approval, or, in the case of externally funded grants and contracts, such salary shall be included in an itemized list in the personnel section of the quarterly report submitted to the Chancellor and Board of Regents for approval.
- 2.14 Terminations. The Components shall retain and submit to the System Administration specific reports on terminations of all full-time employees as requested by the System Administration.
- 2.141 The Board of Regents or the President of the Component may suspend without prior notice or hearing and immediately remove from the Component any employee whose presence poses a continuing danger to persons or property or an ongoing threat of disrupting the Component. The President shall as soon as possible notify the Vice Chancellor and General Counsel of such action. In such cases, the President will set a hearing before the appropriate administrator or committee on the employee's case as soon thereafter as is practicable unless otherwise waived by the employee.
- 2.142 Employees, including both faculty and staff, shall be subject to discipline and/or dismissal for violating Component policy relating to electronic network facilities such as local area networks and the Internet. Nothing herein shall be construed in derogation of the Board's employment-at-will policy.
- 2.143 Any employee of any Component of the System, including any member of the administration or faculty, who, acting either singly or in concert with others, obstructs or disrupts, by force or violence, any teaching, research, administrative, disciplinary, public service, or other activity authorized to be held or conducted on the campus of a Component of the System, shall be subject to dismissal as an employee. As used in this *Subsection*, the words "force or violence" include but are not limited to such acts as "stand-ins," "sit-ins," and "lie-ins" when such acts are in fact obstructive or disruptive of any of the authorized activities listed above.
- 2.144 Every employee is expected to obey all Federal, State, and local laws, particularly *Texas Penal Code, Section 42.01* and *42.05* (Disorderly Conduct and Disrupting Meeting or Procession) and *Texas Education Code, Section 37.123* and *37.125* (Disruptive Activities and Exhibition of Firearms). Any employee who violates

any provision of these four statutes is subject to dismissal as an employee notwithstanding any action by civil authorities on account of the violation.

2.145 The minimum standards of individual conduct required by the penal statutes of Texas or the United States are both expected and required of every employee of the System and its Components. Any employee who violates the minimum standards of conduct required by any penal statute of Texas or the United States is subject to dismissal as an employee regardless of whether any action is taken against the employee by civil authorities on account of such violation.

2.146 If action for dismissal of an employee is taken, the appropriate administrative officer shall proceed with the action in the same manner as would be the case of a violation by an employee of any other provision of these *Rules and Regulations* or a provision of the faculty or staff handbook of the Component.

2.15 Grievances. Every employee of each Component, individually or through a representative that does not claim the right to strike, shall be entitled to present grievances to a hearing officer designated by the president concerning such employee's wages, hours of work, or conditions of work. Such grievances shall not involve formal hearings.

## 2.2 Appointment of Relatives (Nepotism Rule).

2.21 Each appointment of an employee at a Component, whether on a full-time or part-time basis, shall be made solely with regard to the special fitness of the appointee subject to applicable statutes and subject also to the provisions of this *Section* of the System's *Rules and Regulations*.

2.22 In accordance with the prohibition of *Government Code, Chapter 573*, no person related to any member of the Board of Regents within the second degree of affinity or within the third degree by consanguinity shall be eligible for appointment to any office, position, employment, or duty with any Component of The Texas State University System, when the salary, fee, or compensation of such appointee is to be paid, either directly or indirectly, out of public funds of any kind.

2.221 *Government Code, Chapter 573* does not prohibit the reappointment or continued employment of any person who shall have been continuously employed in any such office, position, employment, or duty for a period of one (1) year prior to the appointment of the member of the Board of Regents related to such person within the prohibited degree, nor does it prohibit honorary or non-remunerative positions.

- 2.222 The prohibition of *Government Code, Chapter 573* applies to all programs administered under the Board of Regents and may not be waived.
- 2.223 When a person is allowed to continue employment because of the operation of the exception specified by *Subsection 2.221* of this *Chapter*, the Board member who is related to such person shall not participate in the deliberation or voting upon the appointment, reappointment, employment, confirmation, re-employment, change in status, compensation, or dismissal of such person, if such action applies only to such person and is not taken with respect to a bonafide class or category of employee.
- 2.23 Even though the appointment of a person would not be prohibited by *Government Code, Chapter 573*, special arrangements for personnel actions must be made before a Component may employ any person related within the second degree of affinity or the third degree of consanguinity to another employee if:
- (a) Such employment causes one relative to have a direct supervisory relationship over the other relative; or
  - (b) Such employment causes one relative to have authority over the salary or other terms of employment of the other.

This policy does not prohibit the reappointment or continued employment of any person related to another within either of the prohibited degrees who shall have been employed in a Component before the adoption of this policy. However, no System employee may approve, recommend, or otherwise act with regard to the appointment, reappointment, promotion, or salary of any person related within either of the prohibited degrees.

- 2.231 If the appointment, reappointment or continued employment of a person places such person under an administrative supervisor related within the above specified degree, all subsequent actions with regard to reappointment, promotion, or salary shall be the responsibility of the next highest administrative supervisor. It shall also be the responsibility of the next highest administrator to make a written review of the work performance of such employee at least annually and submit each review for approval or disapproval by the Component's appropriate vice president in the case of classified employees or the President in the case of faculty or unclassified employees. When appropriate, the next highest administrator may delegate these responsibilities to another administrator who is neither

related to the person subject to the personnel actions nor in that person's reporting line.

2.232 All situations covered by *Subsection 2.231* of this *Chapter* shall be reported annually in May through the Components' President's Report to the Board.

### 2.3 Retirement and Recognition of Service.

2.31 Retirement Programs. The Board of Regents authorizes each Component in the System to make retirement programs available to each eligible employee through the Teacher Retirement System of Texas, or the Optional Retirement Program, and tax sheltered annuities as authorized by statute.

#### 2.32 Requirements of the Optional Retirement Program.

2.321 Company Qualifications. Each Component will design its specifications for companies to qualify as Optional Retirement Program vendors on that Component's campus. The Board of Regents must approve those specifications. Thereafter, the Component's President (or the President's designee) may authorize any insurance or investment company qualified and admitted to do business in this State to offer an ORP on the Component's campus. Any program offered is subject to compliance with statutory provisions, the prescribed *Rules and Regulations* of the Texas Department of Insurance, the State Securities Board, the Texas Higher Education Coordinating Board, and the requirements of the Board of Regents.

2.322 Contributions. Employee and State contribution rates for the Optional Retirement Program and Teacher Retirement System shall comply with law.

2.323 Tax Considerations. Whether or not the employer's and/or employee's contributions to the Optional Retirement Program are tax sheltered, the employee's contribution is made on all salary reduction as required by the ORP statute. All contributions shall comply with IRS laws and regulations for accounts authorized under *Section 403(b)* of the *Internal Revenue Code*."

2.324 Authorization. The Component President or a representative designated by the President shall be authorized to sign the forms necessary to administer the Optional Retirement Program and the Teacher Retirement System.

2.325 Certification of State Comptroller. Each Component shall be required to certify to the State Comptroller each Fiscal Year an estimate of the amount of funds required for



payments of State Matching Contributions for participants in the Optional Retirement Program.

- 2.326 Eligibility to Participate. An employee of a Component of The Texas State University System is eligible for participation in the Optional Retirement Program in accordance with rules adopted by the Texas Higher Education Coordinating Board. An employee who has met the ORP vesting requirement and subsequently transfers to a position which would not otherwise qualify for ORP participation shall remain in ORP except as authorized by TRS rules.
- 2.33 Salary Reduction Plan of the Optional Retirement Program. The Components are authorized to participate in the salary reduction agreement of the Optional Retirement Program as provided by statute. The Component President or a representative designated by the President is authorized to approve the forms required for this salary reduction agreement through those carriers approved by the Component in the implementation of the Optional Retirement Program.
- 2.34 Honorary Titles and Resolutions for Retirees. Faithful and distinguished service by a retiring faculty member or administrator may be recognized by an appropriate resolution of the Board, upon recommendation of the Local Committee.
  - 2.341 Long and distinguished service by a faculty member holding the rank of Professor or Associate Professor may be recognized upon retirement by conferral of the title of Professor Emeritus, Associate Professor Emeritus, Distinguished Professor Emeritus or Distinguished Associate Professor Emeritus as provided by *Section 4.9* of this *Chapter*.
  - 2.342 Faithful and distinguished service by the President of a Component may be recognized by the Board upon retirement, or upon returning to full-time teaching if a tenured member of the faculty, by conferral of the honorary title President Emeritus of the Component, without remuneration or authority for this honorary title.
- 2.4 Standards of Conduct. Except as exempted by *Sections 12.(16), 12.(17) and 12.(18)* of *Chapter III* of these *Rules and Regulations*, all Component employees shall adhere to the standards of conduct articulated in *Chapter VIII*:
  - 2.41 No employee shall engage in any form of sexual harassment as defined by *Paragraph 4.4* of *Chapter VII* of these *Rules and Regulations*, or racial harassment as defined by *Paragraph 4.3* of *Chapter VII* of these *Rules and Regulations*. As prescribed in *Paragraph 4.43* of *Chapter VII* of these *Rules and Regulations*, any employee who violates these rules prohibiting sexual and

racial harassment shall be subject to discipline and/or dismissal from employment.

2.42 No contacts on behalf of the Component, its programs or the System to the Legislature shall be made without the specific approval of the Component President who shall inform the System Administrative Office. Information, not considered under law to be confidential, which is requested by a member of the Legislature or committee or by any other state official or employee and which relates to proposed or pending legislation, shall be furnished to the requesting party and the System Administrative Office informed of the request and information provided. The Presidents shall be responsible for advising their Component employees of this rule at the start of each legislative session. See also *Chapter VIII, section 6* of these *Rules and Regulations* pertaining to political activities.

2.5 Absences.

2.51 The President of each Component shall adopt policies and guidelines covering the authorized absences for all faculty and staff employees, including administrative officers. Such policies and guidelines shall be in accordance with the provisions of current statutes and these *Rules and Regulations*. A leave of absence granted to a faculty or staff employee by the President of the Component under the provisions of this *Subsection* shall not modify in any way the employment status of the employee as defined in *Chapter V, Sections 1-5*, of these *Rules and Regulations* unless such modification in status is approved in advance by the Board of Regents. Unless approved in advance by the Board, upon expiration of the leave, the employee shall return to the same job classification, pay benefits, seniority and under the same conditions of employment as he held prior to the leave.

2.6 Power to Bind the System in Fixing Its Policies. No employee of the System or any of its Components, as an individual or as a member of any association or agency, has the power to in any way bind the System or any of its Components unless such power has been officially conferred in advance by the Board. Any action which attempts to change the policies or otherwise bind the System or any of its Components, taken by any individual or any association or agency, shall be of no effect whatsoever until the proposed action has been approved by the President concerned and ratified by the Board.

2.7 Insurance. Each Component is authorized to provide a program of payment of insurance premiums for its employees.

2.8 Payroll Deductions. The Components within The Texas State University System shall not make automatic payroll deductions from an employee's paycheck for any purpose unless the deduction is authorized by law.

3. ADMINISTRATIVE OFFICERS.

3.1 Employment.

3.11 Hiring. The President of each Component shall recommend annually to the Chancellor, before presentation to the Board of Regents, the employment or re-employment of all administrative officers, stating their names and academic credentials, if applicable. Such officers shall not have tenure by virtue of their office and shall serve without fixed term subject to the pleasure of the President. Statutory provisions requiring notification to employees shall be followed.

3.12 Salaries. The President shall recommend to the Chancellor, before presentation to the Board, the salary for each administrative officer at a regular Board meeting.

3.13 Vacancies. A President may fill any administrative vacancy by an interim appointment subject to Chancellor and Board ratification.

3.2 Terminations.

3.21 Limited Right to Hearing. The president of a Component may terminate the employment of an administrative officer of the Component when in the president's judgment the interests of the Component require termination. An administrative officer shall not have a right to a hearing unless the officer makes a *prima facie* showing that the decision to terminate violates rights guaranteed by the laws or Constitution of the State of Texas or of the United States and requests an administrative hearing to review the allegations. In such case the administrative officer shall be afforded an opportunity to present allegations before a hearing committee consisting of three impartial administrative officers of the Component appointed by the president. Such allegations shall be heard under the same procedures as in the case of dismissal of faculty for cause, with the following exceptions:

- (1) The burden of proof is upon the affected administrative officer to establish at such hearing that the decision in question constitutes violation of a right guaranteed by the laws or Constitution of the State of Texas or of the United States.
- (2) The president of the Component need not state the reasons for the questioned decision nor offer evidence in support thereof unless the affected administrative officer presents a *prima facie* case in support of such allegations. In such case, the hearing committee shall determine whether the President has no other reason for his decision.
- (3) The hearing committee will make written findings on the material facts and a recommendation, which findings and

recommendation shall be forwarded to the president and to the affected administrative officer. The administrative officer may appeal to the president and ultimately to the Board of Regents in accordance with the terms and procedures specified in *Subsections 4.55 and 4.56* of this *Chapter*.

3.22 Tenured Faculty as Administrators. If the administrative officer has tenure at the Component by virtue of holding a past faculty position or otherwise, termination as a member of the tenured faculty shall be only for good cause shown, and the official shall be given a hearing if terminated from tenured faculty status.

3.3 Sexual Misconduct. Administrative officers shall comply with the System's "*Sexual Misconduct*" policy found in *Chapter III Paragraph 22* and *Appendix A-6*.

#### 4. FACULTY.

##### 4.1 Employment.

4.11 The Board of Regents strongly desires to maintain learned faculties who, by precept and example, will instruct and inspire their students and reflect credit upon the Component. The Board encourages scholarship, creative activity, research, and public service but affirms that the primary goal of each faculty member shall be to attain a greater proficiency in teaching.

4.12 Nominations. The President of each Component shall recommend to the Chancellor and the Board the employment or re-employment of faculty members to be awarded term or annual appointments, advising in writing as to the tenure status, proposed academic rank, and highest degree of each nominee.

4.13 Appointments. All faculty appointments, including the granting of tenure, are subject to the approval of the Chancellor and the Board. At the earliest practicable Board meeting following the Governor's approval of the State's *General Appropriations Act*, the Board shall appoint the faculty and other teaching personnel to term or annual appointments for a specified period not to exceed one year. The President shall advise each appointee in writing of the provisions and conditions of the appointment. If a faculty member has already been appointed by the Board for either a fall or spring semester, the contract may be extended for the summer or for additional special assignments during the same Fiscal Year by the President, unless the extension includes a change in academic rank or an increase in the base salary.

4.14 Reappointments. Written notice of a decision not to reappoint will be given to a tenure track faculty member not later than March 1st, of the first, or not later than December 15th of the second, academic year of probationary service. After two or

more academic years, written notice shall be given not later than August 31st that the subsequent academic year will be the terminal year of appointment. The notice required by this *Section* is not applicable where termination of employment is for good cause under *Subsection 4.5* or for faculty members who are appointed on a term basis.

4.141 Reappointment or the award of tenure shall be accomplished only upon the President's written recommendation and the Chancellor's and the Board of Regent's approval. If the faculty member does not receive notice as prescribed in this *Chapter*, it shall be his or her duty to inquire as to the decision of the President, who shall without delay give the required notice to the faculty member. Failure of the Component to comply with the notice provisions of this *Chapter* shall not entitle a faculty member to *de facto* tenure, and these *Rules and Regulations* expressly prohibit the awarding of *de facto* tenure.

4.142 Each faculty member shall keep the President or his or her designee notified of the faculty member's current mailing address. Written notices required by *Subsections 4.24* or *4.54* shall be sent by certified mail, return receipt requested. Notice shall be complete when deposited in the United States mail, addressed to the last known address given by the faculty member. The faculty member's failure or refusal to receive the notice is immaterial.

4.15 Vacancies. A President may fill, by interim appointment, a faculty vacancy, subject to the Chancellor's and Board of Regent's ratification.

4.16 Salary Authority. No faculty member's salary, regardless of the source of funds, shall exceed the Component President's salary as designated by the Legislature in the *General Appropriations Act*, unless the salary is specifically recommended by the Chancellor and approved by the Board of Regents.

## 4.2 Tenure.

4.21 Defined. Tenure denotes an entitlement to continued employment as a member of the faculty at a Component in accordance with the provisions of these *Rules and Regulations*. Tenured faculty can expect those privileges customarily associated with tenure at their Component. Such privileges include a suitable office and workspace, serving as a principal investigator and conducting of research, teaching classes, and participating in faculty governance. However, tenure does not create a property interest in any attributes of the faculty position beyond the annual salary. By way of example only, tenure does not create a property interest in laboratory space, a particular office, the right to teach graduate students, or use of research

materials or equipment. Only members of the faculty with the academic title of Professor, Associate Professor, or Assistant Professor may be granted tenure, unless the Component handbook recognizes the rank of Instructor as eligible for tenure. In exceptional cases, tenure may be granted at the time of appointment to any of such academic ranks by the Board of Regents or may be withheld pending satisfactory completion of a probationary period of faculty service. For tenure to be granted at the time of appointment, the President must consult with and submit a written justification to the Chancellor, who shall review all such recommendations with the full Board.

- 4.22 Tenure Track Faculty. Only full-time service in the academic ranks of Professor, Associate Professor, Assistant Professor, and/or Instructor (at Components where such is an academic rank eligible for tenure) shall be counted toward fulfillment of a required probationary period. Periods during which a faculty member is on leave of absence shall not be counted toward fulfillment of a required probationary period. If the Component faculty handbook does not recognize the rank of Instructor as eligible for tenure, then no more than three (3) years service as Instructor shall be so counted.
- 4.23 Prior Service Credit. At the discretion of the Component, up to three (3) years prior service at the other academic Component may be counted toward fulfillment of the required probationary period.
- 4.24 Maximum Probationary Service. The maximum period of probationary faculty service in tenure track status in any academic rank or combination of academic ranks shall not exceed six years of full-time academic service, unless the tenure clock has been tolled as provided in this *subparagraph*. Not later than August 31st of the last academic year of the maximum probationary period in effect at any Component, a tenure track faculty member shall be given written notice that the subsequent academic year will be the terminal year of employment or that, beginning with the subsequent academic year, tenure will be granted. In the event that the employment of a tenure track faculty member is to be terminated prior to the end of the maximum probationary period, notice shall be given in accordance with *Subparagraph 4.5* below. Faculty members who have not been granted tenure by the Board of Regents shall not be entitled to tenure by virtue of being employed at the Component past the probationary period, i.e., such faculty members do not have *de facto* tenure.
- 4.241 Tolling of Tenure Clock. A Component may permit a tenure track faculty member to toll the tenure clock—that is, exclude not more than two academic years of countable service toward tenure—in order to accommodate one or more of the following exigencies or hardships: a) Childbirth or adoption; b) Dependent care

(including children, parents, spouses, or other dependents); c) The faculty member's own illness or other personal emergency; and/or, d) The inability of the institution to provide agreed upon facilities for the faculty member's research.

- 4.242 **Timing of Request.** The request to toll shall, to the extent possible, occur prior to the occurrence of the event(s) stated in *Subparagraph 4.241* and, in any case, within one year of the event(s). Requests made after the Component provides written notice of commencement of the promotion and/or tenure review process will not be honored.
- 4.243 **Faculty Member's Obligations.** Per *Subparagraph 4.242*, the faculty member shall notify his or her chair and dean and make a written request to the chief academic officer to toll up to two years of service on the tenure clock, clearly explaining the basis(es) for the request—namely, why the exigency or hardship prevents or significantly impedes the faculty member's ability to make progress toward achieving tenure; stating the estimated duration of both the exigency or hardship and the tolling period requested; and providing such supporting documentation as the Component may require.
- 4.244 **Chief Academic Officer's Obligations.** The chief academic officer shall notify the faculty member, the chair/director, and the dean, and submit his or her recommendation to the System vice chancellor for academic affairs (VCAA) for his or her decision. The recommendation shall include the faculty member's date of hire; process used to decide to request extension (such as executive committee approval or department chair recommendation); rationale to exclude the requested period of countable service; other facts or documentation relevant to the case; and the date by which the faculty member will be reviewed for tenure if the extension is approved.
- 4.245 **Two Year Limitation.** The total time excluded from countable service under this policy is two years (for example, a faculty member who tolls or excludes one year for childbirth or adoption and one year for dependent care has reach the maximum).
- 4.246 **No Property Right Created.** The tolling of the tenure clock under this policy lies within the sole discretion of the Component administration, subject to the VCAA's approval, and creates no property right, contractual or other legal entitlement in a member of the faculty. The administration may deny a request when, in its judgment, the needs and best interests of the Component, its

academic units, and/or its students so require; provided, that this policy shall not be applied in violation of Component or System non-discrimination policies.

- 4.247 Tenure and Promotion Criteria Unaltered. Chairs/directors, deans, and chief academic officers shall ensure that all faculty members, tenure and promotion or other reviewing committees, and outside letter writers are informed that the criteria for tenure do not change when service has been excluded from a faculty member's probationary period.
- 4.25 Calculating Service. For purposes of calculating the period of probationary service, an "Academic year" shall be the approximate nine-month period from September through May as designated in the common calendar established by the Texas Higher Education Coordinating Board. One year of probationary service is accrued by at least nine months full-time academic service during any academic year, regardless of whether contracted on an annual basis or for a consecutive fall and spring semester. A faculty member shall be considered to be on full-time academic service if in full compliance with Board standards pertaining to minimum faculty workloads at general academic universities. If a faculty member is initially appointed during an academic year, the period of service from the date of appointment until the beginning of the following academic year shall not be counted as academic service toward fulfillment of the maximum probationary period.
- 4.26 Non-tenured Faculty. No non-tenured member of the faculty should expect continued employment beyond the period of current appointment as approved by the Board of Regents. Any commitment to employ a non-tenured member of the faculty beyond the period of current appointment shall have no force and effect until approved by the Board. Non-tenured members of the faculty serve at the pleasure of the Component President and the Board, subject to the provisions of proper notice as required by these *Rules and Regulations*.
- 4.27 Non-reappointment and Denial of Tenure. A non-tenured faculty member, who is notified of non-reappointment in accordance with *Subsection 4.14* or who is notified in accordance with *Subsection 4.24* that tenure has been denied and that the subsequent academic year will be the terminal year of appointment, shall not be entitled to a statement of the reasons upon which the decision for such action is based.
- 4.28 Performance Reviews. Components shall develop and publish campus-specific faculty performance review policies.
- 4.281 Annual Review Policies. Each Component shall develop campus-specific annual review policies for non-tenured faculty members.



4.282 Performance Review of Tenured and Other Faculty. Each Component shall develop campus-specific post tenure policies and procedures to determine whether a tenured faculty member is performing consistently at an acceptable professional level as well as a mechanism whereby a faculty member is informed of any deficiencies and provided opportunity to improve his or her performance. Such policies and procedures shall be consistent with the tenure policies of this *Chapter* and *Education Code, Section 51.942* and shall accord faculty members fundamental due process and a right of appeal in accordance with existing Component and Board policy.

#### 4.3 Promotion.

4.31 Discretionary Nature of Promotion. The academic promotion of a faculty member is discretionary on the part of the President of the Component, the Chancellor and the Board of Regents. Faculty members do not have an entitlement to a prospective promotion rising to the level of a property interest, and the denial of a prospective promotion is not sufficiently stigmatic to constitute a liberty interest. No commitments, implied or otherwise, shall be made by any individual regarding faculty promotions without the prior written approval of the President, and all faculty promotions shall be subject to the approval of the Chancellor and Board of Regents. Faculty members who are not recommended for promotion shall not be entitled to a statement of reasons for the decision against the recommendation. However, supervisors are encouraged to offer suggestions for a program of professional development in teaching, scholarly or creative work, and leadership or service that may enhance the likelihood of promotion in the future.

4.32 Guidelines. The President of each Component shall develop minimum expectations and guidelines to be used in the evaluation of faculty for promotions, salary increases, reappointments, and tenure. Such guidelines shall include but not be limited to:

- (1) Teaching in the classroom, laboratory, or seminar room;
- (2) Studying, investigating, discovering, and creating;
- (3) Performing curricular tasks auxiliary to teaching and research, e.g., serving on faculty committees, attending to administrative and disciplinary tasks, and promoting diligence and honest work in the student body;
- (4) Advising and counseling of students, including the posting or publishing of office hours in such a manner as may be required by the President;

- (5) Influencing beneficially students and citizens in various extracurricular ways; and,
- (6) Patents or commercialization of research, where applicable.

Within the guidelines, a faculty member becomes eligible for promotion by meeting or exceeding standards of performance although such eligibility shall not entitle him or her to a promotion.

#### 4.4 Faculty Grievances of Non-renewal or Termination of Employment.

- 4.41 Faculty Member Defined. For purposes of this *Paragraph*, “faculty member” means a person employed full-time by a System Component as a member of the faculty, including professional librarians, whose duties include teaching, research, administration, or the performance of professional services. It does not include a person who holds faculty rank but spends the majority of his or her time engaged in managerial or supervisory activities, including a chancellor, president, provost, vice president, associate or assistant vice president, dean, associate or assistant dean.
- 4.42 Grievable Issues. A faculty member may present a grievance, in person, to a System Component’s president on an issue related to non-renewal or termination of the faculty member’s employment at the end of his or her contract period.
- 4.43 Termination Prior to End of Contract Period. A faculty member, whose employment is terminated prior to the end of his or her contract period, shall be entitled to invoke the full due process procedures provided to tenured faculty under *Paragraph 4.5* of this *Chapter*.
- 4.44 Grievance Process. The president shall designate a member of his or her administration as a hearing officer to consider grievances under this *Chapter*.
  - 4.441 No later than thirty (30) business days after the grievant learns (or in the exercise of reasonable care should have learned) of the action or condition giving rise to the grievance, he or she shall file the grievance on a form prescribed by the Component, providing supporting documentation, if any.
  - 4.442 The hearing officer will meet with the grievant at a mutually convenient time to review any documentation or other evidence that the grievant may present in support of his or her position.

- 4.443 The hearing officer may not recommend changing the administration's action regarding non-renewal or termination of employment unless the faculty member establishes a *prima facie* case—that is, presents evidence sufficient to establish a claim in the absence of rebuttal by the Component—that he or she has been denied a right guaranteed by the constitutions or laws of the United States or of the State of Texas.
- 4.444 If he or she finds that the grievant has established a *prima facie* case, the hearing officer shall determine whether the administration has stated a non-discriminatory reason for its decision and so advise the president.
- 4.445 The president shall make the final decision regarding the grievance.
- 4.45 Not a Due Process Proceeding. A grievance under this *Paragraph* is not a due process hearing, requiring the formalities specified in *Paragraph 4.5* of this *Chapter*.
- 4.46 Component Procedures. A Component may not establish procedures that expand or contract the rights granted or materially alter processes described in this *Paragraph*. To the extent Component procedures conflict with the procedures in this *Paragraph*, the latter shall prevail. Existing Component policies on this subject matter are hereby revoked.
- 4.5 Termination and Due Process Procedures.
- 4.51 Grounds. Termination by a Component of the employment of a tenured faculty member and of all other faculty members before the expiration of the stated period of their appointment, except by resignation or retirement, will be only for good cause shown.
- Good cause includes but is not limited to the following:
- (1) Failure to work efficiently or effectively;
  - (2) Insubordination;
  - (3) Serious professional or personal misconduct, examples of which include:
    - (a) Commission of a misdemeanor involving moral turpitude, or a felony;
    - (b) Failure to secure and maintain Federal, State, or local permits required in the discharge of teaching, research, or other professional duties, including failure to maintain appropriate documentation;

- (c) Willful destruction of Component property or violent disruption of the orderly operation of the campus;
  - (d) Violation of the System's ethics policy (*Chapter VIII* of these *Rules and Regulations*), including acceptance or solicitation of gifts that might tend to influence the discharge of one's professional responsibilities;
  - (e) Stealing and publishing as one's own the intellectual property of another;
  - (f) Misuse or misappropriation of state property, resources, funds, including funds held by a faculty member as part of official duties;
  - (g) Sexual harassment, as defined by *Section 4.4* of *Chapter VII* of these *Rules and Regulations*; and,
  - (h) Racial harassment as defined by *Section 4.3* of *Chapter VII* of these *Rules and Regulations*.
- (4) Professional incompetence and/or neglect of professional duties;
  - (5) Mental or physical disablement of a continuing nature adversely affecting to a material and substantial degree of the performance of duties or the meeting of responsibilities to the institution, or to students and associates;
  - (6) Illegal use of drugs, narcotics, or controlled substances. A faculty member who, by a preponderance of the evidence, under these *Rules and Regulations*, is found to have illegally possessed, used, sold, or distributed any drug, narcotic, or controlled substance, whether the infraction is found to have occurred on or off campus, shall be subject to termination, suspension or other discipline as determined by the President or the President's designee. That an employee is charged in a criminal case, or is found "not guilty" therein, shall not be construed as prohibiting administrative enforcement of these *Rules and Regulations*. If, in the judgment of the President or the Board of Regents, the best interests of the students or the Component or the System so dictate, the employee may be immediately removed from contact with students and other employees, pending resolution of disciplinary proceedings; and,
  - (7) Intentionally or knowingly violating any Board or administrative order, rule, or regulation, including the provisions of *Chapter V, Section 2.144* of these *Rules and*

*Regulations.* The employee is presumed to have knowledge of such Board or administrative order, rule, or regulation that is published in these *Rules and Regulations* or is a published policy of the Component.

- 4.52 Suspension. A President may, for good cause, suspend an accused faculty member pending immediate investigation or speedy hearing as hereinafter provided when the continuing presence of the faculty member poses a danger to persons or property or an ongoing threat of disrupting the academic process. An employee who is suspended or discharged from a particular duty or job at the Component may be suspended or discharged from all other duties or jobs in the Component for the same or other good cause. The President shall, as soon as possible, notify both the Chancellor and the Vice Chancellor and General Counsel of any such actions.
- 4.53 Summary Dismissal. In cases of good cause where the facts are admitted by the faculty member, summary dismissal may follow.
- 4.54 Hearing Tribunal. In all cases where the facts are in dispute, the accused faculty member shall be informed in writing of the charges which, on reasonable notice, will be heard by a special hearing tribunal whose membership, including its chair, shall be appointed by the President from members of the faculty whose academic rank is equal to or higher than that of the accused faculty member. At such a hearing:
- (1) The hearing tribunal shall not include any accuser of the faculty member. The faculty member may challenge the alleged lack of fairness or objectivity of any tribunal member, provided such challenge is made prior to the submission of any evidence to the tribunal. The faculty member shall have no right to disqualify such member from serving on the tribunal. Each such challenged member shall determine whether he or she can serve with fairness and objectivity in the matter. In the event the challenged member chooses not to serve, the President shall appoint a substitute.
  - (2) The faculty member shall have a right to attend the hearing; confront and cross-examine adverse witnesses; present relevant evidence on his or her own behalf; testify or choose not to testify; and, be assisted or represented by counsel. The hearing shall be closed although the faculty member may request that it be open to the public. Notwithstanding a faculty member's request, the tribunal may close all or a portion of a hearing to deliberate or if it appears likely that privacy interests of others are relevant and could be affected by an open hearing.
  - (3) The Component, through a representative and/or through counsel, shall have the right to attend proceedings;

present witnesses and evidence against the faculty member; and, cross-examine the faculty member (if the faculty member testifies) and his or her witnesses.

(4) The hearing tribunal, by a majority of the total membership, shall make written findings on the material facts and a recommendation of the continuance or termination of the faculty member's tenure as well as any supplementary suggestions it may have concerning the case. The original of such findings, the recommendation, any supplementary suggestions, and the record of the hearing shall be delivered to the President and a copy thereof sent to the faculty member. Any minority findings, recommendations, or suggestions shall be distributed in the same manner.

(5) A stenographic or electronic record of the such record shall be made accessible to the faculty member.

4.55 Review by President. The President shall review the record, plus any additional written briefs the parties wish to submit, and render a decision, stating his or her reasons therefore in writing and communicating the same to the faculty member. The President may recommit the matter to the same tribunal to hear additional evidence and/or to reconsider its findings, recommendations, or suggestions, if any. The original findings, recommendations, and suggestions of the hearing tribunal, a transcript of the hearing, any briefs submitted, and the decisions, recommendations, findings, and suggestions of the President shall be delivered to the Board.

4.56 Appeal to the Board. Upon written request by the faculty member, received in the System Administrative Office within thirty (30) calendar days of the faculty member's receipt of the President's decision, the Board shall review the record before it. Such request should specifically address any defects in procedure or substance which require reversal of the President's decision. The President may submit a written response to the request for review. By a majority of the total membership, the Board may approve, reject, or amend any decisions, findings, recommendations, and suggestions before it, or recommit the matter to the President for reconsideration or the hearing of additional evidence. The Board shall notify the faculty member in writing of the reasons for its decision.

4.6 Termination of Faculty Employment Under Special Circumstances. If, in the judgment and discretion of the Board, reductions in legislative appropriations for faculty salaries; governmentally mandated reductions in faculty positions; significant loss of enrollment; consolidation of departments or other reorganization; dropping of courses, programs, or activities for educational or financial reasons; or financial exigency make such action advisable, the employment of a faculty member who has been granted tenure or of any other faculty member before the expiration

of the stated period of his or her employment, may be terminated in accordance with the provisions of this *Section*.

4.61 A faculty member whose employment will be recommended for termination under this *Section 4.6* shall be given:

- (1) a statement of the basis for the decision to terminate the faculty member's employment, together with a description of the manner in which the recommendation of termination was made;
- (2) access the information and data upon which the recommendation was based; and,
- (3) an opportunity to respond consistent with the requirements of due process.

4.62 In cases involving the termination of faculty employment under the provisions of this *Section*, the guidelines to be used to identify faculty members in a designated program whose employment will be recommended for termination shall include the following:

- (1) Whenever possible, faculty reduction will be accomplished through attrition;
- (2) Within a designated program, the termination of the employment of a faculty member with tenure may not be recommended in favor of retaining a faculty member without tenure unless:
  - (a) The removal of a non-tenured faculty member would eliminate an essential part of a program or render a program dysfunctional; or,
  - (b) The removal of a non-tenured faculty member who is deemed to be of equal or greater merit than a tenured faculty member would jeopardize the advances achieved by the Component under its diversity program.

4.63 A faculty member recommended for termination under the provisions of *Section 4.6* should be given the opportunity for appointment in a related area provided: (a) the faculty member is qualified professionally to teach in such area or is willing to undergo the appropriate professional retraining that will qualify him or her to do so; and (b) a position is available.

4.64 A faculty member whose position has been terminated will be given first consideration for rehiring, should the position be re-established within a three-year period.

4.65 The President of each Component shall develop and publish in the Component's faculty handbook the Component's policy

regarding termination of employment under *Section 4.5*, subject to the reviews and approvals specified in these *Rules and Regulations*.

4.7 Rights and Responsibilities as a Teacher and as a Citizen.

- 4.71 Classroom. The faculty member is entitled to freedom in the classroom in discussing the faculty member's subject but 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.
- 4.72 Research and Publication. The faculty member is entitled to freedom in research and in the publication of the results in accordance with responsible academic and professional practices.
- 4.73 Licenses and Permits. The faculty member shall be responsible for securing and maintaining any and all federal, state, and local licenses and permits required for his or her classroom, research, or other professional activities.
- 4.74 Speaking as a Citizen. The faculty member is a citizen, a member of a learned profession, and an employee of an educational component supported by the State. When the faculty member speaks or writes as a citizen, the faculty member should be free from component censorship or discipline; but, the faculty member's special position in the community imposes special obligations. As a person of learning and a faculty member of a state funded educational component, the faculty member should remember that the public may judge his or her profession and component by his or her utterance. Hence, the faculty member should at all times be accurate, exercise appropriate restraint, and should show respect for the opinions of others.
- 4.75 Partisan Political Activities. The Board of Regents recognizes and affirms a faculty member's right to participate in political activities as long as such political activities do not interfere with the discharge of the duties and responsibilities that a member of the faculty owes to the System or a Component or otherwise involve the System or a Component in partisan politics. If, in the President's or Board's judgment, the interest of the System or a Component so require, they may grant a leave of absence without pay to a member of the faculty. If a member of the faculty, who has not been granted a leave of absence, wishes to engage in political activity that interferes with the discharge of the duties and responsibilities that are owed to the System or a Component, the faculty member should voluntarily terminate employment with the Component. If the faculty member does not voluntarily terminate his or her employment and the President or the Board finds that the faculty member's political activity interferes with the discharge of the duties and responsibilities that are owed to the System or a Component, the President or the Board shall terminate such faculty member's employment by the Component.



4.76 Non-competitive use of employee-owned courseware. (See *Chapter III, Paragraph 11.6* of these *Rules*). Courseware developed by an employee without specific direction or significant support of the Component institution shall not be sold, leased, rented, or otherwise used in a manner that competes with the instructional offerings of his/her own Component without the prior written approval of the chief academic officer of the Component. Should approval be granted to offer the course, course Components, or instructional support materials outside of the institution, the employee shall reimburse the Component for any use of its resources.

4.8 Terms and Conditions of Employment.

4.81 Faculty Development Leaves. The Board of Regents authorizes each President to implement a Faculty Development Leave Program pursuant to the provisions of *Texas Education Code, Chapter 51, Subchapter C* and approval of the Chancellor.

4.82 Absences. The following regulations, pertaining to faculty absences, authorized and unauthorized, are established for each Component and have been filed with the Texas Higher Education Coordinating Board as required by the *Texas Education Code, Section 51.108*. Each Component President is delegated authority to promulgate policies to implement the provisions of this *Subsection*, including the reporting of faculty absences and the granting of such sick leave, emergency leave, and/or other leave as may be authorized by statute or the *General Appropriations Act*. Component policies shall make provisions for the following:

4.821 Authorized Absences. A faculty member employed by a Component must discharge faithfully instructional duties and other responsibilities associated with faculty appointment, including the meeting of all scheduled classes. Absences from classes will be authorized only under the following conditions:

- (1) Professional meetings when, in the judgment of the President or his/her designee, attendance at such a meeting would contribute to the improvement of teaching or scholarship at the Component;
- (2) Personal or immediate family illness;
- (3) Family emergencies;
- (4) Specific assignments of the President of short duration (the Board of Regents discourages specific assignments which will cause a faculty member to be absent from assigned classes);

- (5) Special circumstances where the President considers such absences to be for valid reasons and in the best interest of both the faculty member and the Component.
- 4.822 Unauthorized Absences. Unauthorized absences on the part of the faculty member are not permitted. Each Component shall regard such absences as a violation of the terms of the faculty member's appointment.
- 4.83 Outside Employment. The President of each Component shall approve and incorporate in the faculty handbook specific policies governing outside employment by all faculty members. These guidelines shall include but not be limited to the provisions and conditions of this *Subsection*.
- 4.831 Faculty members should not be discouraged from accepting appropriate appointments of a consultative or advisory capacity with governmental agencies, industry, or other educational institutions as long as such activities do not conflict with the individual's work at the Component. The consideration to the System of such activity is the improvement of the individual through contact with the non-academic world. Faculty members should be discouraged from accepting regular employment outside the Component because such does not directly benefit the Component as indicated herein.
- 4.832 Conflict of interest must be avoided in all instances of outside employment. Conflict of interest means any outside activity which intrudes upon the faculty member's responsibility to the Component. See *Subsection 2.4* of this *Chapter* and *Chapter VIII (Ethics Code)*.
- 4.833 No member of the faculty engaged in outside remunerative activities shall use in connection therewith the official stationery, supplies, equipment, personnel services, or other resources of the System or any of its Component universities. Nor shall such member of the faculty accept pay from private persons or corporations for tests, essays, chemical analysis, computer programming, bacteriological examinations, or other work of a routine character which involves the use of property owned by the System or its Components.
- 4.834 Every member of the faculty who gives professional opinions must protect the System and its Components against the use of such opinions for advertising purposes. That is, when work is done in a private capacity, the faculty member must make it clear to the employer that such work is unofficial and that, absent the President's prior approval, the name of the System and its

Components are not in any way to be connected with the faculty member's name. Exceptions may be made for the name of the author attached to books, pamphlets, and articles in periodicals, and the identification of an individual in publications of corporations or companies related to service as a member of an advisory council, committee, or board of directors.

- 4.835 A faculty member (as defined in *Section 1.11* of this *Chapter*) may not engage in any outside work or receive compensation from an outside source that creates a conflict of interest with the faculty member's duties at the Component. A conflict of interest includes the actions prohibited in *Section 3.2* of *Chapter VIII* of these rules. The faculty member shall notify the President or his/her designee of such activity.
- 4.836 Reporting Requirements. Any faculty member who seeks to engage in remunerative employment or consulting outside of his or her primary employment relationship with the Component, shall notify and obtain written permission from the head of his or her department before beginning such outside employment or consulting. If his or her department head determines that the employment or consulting serves a public purpose and does not unreasonably interfere or conflict with the faculty member's obligations or duties to the Component, the department head may authorize the employment or consulting.
- 4.84 Textbooks and Other Course Materials. Policies which govern textbooks and other materials prescribed for use by students will be specified for each Component in the faculty handbook for that Component.
- 4.841 Generally, the individual faculty member or the academic department should have wide discretion in the choice of materials to be used in the courses offered by the department with the approval by the chairman or head of the department. Although the authorship of books, outlines, manuals, and similar materials by members of the faculty should be encouraged, the prescribed use of these for students is a responsibility that goes beyond that of the individual author. Where practicable and equitable, the charge for outlines, syllabi, and similar materials prescribed for the use of students should be borne by the instructional department concerned. Whenever a charge is authorized for such copied materials, the prices should be as low as possible, consistent with the payment of a fair and reasonable royalty to the author or authors. This charge must be considered in conjunction with the "incidental course fees or charges" such that students are not charged more than once for the same material(s).

- 4.842 Textbooks, notebooks, manuals, or other materials for the use of students of a Component, written or prepared by a member of the faculty of that Component, shall not be prescribed for the use of or sold to such students until such books, notes, manuals, or materials shall have been approved, with reasons stated, by the department head and approved by the academic Vice President. All such requests shall indicate the proposed prices and profits, and their authorization shall be effective only to the end of the fiscal year (August 31) for which such approval has been given.
- 4.85 Acceptance of Money from Students. Faculty members shall not, without approval of the President or his/her designee, collect from students any fees or charges to be expended for Component purposes or sell to students books, notes, materials or supplies. Faculty of the rank of lecturer or above, and other instructional personnel as designated by the Component President, may not accept pay from students for extra instruction or teaching of students registered in the Component. With prior written approval of the President or his or her designee, instructional employees below the rank of lecturer may accept pay from students for extra-class instruction or coaching but only in courses or sections of courses with which they have no instructional connection. The faculty handbook of the Component shall specify the procedure for approval at the Component level.
- 4.86 Knowledge of These *Rules & Regulations*. Each faculty member shall become acquainted with these *Rules and Regulations*, Component policies and faculty handbooks, catalogues, announcements of courses, other official publications, and printed or other material regularly prepared for the use of the faculty. The President shall have copies of these *Rules and Regulations*, Component policies and faculty handbook available at the President's office, the library, and other appropriate campus locations.
- 4.9 Honorary Titles and *Emeritus* Faculty.
- 4.91 Honorary Titles. Several honorary titles - Regents' Professor, University Distinguished Professor, *Emeritus* (or distinguished *emeritus*) Status - recognize long and distinguished service.
- 4.92 Regents' Professor. Upon the recommendation of the Chancellor, the Board of Regents, from time to time, may bestow the title of "Regents' Professor" upon a very select number of tenured faculty members who have demonstrated the following:
- (1) Excellence in teaching and exceptional dedication to students;

- (2) National or international distinction and acclaim for academic achievement or scholarship; and,
- (3) Notable contributions and commitment to their Component institutions and communities.

Upon retirement, a Regents' Professor shall automatically receive *Emeritus* faculty status.

4.93 University (College or Institute) Distinguished Professor. The President of each Component may establish criteria to recognize, annually, as "University (College or Institute) Distinguished Professors," a select number of outstanding professors or associate professors, who have achieved academic accomplishment and stature that exceeds the criteria for the granting of tenure. Upon retirement, a University Distinguished Professor shall automatically receive *Emeritus* faculty status.

4.94 *Emeritus* (or Distinguished *Emeritus*) Status. The President of each Component is authorized to bestow the following titles upon retired or retiring faculty:

- (1) Professor *Emeritus*, Distinguished Professor *Emeritus*, or similar honorific titles, provided that the faculty member holds the rank of professor and has served the Component, with distinction, at least ten years.
- (2) Associate Professor *Emeritus*, provided that the faculty member holds the rank of associate professor and has served the Component, with distinction, at least fifteen years.

Except for Regents' Professors and University Distinguished Professors, the conferring of *emeritus* status is not automatic upon retirement but shall be based upon individual distinction, exceptionally high quality service, and outstanding contributions to the Component which clearly demonstrate the individual's worthiness for the honor conferred.

4.95 Privileges and Perquisites of *Emeritus* Status. Although *Emeritus* status constitutes continued academic appointment without remuneration or authority, holders of the title of "distinguished professor *emeritus*" or "distinguished associate professor *emeritus*" shall be accorded the following privileges and perquisites:

- (1) Use of the title "distinguished professor *emeritus*" or "distinguished associate professor *emeritus*."
- (2) Membership (without vote) in the general faculty and in the college and department faculties in which membership was held at the time of retirement.

- (3) Membership in the graduate faculty (without vote) if membership was held at the time of retirement.
- (4) Eligibility for service on Component committees upon appointment by the President of the Component.
- (5) Assignments of office space and use of laboratory facilities, when available, with the approval of the department head, dean of the college, and Provost and Vice President for Academic Affairs.
- (6) Listing in the faculty directory and applicable publications.

4.96 Duration of Honorary Titles. The Board of Regents prefers and intends that honorary titles be held in perpetuity (for example, if a faculty member enjoying *emeritus* status is recalled to service in the interest of the Component after an intervening period, *emeritus* status is not affected); notwithstanding anything to the contrary in this *Paragraph 4.9*, conferring any such title shall not create a property right or entitlement in the holder. The Board reserves the right to revoke a title if, in its sole judgment and discretion, the best interests of the Texas State University System or of a Component warrant such action.

#### 4.10 Miscellaneous Provisions.

4.10(1) Faculty Organizations. The President of each Component is authorized and encouraged to permit the faculty to organize and function in the form of representative faculty bodies in order that the faculty might effect greater utilization of its resources in the conduct of Component affairs.

4.10(11) General Authority. Subject to the ultimate authority of the Board of Regents and the delegated authority of the Component President or his or her designees, the faculties of the Components shall have an appropriate advisory role in the governance of their respective Components. Officially recognized faculty bodies shall have no existence separate and apart from the Component with which they are associated. This role may include but not be limited to the following areas:

- (1) General academic policies and procedures;
- (2) Student life and activities;
- (3) Requirements of admission and graduation;
- (4) Honors and scholastic performance generally;
- (5) Approval of candidates for degrees; and,

(6) Faculty rules of procedure.

4.10(12) Faculty Minutes. Copies of Component faculty minutes, or those of their legislative bodies, shall be available for use of members of the particular faculties individually, if desired, and shall be filed in the office of their secretaries and a copy distributed to the offices of the Academic Deans, Academic Vice President, and President.

4.10(2) Recruitment and Resignation of Faculty Members. Mobility of faculty members among colleges and universities is rightly recognized as desirable in American higher education. Yet, the departure of a faculty member always requires changes within a Component and may entail major adjustments on the part of the faculty member's colleagues, the administration, and students in the faculty member's field. Thus, each Component President shall establish procedures regarding the recruitment and resignation of faculty members. The standards set forth below are recommended:

- (1) Recruitment Negotiations. Negotiations looking to the possible appointment of persons for the following fall semester who are faculty members of other universities in active service or on leave-of-absence and should be begun and completed as early as possible in the academic year and the appropriate other Component officers informed of such negotiations.
- (2) Notification of Resignation. A faculty member should not resign later than May 15 or thirty days after receiving notification of the terms of continued employment for the following year, whichever date occurs later.
- (3) Appointment Offer. To permit a faculty member to give due consideration and timely notice to his or her Component, an offer of appointment for the following fall at a Component should be made before May 1 whenever possible.

4.10(3) Retired Faculty. A full-time faculty member, who has retired from service from one of the Components in The Texas State University System and who held the title professor, associate professor, assistant professor, or instructor at the time of retirement, shall be accorded the following privileges and perquisites at such Component:

- (1) A faculty identification card denoting previous academic rank and the designation "Retired". In the case of holders of an emeritus title, the identification card shall denote the applicable emeritus title;

- (2) Faculty library privileges;
- (3) Use of Component dining services;
- (4) Authority to purchase a faculty-staff activity card on the same basis as active faculty members;
- (5) Parking privileges provided to active faculty members of the Component;
- (6) Continued eligibility for Component group health and life insurance as provided by statute;
- (7) Use of internal Component mail service and facilities; and,
- (8) Other privileges for retired faculty approved by the President of the Component.

4.11 Sexual Misconduct. Faculty shall comply with the System's "*Sexual Misconduct*" policy found in *Chapter III Paragraph 22* and *Appendix A-6*.

5. UNCLASSIFIED EMPLOYEES (EXCLUDING ADMINISTRATIVE OFFICERS) AND ALL CLASSIFIED EMPLOYEES.

5.1 Employment.

5.11 Hiring. The Board authorizes the President of the Component to hire all unclassified staff employees (exclusive of administrative officers), all classified staff employees, and other non-faculty personnel who are paid on a monthly or hourly basis. The employment of unclassified staff employees is subject to ratification by the Chancellor and the Board of Regents. All employees hired under the authority of this *Subsection* shall serve without a fixed term and at the pleasure of the President.

5.111 All hiring shall be made on the basis of merit. The President of the Component may investigate the character, integrity, scholastic attainment, and other qualifications of prospective employees before hiring them or before exercising any delegated authority for hiring them.

5.112 As provided in the *Constitution of the State of Texas, Article I, Section 4*, and by statute, no religious qualification shall be required for appointment to any office or position connected with the System or any Component thereof.

5.113 There shall be full compliance with statutory provisions requiring notification to employees.



- 5.114 Each Component may require a pre-employment, post-offer physical examination of applicants to be employed in regular positions if the physical examination is required of all applicants for a particular job position. Examinations for those applicants whose duties will require the handling of food will be administered in accordance with the *Americans with Disabilities Act* and the regulations adopted pursuant to the Act. Each Component may use the results of physical examinations to make job decisions in compliance with the Act and its regulations. The physical examinations may be made at the health center of the Component at which the applicant will be employed. If such center does not exist, the physical examination will be performed by qualified medical personnel approved by the Component. The expense of the examination will be paid by the Component. Reports of the physical examinations shall be retained as confidential medical records and treated in accordance with the Act and its regulations.
- 5.12 Salaries. The salary of each employee covered by *Subsection 5.11* of this *Chapter* shall be set by the President of the Component, subject to confirmation by the Chancellor and the Board of Regents and in accordance with the approved budgets.
- 5.2 Terminations. The President of each Component shall have the authority to terminate at any time the employment of any employee covered by *Subsection 5.11* of this *Chapter* subject to review by the Chancellor and the Board of Regents.
- 5.3 Absences. The President of each Component shall adopt policies and guidelines covering the authorized absences for all personnel covered by *Section 5* of this *Chapter*. Such policies and guidelines shall be in accordance with the provisions of current statutes and these *Rules and Regulations* (see *Subsection 2.51* of this *Chapter*).
- 5.4 Outside Employment. The provisions and conditions for outside employment by all classified and unclassified staff employees, including administrative officers, shall be the same as those established for faculty members under *Subsection 4.83* of this *Chapter*.
- 5.5 Acceptance of Money from Students. Administrative and staff employees shall not, without previous and special written approval of the Component administration, collect from students any fees or charges to be expended for Component purposes. Certain positions, such as cashiers and similar positions, may have this approval as part of their job descriptions. Acceptance of funds by Component employees, in any case, shall be only via official Component receipt mechanisms as approved by the Component's chief fiscal officer.

- 5.6 Sexual Misconduct. Unclassified employees and all classified employees shall comply with the System's "*Sexual Misconduct*" policy found in *Chapter III Paragraph 22* and *Appendix A-6*.

6. EMPLOYEE TRAINING.

The President of each Component is authorized to expend public funds for the training and education of its employees where the training or education is related to the current or prospective duty assignment of the employee. Any Component-specific written regulations governing such training and education shall be in accordance with the provisions of *Texas Government Code, Section 656.044*.

6.1 Seminars and Workshops.

- 6.11 Employees may take time off from regularly assigned duties to participate in seminars, workshops or similar training events of limited duration if the employee's supervisor determines that the seminar, workshop, or similar training events will enhance the employee's job performance.

- 6.12 Subject to availability, funds may be expended for employee participation in seminars, workshops or similar training events of limited duration if the following conditions are met:

6.121 The employee's supervisor has determined that the seminar, workshop, or similar event will enhance the employee's job performance;

6.122 Reimbursable expenses incurred (i.e., attendance charges, tuition course-related materials, and travel expenses) are determined to be cost-effective;

6.123 Travel expenses will be reimbursed if the necessity of travel is justified (e.g., the training is not available through a local source);

6.124 The travel request was approved by the employee's supervisor in advance of the training.

- 6.13 Travel expense reimbursement for seminars, workshops and similar training events must meet all applicable policies, rules and statutory provisions regarding travel by State employees.

- 6.2 Continuing Professional Education (CPE). Funds may be expended for continuing professional education required to maintain a professional license or certification for those positions which require such licenses or certificates and for positions in which licensure or certification is desirable. Employees in such positions may have time off from regularly assigned duties to satisfy CPE requirements. Expenditures for the training are subject to availability of funds.

- 6.3 College Courses. Subject to availability of funding, employees may be reimbursed for certain college courses if the following conditions are met.
- 6.31 The employee's supervisor has determined that the course will enhance the employee's job performance.
- 6.32 The course is taken in accordance with the Component's written policies and appropriate written approval is obtained prior to enrolling in the course.
- 6.4 Training Subject to *Subchapter D, Chapter 656, Title 6, Texas Government Code* (Restrictions on Certain Training).
- 6.41 "Training" means instruction, teaching, or other education received by a state employee that is not normally received by other state employees and that is designed to enhance the ability of the employee to perform the employee's job. The term includes a course of study at an institution of higher education if the employing state agency spends money to assist the state employee to meet the expense of the course of study or pays salary to the employee to undertake the course of study as an assigned duty. The term does not include training required either by state or federal law or that is determined necessary by the agency and offered to all employees of the agency performing jobs.
- 6.42 If an employee receives training, as defined in *subsection 6.41* of this *Section* that is paid for by a Component, and during the training period the employee does not perform the employee's regular duties for three or more months as a result of the training, then the employee must agree in writing before the training begins to:
- 6.421 Work for the Component following the training for at least one month for each month of the training period; or
- 6.422 Reimburse the agency for all the costs associated with the training that were paid during the training period, including any amounts of the employee's salary that were paid and that were not accounted for as paid vacation or compensatory leave.
- 6.43 An employee may make a written request to the President of his or her Component to waive the requirements in *subsection 6.42* of this *Section* and release an employee from the obligation to meet those requirements. Each President may authorize such a waiver if he or she finds that such action is in the best interest of the agency or is warranted because of an extreme personal hardship suffered by the employee.
- 6.44 If an employee does not provide the services required in *subsection 6.42* of this *Section*, provides those services for less

than the required term, or fails to make any required payments and is not released from the obligation, the employee is liable to the Component for the obligated amount and reasonable expenses incurred in obtaining payment, including reasonable attorney's fees and other collection costs.

## CHAPTER VI. STUDENT SERVICES AND ACTIVITIES

### 1. GENERAL PROVISIONS.

- 1.1 Application of Policies, *Rules and Regulations*. These *Rules and Regulations* apply to all Component institutions of the System and shall be implemented appropriately in the student handbook for each Component.
- 1.2 The "Chief Student Affairs Officer" means the administrator directly responsible for student affairs at each Component under authority delegated by the President.
- 1.3 A student is one who is currently enrolled at any of the Components of the System. These *Rules and Regulations* will also apply to any prospective or former student who has been accepted for admission or readmission to any Component while such individual is on the campus of any Component.
- 1.4 The "campus" is defined as all real property owned and/or controlled by that System Component.

### 2. ADMISSION STANDARDS AND REQUIREMENTS.

Student admissions standards, entrance requirements, and degree qualifications shall be determined and prescribed by each Component subject to the approval of the Board upon the recommendation of the Chancellor and of the Academic Affairs Committee. Enrollment preference shall be given to residents of the State of Texas. Each Component shall implement the American College Testing Program, Scholastic Aptitude Test, and/or the College Entrance Examination Board testing program as appropriate to its mission for entering first-time students after approval of the program by the Board. No otherwise qualified applicant for enrollment shall be denied admission on the basis of sex, religion, race, color, national origin, age, ancestry, marital status, veteran status, disability, or other criteria prohibited by law.

### 3. TUITION AND FEES.

Tuition, student fees, and room and board rates shall be established by each Component subject to approval by the Board.

- 3.1 Student Services Fees. Each Component is authorized to charge and collect from students registered at the Component fees to cover the cost of student services which the Chancellor and Board deem necessary or desirable in carrying out the educational functions of the Component based on *Education Code, Section 54.503*.

- 3.2 Additional Mandatory Fees. Each Component is authorized to charge and collect from students registered at the Component other such mandatory fees as statutorily authorized.
- 3.3 Additional Voluntary Fees. Additional voluntary student services fees may be established with the approval of the President of the respective Component.
- 3.4 Installment Payments. Each Component shall provide optional installment payment plans for tuition and required fees in accordance with *Education Code, Section 54.007*. A Component may also provide an installment method of paying campus housing, food service, or room and board contracts. The Board may authorize assessment and collection of incidental fees for students utilizing this method of payment and/or late fees for students who are delinquent in their payment, provided such fees reasonably reflect the cost to the Component of handling these payments.
- 3.5 Reinstatement Fee. A student seeking reinstatement to a Component within the same semester after having withdrawn or been withdrawn shall pay a \$50.00 reinstatement fee, in addition to late payment fees. Students on an installment plan must also pay all past due balances at the time of reinstatement.
  - 3.51 Application of Component and all federal or state grants and loans provided to a student must be applied toward the full amounts due to the Component for the payment of tuition, fees, and other charges before installment payments are scheduled. This provision does not apply to Guaranteed Student Loan Program (GSLP), Parent Loans for Undergraduate Students (PLUS), Student Loan Supplement (SLS), or other similar funds, which shall be disbursed by the Component directly to the student in accordance with federal law and regulations.
  - 3.52 Campus Housing, Food Service, Room and Board. Each Component is authorized to charge fees to students utilizing an installment method of paying campus housing, food service, or room and board contracts, with such fees not to exceed the fees charged under *Section 3.4* of this *Chapter* to students paying tuition and required fees in installments.

#### 4. STUDENT GRANTS AND LOANS.

Pursuant to *Education Code, Chapter 56*, the following guidelines submitted to the Coordinating Board shall be utilized for awarding Texas Public Educational Grants, Emergency Tuition and Fees Loans, and Toward Excellence, Access, & Success (TEXAS) Grants by the Components in The Texas State University System.

- 4.1 Assessments for Grant and Loan Programs. Each Texas State University System Component shall set aside, each academic year, not less than 15 percent nor more than 20 percent out of each resident and 3 percent out

of each nonresident student's tuition charge under *Education Code, Section 54.051* as provided by the *General Appropriations Act* for the applicable academic year. Of the funds set aside pursuant to this *Section*, not more than 90 percent shall be used for Texas Public Educational Grants and not more than 10 percent shall be used for emergency loans to students.

- 4.2 Approval of Guidelines. The guidelines for the award of grants shall be submitted to the Coordinating Board before any grants are made through this program.
- 4.3 Criteria for Awarding Grants.
  - 4.31 Enrollment. Grants are to be made only to students who actually enroll in the term or terms for which the grant is awarded.
  - 4.32 Need. Grants shall be based upon financial need of the applicant and may be used to aid students who may have demonstrable financial need.
  - 4.33 Needs Analysis Procedures. Financial needs of students are to be determined by use of accepted needs analysis procedures, generally in use in other "needs based" financial assistance programs.
  - 4.34 Separation of Funds. Funds set aside from resident student tuition charges may be used only for grants to resident students. Funds set aside from nonresident student tuition charges may be used only for grants to nonresident students. After the end of the sixth class week of each semester, a Component may transfer any excess funds set aside from tuition paid by resident or nonresident students to the fund set aside for grants awarded to the other class of students. Priority for awarding grants from any excess funds set aside from tuition paid by resident students shall be given to resident students.
  - 4.35 Transfer of Funds. Any or all of the funds set aside for making Texas Public Educational Grants may be transferred to the Coordinating Board, to be used for matching federal or other grant funds for awarding to students at each Component, provided such amounts can be equally matched by funds held by the Coordinating Board and further provided unencumbered funds transferred are returned upon request of the Component President.
  - 4.36 Full Use of Funds. At the end of a Fiscal Year, if the total amount of unencumbered funds that have been set aside under this program by a Component, together with the total amount of unencumbered funds transferred by the Component to the Texas Higher Education Coordinating Board exceeds 150 percent of the amount of funds set aside by the Component in the fiscal year, and the Component shall transfer the excess amount to the

Coordinating Board for the purpose of awarding scholarships as provided by law to students at other universities.

4.37 Scholastic or Disciplinary Probation. Returning students who are not maintaining satisfactory academic progress and all students on disciplinary probation may be ineligible for grants.

4.4 Criteria for Awarding Loans.

4.41 Eligibility. Loans are to be made only to students accepted for enrollment as regularly admitted students and/or enrolled in good standing and maintaining satisfactory progress in a program leading toward a degree. Students paying tuition on a basis other than semester credit hours have the same eligibility criteria and loan terms as students paying tuition on the basis of semester credit hour loans. Students in default on other student loans and other financial obligations are ineligible, and students on disciplinary probation may be ineligible.

4.42 Need. Borrowers must evidence a need for the loan by submitting a loan application stating the purpose and amount of the loan requested and the method of repayment.

4.43 Emergency Loans. Eligible student borrowers shall be assisted in obtaining emergency loans based on the order in which their applications are received.

4.44 Maximum Loan Amount. The maximum loan amount per student for each semester shall not exceed the tuition, fees, and room and board charges assessed for the semester in which the student is enrolling. The Component may deduct the student's unpaid indebtedness, penalties, and late charges from the loan proceeds and apply them to this indebtedness. Loans may be made in amounts needed to make payments on an installment plan for tuition and fees, as authorized under *Section 54.007* of the *Education Code*.

4.45 Promissory Note. Each loan must be evidenced by a promissory note which must be executed prior to the disbursement of funds. A Component may require a borrower to secure a cosigner, who evidences' ability and willingness to repay in the event the borrower defaults.

4.46 Interest. A Component may charge interest on these loans at an annual rate not to exceed 5 percent during the initial term of the loan. Additional charges may be assessed under *Section 54.504* of the *Education Code* for late penalties and collection costs associated with collecting delinquent loans. All interest-bearing promissory notes must be executed by all students receiving loans through or from the Component. Appropriate truth-in-lending statements shall be included in the promissory note.



- 4.47 Repayment. Except as provided in *Sections 4.48* and *4.49* below, borrowers will have a maximum repayment period of 90 days from the date of execution of the promissory note. The repayment schedule should allow for three equal installments within the 90-day period or a term note payable 90 days from the date the promissory note was executed. Repayment of loans for summer sessions will be determined proportionately by the length of the borrower's enrollment.
- 4.48 Deferred Repayment. A resident of Texas for tuition purposes, upon a finding that such individual would be deprived of an education due to a lack of financial ability, may defer repayment of the loan as allowed by law and in accordance with guidelines adopted by the Texas Higher Education Coordinating Board. Request for deferred repayment must be made in writing.
- 4.49 Forgiveness of Loans. A Component will forgive loans in accordance with guidelines adopted by the Texas Higher Education Coordinating Board for the determination of extreme financial hardship and other instances in which the public interest is served if a loan is forgiven.

5. STUDENT CONDUCT AND DISCIPLINE.

- 5.1 Acquaintance with Policies, Rules, and Regulations. Each student is expected to be fully acquainted and comply with all published policies, rules, and regulations of the Component and of The Texas State University System, copies of which shall be available to each student for review online and/or at various locations on each campus. Students are also expected to comply with all federal and state laws.
- 5.2 Student Misconduct. Each student is expected to act in a manner consistent with the Component's functions as an educational institution, including off campus conduct that is likely to have an adverse effect on the Component or on the educational process. Specific examples of misconduct for which students may be subject to disciplinary action include, but are not limited to, the following:
  - (1) Commission of an act that would constitute an offense under appropriate federal, state, or municipal law;
  - (2) Violation of any Regents' rule, regulation, or order or Component policy, rule, or regulation, including policies or contracts relating to residential living in Component-owned or operated facilities;
  - (3) Failure to comply with the direction of a Component official acting in the performance of his or her duties; or, failure to heed an official summons to the office of a Component official within the designated time;
  - (4) Giving false testimony or other evidence at a campus disciplinary or other administrative proceeding;

- (5) Failure to meet financial obligations including but not limited to the issuance of a check to the Component or its contractors without sufficient funds;
- (6) Unauthorized use or possession of ammunition, firearms, illegal knives (knives with blades longer than five and one-half inches, hand instruments designed to cut or stab another by being thrown, stilettos, poniards, Bowie knives, swords, and/or spears), or other illegal weapons on Component property (*see, Chapter VII, paragraph 4*);
- (7) Conduct that endangers the health or safety of others on the campus, including, by way of example, unauthorized throwing of any objects in or from Component facilities;
- (8) Stealing, destroying, defacing, damaging, vandalizing or misusing Component property or property belonging to another (*see, also, Chapter VII, paragraph 4*);
- (9) Engaging in hazing or voluntarily submitting to hazing, including an initiation by an organization that involves any dangerous, harmful, or degrading act to a student;
- (10) Possessing and/or using, without authorization according to the Component policy, intoxicating beverages in a classroom building, laboratory, auditorium, library building, faculty or administrative office, residence hall or apartment, intercollegiate and intramural athletic facility, or any other public campus area, or being intoxicated in any public area of the campus;
- (11) Illegal gambling in any form on Component property;
- (12) Illegal possession, use, sale, or distribution of any quantity, whether usable or not, of any drug, narcotic, or controlled substance;
- (13) Advocating or recommending the conscious and deliberate violation of any federal, state, or local law. Advocacy means addressing an individual or group for imminent action and steering it to such action as opposed to the abstract espousal of the moral propriety of a course of action;
- (14) Forgery, alteration, theft, or misuse of Component documents, forms, records, or identification cards;
- (15) Unauthorized possession, ignition, or detonation, on Component property, of any explosive device, fireworks, liquid, or object that is flammable or capable of causing damage to persons or property by fire or explosion;

- (16) Unauthorized entry into or use of Component buildings, facilities, equipment, or resources, or possession or use of Component keys for unauthorized purposes;
- (17) Failure to maintain a current official mailing address in the Registrar's office and/or giving a false or fictitious address to a Component office or official;
- (18) Knowingly initiating, communicating, or circulating a false or baseless report or alarm of a present, past, or future bombing, fire, offense, or other emergency that would ordinarily cause action by others charged with dealing with emergencies; placing a person in fear of imminent serious bodily injury; or preventing or interrupting the occupation of a building, room, aircraft, automobile, or other mode of conveyance;
- (19) Harassment where the individual threatens or bullies, in person, by telephone, electronically, in writing, or by other means, to take unlawful action against any person and by this action intentionally, knowingly, or recklessly annoys or alarms the recipient;
- (20) Academic dishonesty (see *subparagraph 5.3*);
- (21) Campus disruptive activities (see *subparagraph 5.4*) or disorderly conduct on Component-owned or controlled property or at a Component-sponsored or supervised function that inhibit or interfere with the educational responsibility of the Component community or the Component's social-educational activities shall include but not be limited to: using abusive, indecent, profane or vulgar language; making offensive gestures or displays that tend to incite a breach of the peace; perpetrating fights, assaults, acts of sexual violence, abuse, or threats; or evincing some obviously offensive manner or committing an act that causes a person to feel threatened. Such prohibition includes disorderly classroom conduct that obstructs, interferes with, inhibits and/or disrupts teaching and/or related classroom activities;
- (22) Using authority granted by state law, System rule, or Component policy to deprive any person of his or her civil rights;
- (23) Violation of Component policy relating to electronic network facilities such as local area networks and the Internet;
- (24) Failure to acquire and maintain a Component-issued student photo identification (I.D.) card; failure to replace a lost/stolen I.D. card; and/or any falsification, misrepresentation or other misuse of the student I.D. card.
- (25) Any attempt to commit these prohibited acts.

(26) Sexual Misconduct (*Chapter III Paragraph 22 and Appendix A-6*).

5.3 Academic Honesty. The Component expects all students to engage in all academic pursuits in a manner that is above reproach and to maintain complete honesty and integrity in the academic experiences both in and out of the classroom. The Component may initiate disciplinary proceedings against a student accused of any form of academic dishonesty, including but not limited to, cheating, plagiarism, collusion, falsification of research data, or the abuse of resource materials on an examination or other academic work.

5.31 "Cheating" includes, but is not limited to:

- (1) Copying from another student's test paper, a laboratory report, other report, or computer files, data listings, and/or programs;
- (2) Using, during a test, materials not authorized by the person giving the test;
- (3) Collaborating, without authorization, with another person during an examination or in preparing academic work;
- (4) Knowingly, and without authorization, using, buying, selling, stealing, transporting, soliciting, copying, or possessing, in whole or in part, the contents of an unadministered test;
- (5) Substituting for another student, permitting any other person; or otherwise assisting any other person to substitute for oneself or for another student in the taking of an examination or test or the preparation of academic work to be submitted for academic credit, placement, or qualification;
- (6) Bribing another person to obtain an unadministered test or information about an unadministered test;
- (7) Purchasing, or otherwise acquiring and submitting as one's own work any research paper or other writing assignment prepared by an individual or firm. This *Section* excludes purchase or acquisition of word processing services.

5.32 "Plagiarism" means the appropriation and the unacknowledged incorporation of another's work or idea into one's own work offered for credit.

5.33 "Collusion" means the unauthorized collaboration with another person in preparing work offered for credit.

- 5.34 "Abuse of resource materials" means the mutilation, destruction concealment, theft or alteration of materials provided to assist students in the mastery of course materials.
- 5.35 "Academic work" means the preparation of an essay, dissertation, thesis, report, problem, assignment, or other project that the student submits as a course requirement or for a grade.
- 5.36 Disciplinary Procedures for Academic Dishonesty.
- (1) Academic Process. All academic dishonesty cases may be first considered and reviewed by the faculty member. If the faculty member believes that an academic penalty is necessary, he/she may assign a penalty but must notify the student of his/her right to appeal to the department chair, the dean and, eventually, to the Vice President for Academic Affairs (whose decision shall be final) before imposition of the penalty. At each step in the process, the student shall be entitled to written notice of the offense and/or of the administrative decision, an opportunity to respond, and an impartial disposition as to the merits of his/her case. After completion of the academic process, the academic officer making final disposition of the case may refer the matter to the Chief Student Affairs Officer for any additional discipline that may be appropriate.
  - (2) Disciplinary Process. In the case of flagrant or repeated violations, the Chief Student Affairs Officer may take such additional disciplinary action. No disciplinary action shall become effective against the student until the student has received procedural due process under *Subsection 5.6* and following except as provided under *Subsection 5.15*.
  - (3) Honor Code. Notwithstanding *subsection (1)* above, if a Component has adopted an Honor Code which includes an Honor Council that makes decisions on appeals of penalty grades issued by a faculty member and disciplinary action on cases of flagrant or repeated violations, the hearings which consider disciplinary action must afford the students procedural due process under *Subsection 5.6*. Appeals of academic decisions rendered by an Honor Council shall be heard by the Vice President for Academic Affairs and appeals of disciplinary decisions rendered by an Honor Council shall be heard by the Chief Student Affairs Officer. In the event of conflicts, these *Rules and Regulations* shall govern.
- 5.37 "Falsification of Data" means the representation, claim, or use of research, data, statistics, records, files, results, or information that is falsified, fabricated, fraudulently altered, or otherwise misappropriated or misrepresented.

- 5.4 Campus Disruptive Activities. Pursuant to *Education Code, Subsection 51.935* (Disruptive Activities), the Components shall adhere to the following *Rules and Regulations*:
- 5.41 No person or group of persons acting in concert may intentionally engage in disruptive activity or disrupt a lawful assembly on a Component campus. Disruptive activity means:
- (1) Obstructing or restraining the passage of persons to the campus or an area of the campus or to an exit, entrance, or hallway of any building without the authorization of the administration of the Component;
  - (2) Seizing control of an area of a campus or any building or portion of a building for the purpose of interfering with any administrative, educational, research, or other authorized activity; or
  - (3) Disrupting and/or preventing or attempting to prevent by force or violence or the threat of force or violence any lawful assembly authorized by the Component administration. A lawful assembly is disrupted when a person in attendance is rendered incapable of participating in the assembly due to the use of force or violence or a reasonable fear of force or violence.
- 5.42 Any person who is convicted the third time of violating this statute shall not thereafter be eligible to attend any school, college, or university receiving funds from the State of Texas for a period of two years from such third conviction.
- 5.43 Nothing herein shall be construed to infringe upon any right of free speech or expression guaranteed by the Constitution of the United States or the State of Texas.
- 5.5 Suspended, Expelled, and Dismissed Student Restriction. No student who has been suspended, expelled, or dismissed for disciplinary reasons from a Component of the System shall, during the applicable period of discipline, be eligible to enroll at any other System Component. The registrar of a Component is authorized to make an appropriate notation on the student's transcript to accomplish this objective and to remove the notation when the student's disciplinary record had been cleared.
- 5.6 Procedure for Administration of Discipline. The Chief Student Affairs Officer shall have primary authority and responsibility for the administration of student discipline at the Component and for investigating allegations that a student has violated System and/or Component *Rules and Regulations*, or specific orders and instructions issued by an administrative official of the Component.
- 5.61 The Chief Student Affairs Officer or his/her appointee hereto referred to as officer, will investigate the alleged violations. During the investigation, if the student is available, the officer

will give the student an opportunity to explain the incident. If the officer concludes that the student has violated a System or Component policy, the officer will determine (but not assess) an appropriate disciplinary penalty.

- (1) The officer will discuss his or her findings and his or her determination of an appropriate penalty with the student if the student is available and will give the student an opportunity either to accept or reject the officer's decision.
- (2) If the student accepts the officer's decision, the student will so indicate in writing and waive his or her right to a hearing. The officer may then assess the disciplinary penalty.
- (3) If the student does not accept the officer's decision or does not waive his or her right to a hearing, a disciplinary hearing will be scheduled in accordance with *Subsections 5.7 and 5.(10)*.

5.62 If the student does not execute a written waiver of the hearing process, then the officer shall prepare a written statement of charges and of the evidence supporting such charges, including a list of witnesses and a brief summary of the testimony to be given by each, and shall send a notification of such charges and statement to the accused student by certified mail, return receipt requested, addressed to the address appearing in the Registrar's records, or shall hand deliver said document with the student signing a receipt.

5.7 Student Disciplinary Hearings. In those cases in which the accused student disputes the facts upon which the charges are based, such charges shall be heard and determined by a fair and impartial person or committee, hereinafter called the hearing officer or hearing committee, selected in accordance with procedures adopted by the Component. Except in those cases where immediate interim disciplinary action has been taken under authority of *Subsection 5.(14)*, the accused student shall be given at least five (5) class days written notice by the Chief Student Affairs Officer, or a designated appointee, of the date, time, and place for such hearings and the name or names of the hearing officer or hearing committee. Hearings held under *Subsection 5.(14)* will be held under the same procedures set forth below, but will be held as soon as practicable within twelve (12) class days after the disciplinary action has been taken unless otherwise agreed to by the student.

Upon a hearing of the charges, the Component representative has the burden of going forward with the evidence and the burden of proving the charges by the greater weight of the credible evidence. The hearing shall be conducted in accordance with procedures adopted by the Component that assure both parties (Component representative and accused student) the following minimal rights:

- 5.71 Both parties will exchange lists of witnesses, expected testimony, copies of documents to be introduced, and notice of intent to use legal counsel, at a reasonable time prior to the hearing.
- 5.72 Each party shall have the right to appear and present evidence in person and to be advised during the hearing by a designated representative or counsel of choice. Each party shall limit its presentation to relevant evidence. The accused student must attend the hearing if the student desires to present evidence. The hearing may proceed notwithstanding the accused student's failure to appear.
- 5.73 Both the Component representative and the accused student shall have the right to question witnesses. The accused student may question witnesses with the advice of a designated representative or counsel. All questions shall be limited to relevant evidence.
- 5.74 The hearing will be recorded. If either party desires to appeal the finding, a copy of the recording will be produced at the expense of the party appealing the finding, and both parties will be furnished a copy for appeals purposes only.
- 5.8 Student's Right to Challenge Impartiality. The accused student may challenge the impartiality of the hearing officer or a member of the hearing committee at any time prior to the introduction of any evidence. The hearing officer or member of the committee shall be the sole judge of whether he or she can serve with fairness and objectivity. In the event the challenged hearing officer or member of the hearing committee chooses not to serve, a substitute will be chosen in accordance with procedures adopted by the Component.
- 5.9 Determination of Hearing. The hearing officer or hearing committee shall render a decision to both parties as soon as practicable as to the guilt or innocence of the accused student and shall, if necessary, assess a penalty or penalties including, but not necessarily limited to:
- (1) Verbal or written warning;
  - (2) Requirement that the student complete a special project that may be, but is not limited to, writing an essay, attending a special class or lecture, or attending counseling sessions. The special project may be imposed only for a definite term;
  - (3) Cancellation of residence hall or apartment contract;
  - (4) Disciplinary probation imposed for a definite period of time which stipulates that future violations may result in disciplinary suspension;
  - (5) Ineligibility for election to student office for a specified period of time;



- (6) Removal from student or organization office for a specified period of time;
- (7) Prohibition from representing the Component in any special honorary role;
- (8) Withholding of official transcript or degree;
- (9) Bar against readmission;
- (10) Restitution whether monetary or by specific duties or reimbursement for damage to or misappropriation of Component, student, or employee property;
- (11) Denial or non-recognition of a degree;
- (12) Suspension of rights and privileges for a specific period of time, including access to electronic network facilities and participation in athletic, extracurricular, or other student activities;
- (13) Withdrawing from a course with a grade of *W*, *F*, or *WF*;
- (14) Failing or reduction of a grade in test or course, and/or retaking of test or course, and/or performing additional academic work not required of other students in the course;
- (15) Suspension from the Component for a specified period of time. During suspension, a student shall not attend classes or participate in any Component campus activities;
- (16) Loss of or ineligibility for student grant or loan;
- (17) Expulsion from the Component. A student who is expelled from the Component is not eligible for readmission to the Component;
- (18) Dismissal from the Component. A student, who is dismissed, is separated from the Component for an indefinite period of time;
- (19) Recording sanctions in *Subsections 5.9(9), (11), (13), (14), (15), (17), and (18)* may be made on a student's permanent transcript. The Component may maintain confidential records of all other sanctions and may consider any prior sanction received by a student in assessing a subsequent sanction. The Component shall develop a procedure for expunging those records not transcribed on a student's permanent transcript within a reasonable time not to exceed five (5) years after the student ceases to be enrolled;
- (20) A student who, by a preponderance of the evidence, under these *Rules and Regulations*, is found to have illegally possessed, used, sold or distributed any drug, narcotic, or controlled substance, whether the infraction is found to have occurred on or off campus, shall be subject to discipline, ranging from mandatory, university or college approved counseling to expulsion.

Mitigating or aggravating factors in assessing the proper level of discipline shall include, but not necessarily be limited to, the student's motive for engaging in the behavior; disciplinary history; effect of the behavior on safety and security of the university or college community; and the likelihood that the behavior will recur. A student who has been suspended, dismissed, probated or expelled from any system Component shall be ineligible to enroll at any other system Component during the applicable period of discipline. The registrar of each Component is authorized to make an appropriate notation on the student's transcript to accomplish this objective and to remove the notation when the student's disciplinary record has been cleared. A second infraction for a drug-related offense shall result in permanent expulsion from the Component and from all other institutions in The Texas State University System.

- 5.(10) Appeal. Neither party may appeal if the hearing officer or hearing committee determines that the allegations against the accused student are true but the only punishment assessed is verbal or written warning. In those cases, the determination of the hearing officer or hearing committee is final. However, in all other cases, either party may appeal to the Chief Student Affairs Officer. If the hearing officer has been an appointee designated by the Chief Student Affairs Officer or if the determination has been made by a hearing committee, the appeal will be made to the Chief Student Affairs Officer or designated appointee. If the Chief Student Affairs Officer has served as the hearing officer, the appeal will be made to the Vice President in charge of student affairs or to another Vice President (designated by the President) who has not been previously involved in the case. Written notice of appeal must be received by the appeal officer within five (5) Component business days after the decision. An appeal is not simply a rehearing of the original case. An appeal must be based on: 1) whether or not a fair hearing was afforded. A fair hearing includes notice of the alleged misconduct, and an opportunity to present evidence; 2) whether or not the sanctions levied were appropriate to the offense; 3) whether or not the finding was supported by the evidence; and/or 4) whether or not new evidence is introduced that was not available at the time of the hearing. Both parties may submit written arguments to support their positions. In order for the appeal to be considered, the appealing party must submit all necessary documentation, including written arguments, when appropriate, to the appeal officer within five (5) Component business days after giving notice of appeal. The timely written arguments and information submitted by a party shall be forwarded to the other party. The receiving party may have three (3) Component business days from receipt to provide written response. The appeal officer may approve, reject, modify the decision, or remand the matter to the original hearing officer or hearing committee for reconsideration. The appeal officer shall respond to the appeal within ten (10) Component business days after all the documentation was received and all testimony was heard, or he or she may postpone a decision for good cause.
- 5.(11) Review of the Vice President in charge of Student Affairs. The Vice President may review any disciplinary case and may approve, reject,

modify the decision or remand the matter to the original hearing officer or committee for reconsideration.

- 5.(12) **President's Right to Review.** The President may review any disciplinary case, and approve, reject, or modify the decision or remand the matter to the original hearing officer or hearing committee for reconsideration.
- 5.(13) **Board of Regents' Right to Review.** The Board of Regents retains the right to review any disciplinary action and approve, reject, modify the decision, or remand the matter to the original hearing officer or hearing committee for reconsideration.
- 5.(14) **Interim Disciplinary Action.** The Chief Student Affairs Officer, the Vice President in charge of student affairs, or the President of the Component may take immediate interim disciplinary action, including suspension, pending a hearing against a student for violation of a rule and regulation of the System or of the Component at which the accused is a student when the continuing presence of the student poses a danger to persons or property or an ongoing threat of disrupting the academic process. In the event that the interim disciplinary action includes suspension, the Component official involved shall, as soon as possible, notify the President and the Vice Chancellor and General Counsel of such action.
- 5.(15) **Civil Proceedings.** Every student is expected to obey all Federal, State, and local laws and is expected to be familiar with the requirements of such laws. Any student who violates any provision of those laws is subject to disciplinary action, including expulsion, notwithstanding any action taken by civil authorities on account of the violation.

## 6. STUDENT ORGANIZATIONS.

- 6.1 **Definition of Composition and Authority.** An organization in which active membership is limited to students (recognizing that faculty and staff may also be members) of a Component may become a registered student organization at that Component by complying with the registration procedures established by the Component. Neither the organization nor its representatives may suggest that either is acting with authority or as an agent of the Component.
- 6.2 **Faculty and Staff Advisors.** Each registered student organization shall have a faculty or staff advisor, whose name shall be provided to the Component administration as a part of the student organization registration procedures. The organization shall immediately report in writing any change in its advisor. Advisors to registered student organizations that do not have their accounts and financial records kept by the Component shall not have control of the funds and financial records of the student organization. Such control includes, but is not limited to, receipting of funds, check signing authority, authorization of expenditures, and preparing bank reconciliations. Advisors may not expend their personal funds on behalf of a student organization and request reimbursement.

- 6.3 Disciplinary Action. Any student organization is subject to disciplinary action or revocation of registration as a student organization for violation of a System and/or of the Component rule or regulation or for failing to comply with the direction of a Component official acting in the performance of his or her duties.
- 6.4 Requirements for Organizations. The President of each Component of the System may issue regulations governing the eligibility of students to participate in organized activities. He or she shall require and enforce the following:
- 6.41 As a condition to being a registered student organization or group during an academic year, every registered student organization or group shall furnish, to the appropriate Component officer at the beginning of, or prior to each such academic year, a complete list of officers or other members of the organization or group who are authorized to speak for, or represent, the organization or group in its relations with the Component and who are authorized to receive for the organization or group official notices, directives, or information from the Components. Each such list shall be current and accurately updated throughout the semester by the organization or group, and it shall be conclusively presumed that the officers or members whose names are on the list most recently filed by the organization or group are authorized to speak for and represent the organization or group in its relations with the Component and are authorized to receive for the organization or group official notices, directives, or information from the Component.
- 6.42 Except for national honor societies which require outside members, no registered student organization or group may have any person as an active member who is not either a student or a member of the faculty or staff of the Component. Except pursuant to the provisions of *Chapter VII, Subsection 3.4*, no organization or group, whether registered or not, may use any facility of any Component of the System if it has as an active member any person who is not either a student or a member of the faculty or staff of the Component.
- 6.43 Any Component funds that are expended on behalf of student organizations will be maintained by the Component. Both the advisor of the organization and the designated officer of the organization must authorize any expenditures from the organization's account. All university funds (such as those generated by student service fees) expended for the benefit of student organizations must be expended from budgeted Component accounts.
- 6.44 All Component-provided funds of registered student organizations are subject to audit by the Component. Failure to maintain adequate records may be considered in determining whether a student organization may maintain its registered status.

- 6.45 Student organizations, their officers, and sponsors are responsible for assuring that they comply with all applicable Texas State University System, State, and Federal *Rules and Regulations*, including tax code compliance.
- 6.46 Each Component may develop applicable policies and procedures to promote fiscal integrity and accountability for student organizations.

7. PARTICIPATION IN STUDENT GOVERNMENT.

- 7.1 Student Government. The student governments currently authorized at the Components of the System are hereby approved. Student government has no existence separate and apart from the Component, and student government shall have only such jurisdiction and exercise only such powers as the Board may now, or hereafter, delegate to it through the Component President.
  - 7.11 Constitutions and Bylaws Approved. The constitutions and bylaws of the several student governments in force at the date of adoption of these *Rules and Regulations* are hereby approved to the extent that they are not in conflict with such *Rules and Regulations*.
  - 7.12 Mode of Amending Constitutions and Bylaws. An amendment to the constitution or bylaws of a student government may be adopted by an association in accordance with its constitution and bylaws, but the change shall not become effective until transmitted to and acted upon by the Chief Student Affairs Officer and approved by the Component President.
  - 7.13 Amendment or Repeal by the Board of Regents. The Board shall amend or repeal any portion of the constitution and bylaws of a student government when, in the judgment of the Board, the interests of the particular Component shall require it.
  - 7.14 Amendment or Repeal by the President. The President shall have the power to amend or repeal any provision in the constitution or bylaws of the student government, when in the President's judgment, the interests of the Component require it. The action by the President shall be subject to review *Subsection 7.13*, above.
  - 7.15 Persons Compensated by Student Government. All persons employed on salary or compensated for personal services in any manner by or under the direct supervision of the student government shall have the approval of the Chief Student Affairs Officer and shall be subject to prior approval by the President or a designated appointee both as to salary and as to qualifications. This authority shall not be exercised in a manner that would infringe upon the constitutionally protected rights of students.

- 7.16 Annual Financial Reports. The Chief Student Affairs Officer shall require the officially recognized student government to make available, on an annual basis, a complete financial report to the Component business officer, as well as such special reports as may be called for by such business officer. A duplicate copy of each report shall be filed with the Chief Student Affairs Officer.
- 7.2 Rights and Obligations of Student Government. The student government on each campus shall be a recognized forum of student opinion.
- 7.21 When a student government takes a position on issues directly related to a Component and its operations, it shall forward its recommendations to the Chief Student Affairs Officer and the President. This *Subsection* shall not prohibit the student government from free expression of its position.
- 7.22 When a student government takes a position on non-Component issues, it shall make clear the fact that it does not speak for the Component.
- 7.23 A student government may conduct polls, initiate petitions, and/or establish forums for debate or discussion; and, said action shall be regulated only as to time, place, and manner but shall be subject to *Chapter VII, Subparagraph 3.3*.
- 7.24 Officers of a student government may so identify themselves when they express their personal views, but they shall then make it clear that they are not speaking for the Component or for the student body; and, they shall make it clear they are not speaking for the student government unless the legislative body of that government has authorized the statement in advance.
- 7.3 Stipends. A Component may authorize the student government to grant fair and reasonable stipends to elected student body officers provided such stipends are paid from student fees and are first authorized by a one time referendum vote of the student body. Thereafter, stipends are subject to approval by authorized student governments. The granting by student governments of such stipends shall not establish an employer/employee relationship with the Component, and the subject student officers shall not receive employee benefits from the Component. The provisions of *Section 7.15* above shall apply to the setting of the compensation of student body officers.
- 7.4 President's Authority. The Component President has authority over all its activities, policies, contractual agreements, and financial matters of student government, provided said authority does not infringe on the free exercise of the constitutional rights of the students or the student government.

8. USE OF THE STUDENT CENTER.

The use of the student center or student union facilities on the campus of each Component shall be subject to reasonable and nondiscriminatory regulations as may be promulgated by that center's director or governing board and approved by the Chief Student Affairs Officer and the President.

9. STUDENT DEBTS.

9.1 Debts of Students or Organizations. Neither the System nor any Component is responsible for debts contracted by individual students or by student organizations. All students and student organizations are expected to conduct themselves honorably in all commercial transactions. Neither the System nor any Component will assume the role of a collection agency except for monies owed to the System or one of its Components; nor, will the System or any of its Components adjudicate disputes between students and creditors over the existence or the amounts of debts, except with the prior approval of the President of the Components or a designated appointee in those cases where the interests of the Component may be a factor.

9.2 Students' Financial Obligations. Students are expected to meet their financial obligations to the Component within the designated time allowed. Registration fees are payable at the time of registration, and students are not entitled to enter class or laboratory until their fees and deposits have been paid. Other charges and financial obligations are due at registration or within ten days after a bill is rendered by the Component or according to the special payment instructions that may be printed on the bill.

9.3 Penalties for Failure to Pay. Failure to pay in the allotted time the amount owed to the Component for tuition, fees, charges, or any other financial obligations may result in any or all of the following:

- (1) Dismissal from the Component or other disciplinary actions;
- (2) Withholding of future registration privileges;
- (3) Withholding the issuance of grades or an official certified transcript;
- (4) Withholding the conferring of a degree;
- (5) Bar against readmission for the student;
- (6) Assessment of late fees and/or reinstatement fees.

9.4 Non-Resident Foreign Student. Each Component is authorized to require that non-resident international students secure mandatory accident, sickness, catastrophic illness, evacuation and repatriation insurance as a condition of enrollment.

10. CORRECT ADDRESS.

Each student shall notify and assure that the Registrar's Office always has the student's correct and current mailing address on file. The student may provide the notice by any means, hard copy or electronic, that is directed by the Registrar. The Component or System's obligation or desire to provide any notice will be fulfilled by mailing to the student's current address on file with the Registrar's Office.

11. STUDENT IDENTIFICATION CARDS.

Each System Component shall issue each student enrolled at the Component a student photo identification (I.D.) card, which grants access to or use of Component facilities, programs, activities, and financial disbursements.

11.1 The student must present his or her I.D. when seeking access to or use of Component facilities or amenities or when otherwise requested by a Component official.

11.2 Any falsification, misrepresentation or other misuse of the student I.D. card is prohibited and shall be punishable under *Paragraph 5.2* of this *Chapter* and/or the Component code of student discipline.

11.3 Student I.D. Cards are nontransferable, that is, they may not be loaned, borrowed, or used by another person for identification on or off campus or for any of the purposes stated in this *Paragraph*. A student shall immediately report a lost or stolen I.D. card to the administrative official or office responsible for issuing the I.D. card.

12. STUDENT PARKING AND TRAFFIC.

All students are expected to obey the Component's parking and traffic regulations. Any student who receives a citation for violation of a Component's parking or traffic regulations shall be entitled to a hearing in front of a Component's traffic court or committee if the student makes a timely request. The hearing may consist of a personal appearance, a written statement, or both, as prescribed by the Component in its policies.

13. REGENTS' SCHOLAR AWARD.

13.1 Purpose. The honorary title, Regents' Scholar, recognizes students who achieve excellence in academic and co-curricular endeavors at Component institutions.

13.2 Process. Not later than August 31 of each year, the president of each Component may nominate to the Chancellor one outstanding student. Upon the recommendation of the Chancellor, the Board of Regents may bestow each year the title of "Regents' Scholar" upon a select student or students who have demonstrated the following:



- (1) Outstanding academic achievement and scholarship in his/her studies;
- (2) Strong commitment to and leadership in co-curricular activities; and,
- (3) Notable contributions to the Component institution and community.

At the time of graduation, a Regents' Scholar shall be recognized at his/her Component institution's commencement ceremonies.

- 13.3 Eligibility. To be considered for selection, at a minimum, a student must have a 3.75 cumulative GPA, be enrolled full-time at a Component institution, and have earned 25 semester credit hours (for 2-year institutions) or 60 semester credit hours (for 4-year institutions). Additionally, the student must demonstrate active involvement in co-curricular campus and leadership activities, and not have been on academic or disciplinary probation at any time while attending the Component institution.
- 13.4 Benefits of Award. Award of such a title shall be accompanied by passage of a resolution by the Board of Regents, memorialized in the minutes of the meeting at which it was awarded, and the issuance of a commemorative medallion. A cash scholarship from the Texas State University System Foundation payable to the Component institution for use by the student toward fees, textbooks, and other educational expenses, including but not limited to, lodging, dining, and parking may be awarded. The Chancellor and the Executive Director of the Foundation would determine in advance the amount of the scholarship.

#### 14. FOREIGN TRAVEL FOR EDUCATIONAL PURPOSES.

A Component Institution may not approve faculty, staff or students to travel for educational purposes to countries that are listed as a "Travel Warning" at the time of the request by the United States Department of State unless the traveler signs a waiver, hold harmless, and assumption of risk release on a form approved by the Vice Chancellor and General Counsel.

## CHAPTER VII. GENERAL PROVISIONS FOR CAMPUS ACTIVITIES

### 1. SOLICITATION.

- 1.1 Definition. In these *Rules and Regulations* “Solicitation” means: (1) the sale or offer for sale of any property, goods, products or services, or (2) the receipt of or request for any gift or contribution.
- 1.2 Permitted Exceptions. Solicitation on the campus of any Component is prohibited, except for the following activities, provided the person engaging in such activities complies with the imperatives of subparagraphs 1.2 through 1.5:
- (1) The sale or offer for sale through vending machines operated by the Component or its subcontractor of: (1) any newspaper, magazine, or other publication in an area designated by the President or his/her designee; (2) food, drink and other items.
  - (2) The sale or offer for sale of any Component publication, book, or other material used in the academic work of the Component by the Component or its subcontractor in an area designated by the President or a designee.
  - (3) The operation by the Component or its subcontractor of: (1) a bookstore, specialty store, laundry, Component dining service, or other service maintained for the convenience of the Component's students, faculty, or staff; or (2) food, and drinks, souvenirs, and programs at athletic contests or other events sponsored or authorized by the Component.
  - (4) The advertisement of any activity, item, or product sponsored or authorized by the Component and approved by the President or his/her designee; advertisements appearing in any publication or sent through the United States or private postal service.
  - (5) The collection of tuition, charges and fees under *Section 1.4 of Chapter III*.
  - (6) The collection by registered student, faculty, or staff organizations: (1) of membership fees or dues; or (2) of fees or contributions for the exhibition of movies or other programs, including fine arts and athletic events sponsored by the Component or by such organizations.
  - (7) Presidential-approved participation in: (1) nondiscriminatory activities on behalf of charitable organizations; or (2) events sponsored by a registered student, faculty, or staff organization or the Component that are authorized and scheduled in accordance with the facilities-use regulations of the Component. All signs, tickets, and literature advertising the event must identify the sponsoring organization. The Component may require that

members of the sponsoring organization solicit directly and may prevent organizations from using nonmembers to fund-raise, or solicit for the organization.

- (8) Activities of agents of companies authorized by the Component to provide instruments, equipment, supplies, health insurance, optional retirement programs, tax-sheltered annuities, or other services to the Component or its employees.

1.3 Responsibilities for Permitted Exceptions. Persons engaged in the Solicitation activities listed in *Sections 1.1(1) – (8)* above are responsible for assuring that they maintain the portions of the campus and building they use in a clean, orderly and appealing in appearance and for assuring that their use:

- (1) preserves an academic atmosphere and does not disrupt classes, Component programs, or other activities;
- (2) maintains security and safety for persons and property, does not unreasonably expose persons on campus to crime; and avoids unlawful activities;
- (3) protects the privacy of students, faculty, and staff, and protects them from deception, fraud and similar commercial exploitation;
- (4) permits the free flow of pedestrian and vehicular traffic;
- (5) preserves the beauty of the Component's campus, buildings, and facilities, and avoids unnecessary wear and tear on buildings, grounds, or facilities;
- (6) protects students, faculty, and staff from deception, fraud, and commercial exploitation; and

1.4 Failure to Follow Rules. The President may prohibit persons or organizations from soliciting on campus if they fail to follow these rules. He or she may require that the student government and each registered student organization file a sworn statement disclosing: (1) the sources and amounts of money received from solicitation during the preceding or current semester or summer session, and (2) the payees, their Personal Identification Numbers (P.I.N.) or social security numbers, and amounts of expenditures of funds received from solicitations. Any student government or registered student organization failing to comply with the request of the President shall be prohibited from solicitation on the campus until such person organization comes into compliance.

1.5 Demonstrations, Publications, Posters, Etc. Reasonable and nondiscriminatory policies as to time, place, and manner may be promulgated by the President of the Component to authorize students, faculty, staff, and their registered organizations to petition, distribute publications, post signs, set up booths, and/or peacefully demonstrate on the Component campus. Such regulations shall prohibit any activity that would interfere with academic or Component programs.

## 2. USE OF SYSTEM FACILITIES.

- 2.1 By Component Organizations. Registered student, faculty, and/or staff organizations may use the Component's buildings and grounds in compliance with reasonable and nondiscriminatory *Rules and Regulations* approved by the Component President or a designee. Extracurricular use by students, faculty, or staff shall comply with local, State, and Federal law, System and Component regulations. Such activities shall not disrupt or disturb academic or other Component processes nor result in damage to or defacement of property. Registered student, faculty, or staff organizations may not enter into joint sponsorship of any on-campus project or program which involves financial commitments or the scheduling or use of facilities with non-students without prior written approval of the Component President or a designee.
- 2.2 By Outside Groups. Use of grounds and physical facilities of a System Component, especially auditoriums, gymnasiums, and large rooms, by outside individuals, groups, or associations (outside groups) shall be subject to the following rules as well as policies approved by the President or a designee:
- 2.21 Unrestricted use by outside groups of any Component facilities and grounds is not permitted. Whenever groups share in the use of Component buildings, it must be upon the invitation of the Component and under its joint sponsorship, and with the further understanding that all the conditions governing such sponsorship are to be set by the Component.
- 2.22 The Component will not enter into joint sponsorship of any project or program that is to result in private gain for the cooperating individuals, group, or associations, unless the President or a designee has reviewed the project or program and has determined that such joint sponsorship serves a public purpose and adequate contractual or other controls ensure its realization as required by *Article 3, Section 51*, of the *Texas Constitution*.
- 2.23 The Component will not enter into joint sponsorship of any program or activity in which the educational implications or benefits are not self-evident and which does not directly supplement the educational purposes of the System. The Component, when entering into joint sponsorship of any program or activity, reserves the right to approve advertising as well as news releases.
- 2.24 Established as a public body without regard to political affiliation or religious faith, a Component cannot be a joint sponsor with any non-campus organization for political or sectarian gatherings. However, the appearance by or on behalf of a candidate for

public office may be authorized under conditions prescribed by the Board in *Section 4* of this *Chapter*.

- 2.25 The authorization for use of a Component's facilities and grounds for functions other than the Component's own activities shall be at the sole discretion of the President or a designee and subject to the needs and the convenience of the Component which are always to have priority in the scheduling of facilities.
- 2.26 In the case of programs for which the Component is a joint sponsor with some other individual, group, or organization, the fee to be paid by the co-sponsor will be a matter for negotiation in each case, subject to final approval by the Component President or a designee and will be specified in the agreement providing for the joint sponsorship.
- 2.3 Use of Motor-Driven Vehicles or Equipment. The President of each Component shall promulgate a policy, specifying conditions for operation or use by students of Component owned, controlled or leased motor-driven vehicles or motor-driven equipment, and signed liability waivers in favor of the Component, the Board of Regents, the System, and their respective officers, employees, or agents.

### 3. SPEECH AND ASSEMBLY.

- 3.1 Definition. Freedom of inquiry and discussion is basic and essential to intellectual development, provided such freedoms are exercised in a manner that does not illegally derogate the rights of others or interfere with the academic programs and administrative processes of a Component. The grounds of all Components are limited public forums, subject to such reasonable time, place, and manner restrictions as the Component president may impose (*see Subparagraphs 3.3 and 3.5 of this Chapter*).
- 3.2 Off-Campus Speakers in Component Facilities. The freedoms of speech and assembly guaranteed by the *First and Fourteenth Amendments* to the *United States Constitution* shall be enjoyed by the students, faculty, and staff of the Components of The Texas State University System with respect to the opportunity to hear off-campus or outside speakers.
  - 3.21 If a registered campus organization is sponsoring a campus speaker, it has the responsibility of making clear the fact that the organization, not the Component, is extending the invitation to speak and that any views the speaker may express are the speaker's own and not necessarily those of the System or of the Component.
  - 3.22 Students, faculty, staff, and registered organizations campaigning for public office on behalf of candidates for public office must abide by the provisions of this *Section*.

- 3.23 Speakers to be paid from state funds to speak on a Component campus shall speak in a facility that is open to the public. This *Subsection* does not apply to classes, seminars, symposia, and conferences intended for the use and benefit of students, faculty, staff, and invited guests. No person may obstruct or lessen in any way the opportunity for the audience to see and hear the speaker. The number of students, faculty, staff, and guests may be limited to prevent a hazard to the safety of the audience.
- 3.24 Off-campus speakers who have not been sponsored or invited by a registered student, faculty, or staff organization or by the Component administration shall be prohibited from speaking to groups in campus facilities and buildings unless the speaker is speaking to an off-campus organization that has been authorized to meet on the campus.
- 3.25 With the prior written approval of the Component President, the Component may, at its sole discretion, lease or rent space in the student center or other appropriate buildings or grounds for political rallies and meetings provided that space is made available to legitimate political candidates in a nondiscriminatory fashion and the rent for such space is based on a fair market value.
- 3.3 Time, Place and Manner Restrictions. While freedom of speech and assembly is encouraged, the law recognizes that there is no absolute right to assembly or to make or hear a speech at any time or place regardless of the circumstances, content of speech, purpose of assembly, or probable consequences of such meeting or speech. The issuance of invitations to outside speakers shall be limited as follows:
- 3.31 A request to invite an outside speaker will be considered by the Component only when made by a registered student, faculty, or staff organization. No invitation shall be issued to an outside speaker without prior written concurrence of the Component President or a designee for scheduling of speaker dates and assignment of campus facilities.
- 3.32 Any speaker request shall be made in writing to the President or a designee by an officer of a registered student, faculty, or staff organization, or by an administrative officer of the Component, desiring to sponsor the proposed speaker not later than six (6) business days prior to the date of the proposed speaking engagement. This request shall contain the name of the sponsoring organization; the proposed date, time, and location of the meeting; the expected size of the audience; and the topic of speech. Any request not acted upon by the Component President or a designee within five (5) business days after submission shall be deemed granted.
- 3.33 A request made by a registered organization may be denied only if the Component President, or the authorized designee, determines, after proper inquiry, that the proposed speech will

constitute a clear and present danger to the Component's orderly operation as defined in *Subsection 3.5*.

- 3.34 Where the request for an outside speaker is denied, the sponsoring organization may appeal to the President or an authorized designee in writing within three (3) business days of the denial. A hearing within will be held within four (4) business days following the filing of its appeal before an impartial board or administrator appointed by the President for a *de novo* consideration of the request. Such board or administrator shall make a recommendation to the Component President, whose decision shall be final. If the President fails to decide the matter within seven (7) business days following the filing of the appeal, it shall be deemed granted, and the speaker's invitation may be issued by the organization.
- 3.35 Where the request for an outside speaker is granted and the speaker accepts the invitation, the sponsoring organization shall inform the President or a designee, immediately in writing of such acceptance. The President or a designee, may, at his or her discretion, require that the meeting be chaired by a member of the administration or faculty and that a statement be made at the meeting that the views presented are not necessarily those of the Component or of the sponsoring organization. By acceptance of the invitation to speak, the speaker shall assume full responsibility for any violation of law committed by the speaker while on campus.
- 3.4 Assembly on Component Grounds. Any group or person, whether or not a student or employee, and whether or not invited by a registered student, faculty, or staff organization, may assemble and engage in free speech activities on the grounds of the campus. However, the Component President or a designee may adopt reasonable nondiscriminatory *Rules and Regulations* as to time, place, and manner of such activities and may prohibit such activities if it is determined, after proper inquiry, that the proposed speech constitutes a clear and present danger as defined in *Subparagraph 3.5* below.
- 3.5 Clear and Present Danger. Proposed speech which constitutes a clear and present danger to the Component's orderly operation by the speaker's advocacy (i.e., preparing the group addressed and steeling it to such action as opposed to the abstract espousal of the propriety of resort to force) may be prohibited. In determining the existence of a clear and present danger, the Component President, may consider all relevant factors, including whether, within the past five years such speaker has incited violence resulting in the destruction of property at any public institution or has willfully caused the forcible disruption of regularly scheduled classes or other educational functions at any such institution. There must be not only advocacy to action but also a reasonable apprehension of imminent danger to the essential functions and purposes of the Component.

- 3.6 Demonstrations, Publications, Posters. Reasonable and nondiscriminatory *Rules and Regulations* as to time, place, and manner may be promulgated by the President or a designee of the Component to authorize students, faculty, staff, and their registered Component organizations to petition, distribute publications, post signs, set up booths and/or peacefully demonstrate on the Component campus. Such regulation shall prohibit any activity that would interfere with academic or Component programs.
- 3.61 No group or person, whether or not a student or employee, shall publicly display, distribute, or disseminate on the Component campus any petition, handbill, or piece of literature, work, or material that is obscene, vulgar, or libelous, or that advocates the deliberate violation of any federal, state, or local law (see *Subsection 3.62*). Literature may not be distributed where the manner or form of said distribution constitutes disorderly conduct, disrupts classroom discussion, impedes the maintenance of public order, or constitutes a danger to the person distributing or disseminating the material or to any group or individual.
- 3.62 For the purposes of *Subsection 3.5*, advocacy means addressing the group for imminent action and steeling, bolstering, or bracing it to such action as opposed to the abstract espousal of the moral propriety of a course of action.
- 3.63 Any group or person, whether or not a student or employee, demonstrating on campus shall adhere to the provisions of *Education Code, Section 51.935*, as cited in *Chapter VI, Subsection 5.4*, of these *Rules and Regulations*.
- 3.7 Disruptive Activities. Disruptive activities are prohibited on a Component campus. See *Education Code, Section 51.935* and *Chapter VI, Subsection 5.4*. The President shall promptly utilize all lawful measures to halt and eliminate any and all such disruptive activities and shall immediately notify the Chancellor and the Chairman of the Board of Regents.

4. HEALTH AND SAFETY.

- 4.1 Alcohol Policy. System Components shall not sell, serve or permit the sale, service, or consumption of alcohol on campus, except in "special use" buildings or facilities designated by the President. Students who are 21 years of age or older, who do not reside in alcohol-free living areas may be permitted to have alcohol in their rooms, but not in common areas of residence halls. The President may restrict possession or consumption of alcohol (as permitted under this policy) to specified residential areas including apartments. Students who are permitted to have alcohol under this policy may not share or provide alcohol to students or other persons who are under 21. Nothing herein shall be taken as an assumption of risk or responsibility on the part of the Board of Regents of The Texas State University System, or its System Components for any injuries or damage, of whatever kind, resulting from



a student's possession or use of alcohol, whether such use is legal or illegal.

- 4.2 Student Health Programs. Components may establish student health centers and/or pharmacies to provide basic care and assistance only (as opposed to long-term medical facilities or the treatment of “major medical” problems) as well as information, educational programs and counseling through the student life areas of the Components on timely topics of interest and concern to the students.
  - 4.21 Each physician providing medical and/or health care to students through a Component operated health center shall carry malpractice insurance in the amount of not less than \$100,000 per occurrence or \$300,000 total for bodily injury or death.
- 4.3 Racial Harassment. System Components shall provide equal educational opportunities for all students and equal employment opportunities for all applicants and employees and otherwise foster an environment free of racial intimidation, humiliation, and harassment. Racial harassment, as defined herein, is expressly prohibited.
  - 4.31 Definition. “Racial Harassment” is defined as extreme or outrageous acts or communications that are intended to harass, intimidate, or humiliate students, faculty, staff or visitors on account of race, color, or national origin and that reasonably cause them to suffer severe emotional distress. No student, faculty, or staff employee is to engage in racial harassment of any person on the campuses of the Components or in connection with a Component-sponsored activity.
  - 4.32 No student, faculty or staff person may use authority granted by state law, by System rule, or by Component policy to deprive any person of his or her civil rights on a Component campus or in connection with a Component sponsored activity.
  - 4.33 If a violation of this policy is committed on campus and/or in connection with a Component-sponsored activity because of the race, color, or national origin of any person directly harmed by such violation, the violator's discriminatory purpose shall be treated as an aggravating factor for the purpose of determining the appropriate penalty.
  - 4.34 Procedures for Redressing Racial Harassment Complaints of Students, Faculty, Staff or Visitors shall be in accordance with published procedures established by the Components. All complaints shall be considered informal until they are filed in writing. Once a disciplinary penalty is imposed, the accused, whether a student or a faculty member or a staff employee, shall have his/her full right to invoke applicable appeal procedures according to existing Component policies.

- 4.4 Sexual Harassment. No employee, student, or contractor of the System or a Component may sexually harass another person and will be subject to disciplinary action for a violation of this policy.
- 4.41 "Sexual harassment" is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when: 1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic career; 2) submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting the individual; 3) such conduct has the purpose or effect of unreasonably interfering with an individual's performance or creating an intimidating, hostile, or offensive employment or academic environment.
- 4.42 In determining whether alleged conduct constitutes sexual harassment, the System or Component shall construe any act or omission within the totality of the circumstances, such as the nature of the sexual advances and the context in which the alleged incidents occurred. Each determination shall be made from the facts on a case-by-case basis.
- 4.43 The System and each Component may not dismiss a complaint once registered with an appropriate authority until the case has been resolved by the System or Component. However, the System and each Component may take appropriate disciplinary action for any sexual harassment occurring in the employment or academic environment even in the absence of an individual complaint. Disciplinary action may consist of action up to and including termination of employment or, in the case of students, expulsion from a Component or from the System.
- 4.44 Each Component shall, on an annual basis, send an email to each student, professor, employee, administrator/staff member, containing the full content of the sexual and racial harassment policies along with procedures to address such situations.
- 4.45 Each Component shall adopt policy statements and procedures prohibiting sexual harassment and requiring prompt and appropriate corrective action for a violation of this policy and the relevant federal and State laws on sexual harassment.
- 4.46 To the fullest extent practicable, the System and Components shall keep complaints of sexual harassment and the terms of their resolution confidential.
- 4.47 If disciplinary action is imposed on an individual for engaging in sexual harassment, the individual may invoke the applicable due process or appeal procedures of the System and Components.

The relief provided by the System or Component to a complainant does not depend on any resolution of the complaint or disciplinary action against the accused individual.

- 4.5 Carrying of Handguns by License Holders. An individual possessing a valid concealed handgun license is entitled to carry a concealed handgun on the campus of a System Component, except where prohibited by the Component's Concealed Handgun Policy. Each President shall establish such policy, which shall not generally prohibit or have the effect of generally prohibiting license holders from carrying concealed handguns on the campus.
- 4.51 Not later than the 90<sup>th</sup> day following the date that a Component's Concealed Handgun Policy is established or amended, the Board of Regents shall review, and may amend, in whole or in part, by a vote of not less than two-thirds of the Board.
- 4.52 A Component's Concealed Handgun Policy shall be widely distributed to its students, staff, and faculty, including by prominently publishing its provisions on the Component's website.
- 4.53 Not later than September 1 of each even-numbered year, each Component Institution shall submit a report to the Texas Legislature and to the standing committees of the Legislature with jurisdiction over the implementation and continuation of Texas *Government Code 411.2031* that:
- (1) Describes its Concealed Handgun Policy's provisions regarding the carrying of concealed handguns on the campus or campuses of the Institution; and
  - (2) Explains the reasons the Institution has established those provisions.
- 4.54 Such report shall be provided to the Chancellor and Board of Regents not later than August 1 of each even-numbered year.
- 4.6 Prohibition of Other Weapons. Except as provided in a System Component's Concealed Handgun Policy and in *subparagraph 4.61* below, it is a violation of these *Rules and Regulations* to possess, carry or otherwise cause a firearm, handgun or other prohibited weapon, licensed or otherwise, concealed or otherwise, to be brought onto the premises of a System Component.
- 4.61 "Premises of a System Component" as used in this *Section* means a structure and the land (including parking lots, garages, or other appurtenances, on which the structure is situated) over which this Board has ownership or control. This prohibition extends to leased, borrowed or other facilities where a System or Component function, event, or activity takes or is taking place but does not apply to:

- 4.611 Presidentially–approved academic or other programs (for example, ROTC or administrator residences, wildlife management programs, or Component sponsored or approved events);
  - 4.612 Law enforcement personnel, acting in performance of their duties;
  - 4.613 The transporting of such firearms, handguns, or other prohibited weapons for registration with and storage by the Component public safety office; or the president’s home and grounds;
  - 4.614 Permitted tracts of the Christmas Mountains area with a special access permit as outlined in the *System Christmas Mountains Ranch Policy*; or,
  - 4.615 Transportation of a firearm or ammunition in a locked, privately-owned or leased motor vehicle by a person, including a student enrolled at the Component, who holds a license to carry a concealed handgun under Texas *Government Code, Chapter 411, subchapter H*, and lawfully possesses the firearm or ammunition: a) on a street or driveway located on the campus of the Component; or b) in a parking lot, parking garage, or other parking area located on the campus.
- 4.62 “Prohibited Weapons” as defined by *Texas Penal Code, section 46.01*, includes the following;
- 4.621 “Club” meaning and instrument (for example, a blackjack, nightstick, mace, numbchuck or tomahawk) that is specifically designed, made, or adapted for the purpose of inflicting serious bodily injury or death by striking a person;
  - 4.622 “Explosive weapon,” meaning any explosive or incendiary bomb, grenade, rocket, or mine that is designed, made, or adapted for the purpose of inflicting serious bodily injury or death, or substantial property damage, or for the principal purpose of causing such a loud report as to cause undue public alarm or terror (whether such a weapon is designed, made, or adapted for delivery or shooting);
  - 4.623 “Firearm,” meaning any device designed, made, adapted, or readily adaptable to expel a projectile through a barrel by using the energy generated by an explosion or burning substance (excluded are antique or curio firearms manufactured before 1899 or replicas thereof, provided they do not use rim fire or center fire ammunition), including, but not necessarily limited to handguns,

machine guns, rifles, “zip guns,” stun guns, and “short-barrel firearms”;

- 4.624 “Illegal knife,” meaning any bladed, hand instrument that:
    - a) has a blade over five and one-half inches; b) is capable of inflicting serious bodily injury or death on a person by cutting, stabbing, or throwing (for example, a dagger, dirk, stiletto knife, poniard, bowie knife, switchblade knife, sword, or spear);
  - 4.625 “Knuckles,” meaning any instrument that consists of finger rings or guards made of a hard substance and that is designed, made, or adapted for the purpose of inflicting serious bodily injury or death by striking a person with a fist enclosed in the knuckles.
  - 4.626 “Hoax bomb,” meaning a device that:
    - a) reasonably appears to be an explosive or incendiary device; or, b) by its design causes alarm or reaction of any type by policy, public safety, or other administrators at a system component, who are charged with assuring campus safety;
  - 4.627 “Chemical dispensing device,” meaning a device (other than a chemical dispenser sold commercially for personal protection) that is designed, made, or adapted for the purpose of dispensing a substance capable of causing adverse psychological or physiological effect on a human being.
- 4.7 Registered Sex Offenders. Students, faculty or other employees subject to registry requirements of the *Sex Offender Registration and Notification Act, 42 U.S.C. Chapter 151, Part A, Subchapter I* and/or the requirements of *Texas Code of Criminal Procedure Chapter 62* must comply with the following:
- 4.71 Registered sex offenders shall promptly notify campus police/security of their employment or enrollment as required by the laws referenced in Subsection 4.6 above.
  - 4.72 Residing in university housing is a privilege and not an entitlement. Registered sex offenders are not eligible to live in university housing.

CHAPTER VIII. ETHICS POLICY FOR REGENTS  
AND EMPLOYEES OF THE TEXAS STATE UNIVERSITY SYSTEM

1. ANTI-FRAUD POLICY AND REPORTING OF WRONGFUL OR FRAUDULENT CONDUCT.

- 1.1 Anti-Fraud Statement. The Texas State University System does not tolerate any type of fraud, waste, or abuse. The System is committed to ensuring that our organization maintains the highest standards of ethical conduct and integrity throughout all aspects of its operations. As public servants, System faculty and staff are guardians of the resources entrusted to them and have a responsibility to students, parents, alumni, donors, and the citizens of Texas to ensure that those resources are used efficiently and for their intended purposes. The System does not tolerate any form of retaliation against individuals providing information concerning suspected fraud, material waste, abuse, or other unethical behavior.
- 1.2 Chancellor and President Responsibilities. If the Chancellor has reasonable cause to believe that Component or System financial or inventoried resources may have been lost, misappropriated, or misused, or that other fraudulent or unlawful conduct has occurred in relation to the operation of the Component or System, he or she shall timely and promptly report the reason or basis for the belief to the Chair of the Finance and Audit Committee; and to the System Director of Audits and Analysis. If a President has such reasonable cause, he or she shall report the same to the Chancellor and to the System Director of Audits and Analysis.
- 1.3 Employee Responsibility. If an employee has reasonable cause to believe that Component or System financial or inventoried resources may have been lost, misappropriated, or misused, or that other fraudulent or unlawful conduct has occurred in relation to the operation of the Component or System, he or she shall timely and promptly report the reason or basis for the belief to the component Internal Audit Director; to the System Director of Audits and Analysis; to *EthicsPoint*, the System's internet-based fraud reporting hotline; or to the State Auditor's Office.
- 1.4 *EthicsPoint* Fraud Reporting Hotline. The System has established, through a private contractor, an internet-based reporting hotline, *EthicsPoint*, to provide individuals with a confidential avenue for reporting concerns about potential waste, fraud, and abuse of resources, the lack of compliance with laws and regulations, or violations of the System's *Code of Ethics*. Reports filed through *EthicsPoint* are forwarded to and investigated by individuals who are independent of System management. *EthicsPoint* can be accessed through the components' and the System Office's webpages. Except in rare circumstances, reports received through *EthicsPoint* will not be

investigated if the complaint is anonymous and/or established complaint processes at the campus-level have not been utilized. The *Texas Public Information Act* shall govern rules on disclosure of documents and records.

- 1.5 Reports to State Auditor's Office. The Texas State University System, through the Director of Audits and Analysis, will report suspected fraud or unlawful conduct to the State Auditor's Office (SAO) if he or she knows of facts pointing to fraud or unlawful conduct. Employees may report fraud involving state funds to the SAO through the System's Hotline; by accessing the SAO Fraud Reporting webpage; or by mail to the SAO.

## 2. BOARD EXPENSES AND ALLOWANCES.

### 2.1 Transportation, Meals, and Lodging.

2.11 Members of the Board of Regents are entitled to receive the following when traveling to conduct official business:

- (1) reimbursement of expenses for meals and lodging as provided by law; and
- (2) reimbursement for transportation and incidental expenses at rates specified in the General Appropriations Act for State employees.

2.12 Employees of The Texas State University System and its components are entitled to receive the following when traveling to conduct official business:

- (1) Actual costs of lodging and meals for in-state travel, except that such reimbursements may not exceed the current maximum established by law;
- (2) For out-of-state travel, employees may receive actual costs for lodging and a per diem for meals not to exceed the locality-based allowance provided by the Federal Travel Regulations for lodging and meals unless the State Comptroller determines in advance of the travel that local conditions warrant a change in the lodging rate for a particular location.

- 2.2 Purpose of Travel. To qualify for travel reimbursements, the purpose of a trip must be "state business" or "official business" of The Texas State University System. State or official business is the accomplishment of a governmental function directly entrusted to The Texas State University System or one of its components, including the reasonably necessary means and methods to accomplish that function.

- 2.3 Improper Travel Reimbursement. When a Regent or an employee engages in travel for which compensation is to be received from any source other than System funds, he or she shall not submit a claim under the provisions of The Texas State University System travel regulations. A Regent or an employee who receives an overpayment for a travel expense shall reimburse The Texas State University System for the overpayment.
- 2.4 Travel Bonus (Frequent Flyer) Awards. Regents or employees who earn credit with airlines, hotels, car rental companies, etc. for official travel are not required to account for such credit or to use such for official travel only.
- 2.5 Official Travel by Spouses and Relatives of Regents or Employees. Spouses and other relatives of Regents or employees may qualify to have travel expenses paid by The Texas State University System if their presence at a function or on a trip is for an official purpose benefiting The Texas State University System and/or the State of Texas. In making a determination of whether the presence of a spouse or relative is for an official purpose, the factors to be considered are the nature and duties of the Regent's or employee's office, the traditional role, if any, of the spouse or relative, the purpose of the particular trip, and the spouse or relative's connection with that purpose.
- 2.6 Foreign Travel. A request by a Regent, System president, or System employee for travel outside of the United States, excluding Mexico or Canada, must be approved in advance by the Chancellor.
- 2.7 Reimbursement of Expenses. Verified expense accounts shall be submitted to the Chancellor or appropriate component official for processing and the same shall be subject to review and control of the Board.

### 3. CONFLICTS OF INTEREST.

- 3.1 Ethics Commission Financial Disclosure Statements. Each Regent, the Chancellor and the presidents of the components shall file a financial statement with the Texas Ethics Commission not later than April 30, each year in which such Regent, Chancellor or president has served in such capacity for any portion of the immediately preceding twelve (12) months on forms prescribed by the commission.
- 3.2 Contracts Prohibited. Except as provided below, neither the System nor a component thereof may enter into a contract in which a Regent or the Regent's spouse has a direct or indirect pecuniary interest.
- 3.3 Recusal Required for Certain Types of Contracts Involving Pecuniary Interests. If a Regent is a stockholder or director of a corporation seeking to enter into a contract with the System or a component thereof, but owns or has a beneficial interest in no more than five percent of the corporation's outstanding capital stock, the contract may be executed so long as it is an affiliation agreement, license (including a license of



intellectual property), or sponsored research agreement, or it is awarded by competitive bidding or competitive sealed proposals. An interest owned by the Regent's spouse is considered to be a "beneficial interest." The affected Regent must disclose such interest in a public meeting of the Board of Regents and shall not vote on the contract or transaction.

- 3.4 Regent Disclosure of Personal or Private Financial Interest. A Regent who has a personal or private financial interest in a measure, proposal, or decision pending before the Board (other than a contract covered by Paragraph 3.3 of this Chapter) shall disclose such interest in a public meeting of the Board, and such disclosure shall be entered in the minutes of the Board. The Board may consider such measure, proposal, or decision, but any Regent having such an interest shall not vote or otherwise participate in such deliberation or action of the Board. This procedure may not be utilized for contracts covered by Section 3.3 of this Chapter.
- 3.5 Potential Conflict of Interest of Regent. As soon as possible after becoming aware of any potential conflict of interest, a Regent shall disclose such fact and any other relevant information to the Board and to the Vice Chancellor and General Counsel. In such an event, the Vice Chancellor and General Counsel shall review the potential conflict and issue an opinion.
- 3.6 Contracts with Nonprofit Corporations. The Board is not precluded from entering into contracts or other transactions with nonprofit corporations merely because a Regent also serves on the board of or is a member of the nonprofit corporation. Other factors and interests, such as pecuniary or personal interests, may require disclosure and recusal, as described above.
- 3.7 Disclosure of Interest in Property to be Acquired. Regents, the Chancellor and the president of the component are required to disclose any legal or equitable interest in property that is to be acquired with public funds. Such disclosure must be made at least 10 days before the date the property is to be acquired by purchase or condemnation.

#### 4. CODE OF ETHICS.

- 4.1 Prohibited Actions of Regents. A Member of the Board of Regents shall not:
  - (1) Accept or solicit any gift, favor, or service that might reasonably tend to influence the Regent in the discharge of official duties or that the Regent knows or should know is being offered with the intent to influence the Regent's official conduct;
  - (2) Accept employment or engage in a business or professional activity the Regent might reasonably expect would require or induce him or her to disclose confidential information acquired by reason of his or her official position or otherwise withhold from the Board information in his or her possession that might

reasonably benefit him or her, financially or otherwise, whether directly or indirectly. Further, it is a violation of this *Rule* if the benefit inures to a third party or parties, in whose welfare the Regent is interested;

- (3) Accept other appointments or any employment or compensation that could reasonably be expected to impair the Regent's independence of judgment in the performance of official duties;
- (4) By his or her actions or through his or her silence, allow the Board to consider any matter in which he or she will benefit, financially or otherwise, whether directly or indirectly. Further, it is a violation of this *Rule* if the benefit inures to a third party or parties, in whose welfare the Regent is interested. The Regent shall refrain from commenting on the matter to the Board, its regents or employees; and leave the room while the Board deliberates and votes on the matter;
- (5) Make personal investments that could reasonably be expected to create a substantial conflict between the Regent's private interest and the public interest;
- (6) Intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised his or her official powers or performed official duties in favor of another; or,
- (7) Commit acts of fraud, dishonesty, or illegality in office, including (by way of example and not limitation) assisting others to obtain personal or financial benefits to which they are not entitled by law or policy; forging or altering checks, bank drafts, or other documents, financial or otherwise; or, knowingly authorizing improper claims.

4.2 Prohibited Actions of Employees. An employee of The Texas State University System or any of its components shall not:

- (1) Accept or solicit any gift, favor or service that might reasonably tend to influence the employee in the discharge of official duties;
- (2) Use an official position to secure special privileges or exemptions for the employee or others, except as may be otherwise authorized by law;
- (3) Accept employment or engage in any business or professional activity which might reasonably be expected to require or induce the employee to disclose confidential information acquired by reason of such employee's official position or impair the employee's independence of judgment in the performance of public duties;
- (4) Disclose confidential information gained by reason of one's employment, or otherwise use such information for personal gain or benefit;

- (5) Transact any business in an official capacity with any business entity of which the employee is an officer, agent, or member or in which the employee owns a controlling interest unless the Board of Regents has reviewed the matter and determined no conflict of interest exists;
- (6) Make personal investments in any enterprise which could reasonably be expected to create a substantial conflict between the private interests of the employee and the public interests of his or her employer;
- (7) Receive any compensation for services as a state employee from any source other than the State of Texas, except as otherwise permitted by law;
- (8) Commit any act of fraud, dishonesty, or illegality in office, including (by way of example and not limitation) assisting others to obtain personal or financial benefits to which they are not entitled by law or policy; forging or altering checks, bank drafts, or other documents, financial or otherwise; knowingly authorizing improper claims; or,
- (9) Engage in any form of sexual harassment or racial harassment as defined in these Rules and Regulations.

5. BENEFITS, GIFTS AND HONORARIA.

- 5.1 Definitions. A "benefit" is anything reasonably regarded as pecuniary gain or pecuniary advantage, including benefit to any other person in whose welfare a Regent or an employee has a direct and substantial interest.
- 5.2 Bribery. A Regent or an employee shall not solicit, offer, or accept any benefit in exchange for his or her decision, opinion, recommendation, vote, or other exercise of official power or discretion.
- 5.3 Prohibited Benefits. A Regent or an employee shall not solicit, accept, or agree to accept any benefit from any person the Regent or employee knows is interested in or is likely to become interested in any contract, purchase, payment, claim, or transaction involving the Regent's or employee's discretion. This prohibition does not apply to (1) gifts or other benefits conferred on account of kinship or a personal, professional, or business relationship independent of a Regent's or employee's status, respectively, as a member of the Board or as an employee; (2) a fee prescribed by law to be received by a Regent or employee or any other benefit to which he or she is lawfully entitled or for which he or she gives legitimate consideration in a capacity other than as a member of the Board or an employee of the System or a component; (3) a gift, award, or memento that is received from a lobbyist who is required to make reports under Government Code, Chapter 305 and, (4) items having a value of less than \$50, not including cash or

negotiable instruments. A Regent or an employee who receives an unsolicited benefit that he or she is prohibited from accepting by law may donate the benefit to a governmental entity that has the authority to accept the gift or may donate the benefit to a recognized tax-exempt charitable organization formed for educational, religious, or scientific purposes.

- 5.4 Food, Lodging, Transportation, and Entertainment Received as a Guest. A Regent or employee may accept food, lodging, transportation, or entertainment from persons or entities he or she knows or reasonably should know are interested in or likely to become interested in a contract, purchase, payment, claim, decision, or transaction involving the exercise of the Board's discretion only if the Regent or employee is a "guest" as defined by Texas law. A Regent or an employee is a "guest" if the person or a representative of the entity providing the food, lodging, transportation, or entertainment is present at the time the food, lodging, transportation, or entertainment is received or enjoyed by the Regent or employee. Regents, the Chancellor and the presidents of components are required to report any such benefits valued at over \$250 on their annual disclosure statements filed with the Texas Ethics Commission.
- 5.5 Gifts or Benefits from Friends, Relatives, and Associates. Regents and employees may accept gifts or benefits from personal friends, relatives, or business associates with whom they have a relationship independent of their official status, so long as the benefit is not offered in exchange for official action or decision.
- 5.6 Gifts or Benefits from Outside Donors. A gift or benefit from an outside donor designated to supplement the salary of a specific Component or System employee shall be subject to approval by the Component or System CEO, before being presented to the Board of Regents for approval, as required by *Chapter III, Paragraph 1.33*. Gifts for the presidents shall be subject to the Chancellor's approval, and gifts to the Chancellor shall be subject to the Board Chair and Vice Chair's approval prior to presentation to the full Board. Such gifts shall be made to the Component or System directly and earmarked for distribution to the employee through the payroll process. Salary supplements shall be reported to the State Auditor's Office and the U.S. Internal Revenue Service as required by law. The employee receiving the salary supplementation shall comply with the conflict of interest provisions for employees outlined in *Subparagraph 4.2* of the System's *Code of Ethics*, found in *Paragraph 4* of this *Chapter*.
- 5.7 Awards. Regents and employees may accept plaques and similar recognition awards.
- 5.8 Honoraria. Regents and employees may not solicit, accept, or agree to accept an honorarium in consideration for services they would not have been asked to provide but for their official position or duties. This prohibition includes a request for or acceptance of a payment made to a third party if made in exchange for such services. However, they may accept the direct provision of or reimbursement for expenses for transportation and lodging incurred in connection with a speaking

engagement at a conference or similar event, provided the Regent's or employee's participation is more than merely perfunctory. Meals provided as a part of the event or reimbursement for actual expenses for meals may also be accepted.

6. POLITICAL ACTIVITIES.

- 6.1 Use of System Funds, Personnel or Property. No Regent shall expend or authorize the expenditure of any State appropriated funds for the purpose of influencing the outcome of any election, or the passage or defeat of any legislative measure.
- 6.2 Political Contributions. Regents may make personal contributions to candidates for office and political organizations, with one exception. A Regent may not expend more than \$100 for the cost of correspondence to aid or defeat the election of a Speaker candidate.
- 6.3 Entertainment. If a System or component employee provides tickets to a public official to allow the official and/or his guests to attend an event, an officer or employee of the System or a component will serve as host to the official, and must attend the event.
- 6.4 Perishable Food Items. System or component employees may provide Public officials with small, infrequent gifts of perishable food items delivered to their offices. These are not considered to be "benefits" for purposes of the provisions of the Penal Code prohibiting such.
- 6.5 Expenses for Public Officials. System components may pay expenses in order to furnish information to state officials relevant to their official position, including presentations about the programs and services of The Texas State University System and its components.
- 6.6 Use of Official Authority Prohibited. No System or component employee may use his or her official authority or influence, or permit the use of a program administered by the System to interfere with or affect the result of an election or nomination of a candidate or to achieve any other political purpose. No System or component employee may do any act or attempt to interfere with anyone who seeks to pay, lend, or contribute private funds or private property to a person or political organization for political purposes. Any System or component employee who violates either of these provisions is subject to immediate termination of employment, in accordance with the Government Code.
- 6.7 Use of System Funds or Property. No System or component employee shall expend or authorize the expenditure of any System or component funds for the purpose of influencing the outcome of any election, or the passage or defeat of any legislative measure. No System or component funds may be expended for the payment of full or partial salary of any employee who is also the paid lobbyist of any individual, firm, association, or corporation. System and component facilities may be used as polling places for local, state, and national elections.

- 6.8 Voting and Political Participation. As employees of the State of Texas, System and component employees have the rights of freedom of association and political participation guaranteed by the state and federal constitutions, except as limited by valid state laws. System and component employees shall be allowed sufficient time off to vote in public elections without a deduction from pay or from accrued leave time.
- 6.9 Political Campaign Events on System Property. The Chief Executive Officers of the components of The Texas State University System shall be responsible for promulgating rules for the regulation of political campaign meetings or speeches and other activities relating to political campaigns on property under their control. Such regulations shall be implemented by the Chancellor after approval by the Board of Regents.
- 6.10 Employees as Candidates and Officeholders. System and component employees may run for election and serve as members of the governing bodies of school districts, cities, towns, or other local governmental districts. No campaign activities may be conducted during official business hours unless the employee has requested and received permission to use leave time for such purpose. Any employee elected to such a position may not receive any salary for serving as a member of such governing bodies.
- 6.11 Political Contributions from Employees. System and component employees may make personal contributions to candidates for office and political organizations, with the exception that no state employee may contribute personal services, money, or goods of value to a candidate campaigning for speaker of the Texas House of Representatives.

7. USE OF AUTHORITY.

- 7.1 Misapplication of Property. A Regent shall not intentionally or knowingly misapply anything of value belonging to the government that comes into the Regent's custody or possession by virtue of his or her office with the intent to obtain a benefit or to harm another.
- 7.2 Nepotism. Regents are prohibited from appointing, voting for, or confirming the appointment of any person related to such Regent within the third degree by consanguinity (blood) or within the second degree by affinity (marriage) when the salary or compensation for such person is to be paid from public funds. All employment decisions must be made in compliance with *Chapter V, Section 2.2* of the System's *Rules and Regulations*.
- 7.3 Misuse of Official Information. A Regent shall not, in reliance on information to which he or she has access in his or her official capacity and which has not been made public: (1) acquire or aid another in acquiring a pecuniary interest in any property, transaction, or enterprise that may be affected by the information; or, (2) speculate or aid another in speculating on the basis of such information.

8. DUAL OFFICE HOLDING.

- 8.1 Non-Elective State or Federal Office. System and component employees may hold non-elective offices with boards, commissions, and other state and federal entities provided that the holding of such office, (1) is of benefit to the State of Texas, or is required by state or federal law, and (2) is not in conflict with the employee's position. Such appointments must be approved by the responsible CEO of the component. Prior to the Chancellor's or a CEO's accepting an invitation to serve in an additional non-elective office, the Board of Regents must determine that the appointment meets the two requirements stated above. The Board must also make an official record of any compensation to be received by the Chancellor or CEO from such appointment, including salary, bonus, per diem or other types of compensation.
- 8.2 Positions of Employment with Government Agencies. System and component employees may hold other positions of employment with agencies, boards, commissions, or other entities of government so long as the holding of such positions is consistent with the prohibitions against dual office holding in the Texas Constitution. Special rules for multiple employments with the State are provided in *Chapter 667* of the *Government Code*. The person seeking dual employment must be informed of the special rules before that person becomes employed by more than one agency or institution. Consulting arrangements with federal, state, or local governmental agencies of a detached and independent advisory nature are not considered to be appointments with such agencies.

9. TRAINING.

- 9.1 Training of Regents. Each Regent shall receive training regarding the duties and obligations of the office as required by statute.
- 9.2 Training of Employees. The System Administration shall conduct, in even numbered years, training sessions for the personnel of each component responsible for ethics training in the various departments of such institutions. These training sessions will provide the trainees with the methods, policies and materials necessary to allow them to train each employee within their supervision or responsibility. Each component is responsible for training each employee in the provisions of this Chapter VIII of these Rules and Regulations each biennium. The CEO of each component will notify the Chancellor upon completion of the ethics training each biennium.

10. PROVISIONS RELATED TO EMPLOYEES ENGAGED IN PROCUREMENT OF GOODS AND SERVICES.

- 10.1 Expansion of Code of Ethics. This *Paragraph 10* expands and supplements the Code of Ethics contained in *Paragraphs 1-9* of this *Chapter*, for Components' officials and employees, including those

officials and employees authorized to execute contracts for a Component or to exercise discretion in awarding contracts.

- 10.2 Adherence to Policies Relating to Procurement. All officials and employees authorized to execute contracts for a Component or to exercise discretion in awarding contracts shall adhere to all System and Component policies, handbooks, guidelines and protocols designed to promote ethical and lawful behavior in the procurement process.
- 10.3 Disclosure of Conflicts of Interest. Employees and officials involved in procurement or contract management for a Component shall promptly disclose to the Component any potential conflict of interest specified by state law or System or Component policy that is known by the employee or official with respect to any contract with a private vendor or bid for the purchase of goods or services from a private vendor.
- 10.4 Prohibited Contracts. A Component may not enter into a contract for the purchase of goods or services with a private vendor with whom any of the following Component employees or officials have a financial interest:
  - (1) A member of the Board of Regents, unless, pursuant to *Education Code, Section 51.923*, the member does not have a "substantial interest" in the business entity or vendor;
  - (2) The Chancellor, president, vice chancellor and general counsel, chief procurement officer, or procurement director of the Component; or,
  - (3) A family member related to an employee or official described by *Subparagraph (2)* within the second degree of affinity or consanguinity.
- 10.41 An employee or official has a prohibited financial interest in a procurement if the employee or official:
  - (1) Owns or controls, directly or indirectly, or otherwise has an ownership interest of at least one percent in the entity seeking the contract or procurement, including the right to share in profits, proceeds, or capital gains; or
  - (2) Could reasonably foresee that a contract with such an entity might result in a financial benefit to the employee or official or to a third party or parties in whose welfare the employee or officer is interested.
- 10.42 A financial interest prohibited by this section does not include a retirement plan, a blind trust, insurance coverage, or an ownership interest of less than one percent in a corporation.
- 10.5 Notice to Employees and Officials of Expected Standards of Conduct. Employees and officials, including those engaged in procurement of goods and services, are hereby put on notice that their primary



responsibility is to accomplish the duties and responsibilities assigned to the positions they hold. All employees and officials shall comply with the standards of conduct found in these System *Rules and Regulations*.

- 10.6 Compliance with Law Required. Each official or employee of a Component is expected to obey all federal, state, local laws, and these System *Rules and Regulations* regarding ethics and shall be subject to disciplinary action for violation of those laws, rules and regulations.
- 10.7 Conflict of Interest Prohibited. Each employee or official of a Component is prohibited from having a direct or indirect financial or other interest; engaging in a business transaction or professional activity; or incurring any obligation that conflicts with the proper discharge of the employee's or official's duties related to the public interest.
- 10.8 Conflict of Commitment Prohibited. Each employee or official of a Component is prohibited from participating in activities outside the Component which interfere with the employee's or official's duties and responsibilities to the Component.
- 10.9 Outside Employment or Activities. Engaging in outside employment or activities, including board service, is not a right or entitlement and may be permitted when, in the sole judgment of the president or his/her designee, the employment or activity does not:
  - (1) Interfere with the employee or official's ability to perform his/her public responsibilities and duties because of demands upon the individual's time;
  - (2) Impair the employee or official's independence of judgment in fulfilling his/her public responsibilities and duties;
  - (3) Reasonably expect or require the employee or official to disclose confidential information acquired in or because of his/her public responsibilities and duties; or
  - (4) Reasonably expect or require the employee or official to advance a position or course of action that conflicts with his/her public responsibilities and duties or the best interests of the Component as determined by the president.

An employee or official, desiring to engage in outside employment or activities, shall, through his or her supervisor(s), make a written request to the president in which he/she addresses the above four factors with specificity, providing copies of pertinent documents and such other information as the president may require in order to make a decision.

- 10.10 Reporting of Conflicts of Interest. As soon as an employee or official discovers or learns that he/she may have a conflict of interest regarding a procurement or contract management, he/she shall:
  - (1) Promptly disclose the same to the president through his/her supervisors, providing the specifics of the conflict, including but

not limited to, disclosure of the name(s) of the person(s) or entity(ies) involved; the exact nature of the relationship; and such other information or documents as president may require;

- (2) Discontinue work on the procurement or contract management in question and recuse him/herself from involvement in the same; and
  - (3) Expect that his/her supervisors will deny physical or electronic access to files and documents related to the procurement.
- 10.11 Acting as Agent Not Permitted. An official or employee of a Component may not act as an agent for another person in the negotiation of the terms of an agreement relating to the provision of money, services, or property to the Component.
- 10.12 Use of Component Resources. Component funds, personnel, facilities, property (real or personal) shall not be used for the personal use, benefit, or profit of any individual employee or official or for a third party in whose welfare the employee or official is interested. A more detailed policy governing use of Component resources shall be created.
- 10.13 Training Required. Training shall be mandated for officers and employees authorized to execute contracts for a Component or to exercise discretion in awarding contracts, including training in ethics, selection of appropriate procurement methods and information resources purchasing technologies.
- 10.14 Publication of Policies. The provisions of this *Chapter VIII, Paragraphs 4, 8, 9 and 10*, shall be included in the policies of all Components; published on their web pages; included in procurement contract manuals; and generally be made known to vendors seeking to provide goods and services.
- 10.15 Reporting to Board of Regents or Designee. A Component's contract management office or procurement director shall immediately report to the Chancellor, in his or her role as Secretary to the Board of Regents, any serious issue or risk that is identified with respect to a contract monitored under these *Rules and Regulations*.

11. DISCLOSURE, IN PUBLIC COMMUNICATIONS, OF SPONSORS OF CONTRACTED RESEARCH.

- 11.1 Disclosure Required. In any public communication the content of which is based on the results of sponsored research, a faculty member or other employee or appointee of a Component who conducted or participated in conducting the research, shall conspicuously disclose the identity of each sponsor of the research.

11.2 Definitions. In this Paragraph:

- (1) "Component" refers to a System college, university, or institute that falls within the meaning of "institution of higher education" assigned by Section 61.003 of the Texas Education Code.
- (2) "Public communication" means oral or written communication intended for public consumption or distribution, including:
  - (A) Testimony in a public administrative, legislative, regulatory, or judicial proceeding
  - (B) Printed matter including a magazine, journal, newsletter, newspaper, pamphlet, or report; or
  - (C) Posting of information on a website or similar Internet host for information.
- (3) "Sponsor" means an entity that contracts for or provides money or materials for research.
- (4) "Sponsored research" means research:
  - (A) That is conducted under a contract with, or that is conducted under a grant awarded by and pursuant to a written agreement with, an individual or entity other than the Component conducting the research; and
  - (B) In which payments received or the value of materials received under that contract or grant, or under a combination of more than one such contract or grant, constitutes at least 50 percent of the cost of conducting the research.

12. DISCLOSURE OF INTERESTED PARTIES CONTRACTING WITH SYSTEM COMPONENTS.

A System Component may not enter into a contract with a business entity that requires an action or vote by the Board of Regents or that has a value of at least \$1 million, unless the business entity submits a disclosure of interested parties at the time the business entity submits the signed contract to the Component. The Board will not approve any contract that is not accompanied by such disclosure statement and a representation by the Component that such statement was timely submitted to the Texas Ethics Commission as required by law.

- 12.1 Contracts Exempted. This *Paragraph 12* does not apply to a sponsored research contract, an interagency contract, or a contract related to health and human services if the value of the contract cannot be determined at the time the contract is executed and any qualified vendor is eligible for the contract.

- 12.2 Disclosure Form. The disclosure of interested parties must be submitted on a form prescribed by the Texas Ethics Commission and shall include:
- (1) A list of each interested party for the contract of which the contracting business entity is aware; and
  - (2) The signature of the authorized agent of the contracting business entity, acknowledging that the disclosure is made under oath and under penalty of perjury.
- 12.3 Submission to Texas Ethics Commission. The Component shall submit a copy of the disclosure to the Texas Ethics Commission not later than the 30<sup>th</sup> day following the date the Component receives a disclosure of interested parties required under this *Paragraph 12*.

## CHAPTER IX. PRIVATE SUPPORT ORGANIZATIONS

### 1. GENERAL.

- 1.1 The Board of Regents recognizes that there are legally constituted private organizations whose sole or primary purpose is to benefit The Texas State University System, its Components, or teaching, research and other activities within those Components. For the purposes of this *Chapter*, such an organization shall be called a "private support organization." Examples of private support organizations include, but are not limited to, development foundations, alumni associations, parents' associations and athletics booster organizations. The rules herein shall govern the relationship between such organizations and the System and its Components.
- 1.2 Trusts, endowments, foundations and similar entities established by a testamentary instrument for the benefit of the System, a system Component, or an activity of a Component are not considered private support organizations for the purposes of these rules. Such an entity shall be administered according to the provisions of the instrument creating it.

### 2. PROVISION OF SYSTEM EQUIPMENT AND FACILITIES TO PRIVATE SUPPORT ORGANIZATION.

- 2.1 The Board of Regents by written contract may provide a private support organization with office space, telephone service, utilities, and the use of other Component equipment and facilities.

### 3. SERVICE BY OFFICER OR EMPLOYEE OF THE SYSTEM ON BEHALF OF A PRIVATE SUPPORT ORGANIZATION.

- 3.1 Members of the Board of Regents or other officers or employees of the System or a Component may serve in similar management or decision making positions with a private support organization.
- 3.2 Officers and employees of the System or a Component may perform administrative tasks for a private support organization outside of their regular working hours. The Board of Regents by written contract may authorize officers and employees as a part of their regular duties to perform administrative tasks for a private support organization. Administrative tasks include, but are not limited to, activities such as the receiving, receipting, acknowledging, and reporting of gift funds received by the private support organization, but do not include the solicitation of funds on behalf of the private support organization.

- 3.3 Officers or employees whose duties routinely include the solicitation of funds on behalf of a Component may solicit funds on behalf of a private support organization if such practice is approved by the Board of Regents and made the subject of written contract between the Board of Regents and the private support organization.
- 3.4 Officers or employees whose duties do not routinely include the solicitation of funds on behalf of the Component may solicit funds on behalf of a private support organization outside of regular working hours. The Board of Regents by written contract may authorize such officers and employees as a part of their regular duties to solicit funds on behalf of the private support foundation.
- 3.5 Any member of the Board of Regents, or officers or employees of the System or a Component serving in a management or decision making position with a private support organization, or rendering services of any kind whatsoever to a private support organization, shall receive no salary or benefit for such service from the private support organization unless the receipt of such salary or benefit is approved by the Board of Regents, provided however that the reimbursement by a support foundation of the actual travel, lodging, and other expenses incurred by an individual while rendering such service does not require approval by the Board of Regents.
- 3.6 The Chancellor shall be an *ex officio* member of any systemwide private support foundation seeking affiliation with the System under this *Chapter*.

4. ADMINISTRATION AND INVESTMENT OF FUNDS HELD BY PRIVATE SUPPORT ORGANIZATION.

- 4.1 Funds and property received directly by a private support organization from a donor are not subject to control by the Board of Regents until such organization relinquishes control of the funds to the Board. Gifts of funds or property to the System, a System Component, or an activity of a Component from a private support organization may be accepted under the same conditions as a gift from any other donor.
- 4.2 No gift funds or property received by the System or a Component may be remitted to a private support organization unless such transfer of funds is approved in writing by the donor and the Board of Regents. In such cases, the private support organization shall manage the funds or property in accordance with instructions given by the donor and the Board of Regents.
- 4.3 The trustees of private support organizations will provide the Board, through the Component President or Chancellor (in the case of a system organization), an annual report.

5. CONTRACTS WITH PRIVATE SUPPORT ORGANIZATIONS.

- 5.1 Any contract with a private support organization must be approved by the Board of Regents and must: (a) provide adequate consideration to the public, (b) serve a public purpose, and (c) enable the Board of Regents, through the Chancellor, to maintain sufficient control over any public resources provided by the contract to ensure the public purpose therein is met.
- 5.2 Contracts between the Board of Regents and a private support organization on which members of the Board of Regents serve will not be approved unless specific statutory language authorizes execution of a contract with the private support organization.
- 5.3 Contracts between the Board of Regents and a private support organization on which the members of the Board of Regents do not serve will be approved only if:
  - (1) A majority of the trustees or directors of the private support organization are System or Component officers or employees;
  - (2) The trustees or directors are appointed or approved by the Board of Regents, or
  - (3) The Board of Regents has approved the constitution, bylaws, or other governing instrument of the organization which specifies the selection procedures for the organization's trustees and directors.

## CHAPTER X. ENACTMENT AND AMENDMENT

### 1. REPEAL OF EXISTING RULES AND EFFECTIVE DATE.

All rules, regulations, orders, and resolutions heretofore enacted by the Board which are in conflict with these System's *Rules and Regulations* are hereby repealed. The *Rules and Regulations* shall become effective on September 1, 1980, to the extent that they do not conflict with existing contracts and agreements approved by the Board.

### 2. APPLICATION OF RULES.

The System's *Rules and Regulations* apply to and govern the Board and all employees and agencies directly under its control, the System Administration of The Texas State University System, and the Components comprising The Texas State University System.

### 3. OFFICIAL COPY.

- 3.1 The official copy of the System's *Rules and Regulations* shall be maintained on file in the System Administration.
- 3.2 Copies of these *Rules and Regulations* shall be furnished to members of the Board, the Presidents of the Component, and such other persons and offices as the Board shall designate.

### 4. AMENDMENT.

The *Rules and Regulations* herein provided may be amended by a majority vote of the members of the Board of Regents at any regular meeting or at a special called meeting of the Board. Proposed amendments may be submitted in writing to the Chancellor by the Presidents of the System, officers of the System Administration, or a member of the Board of Regents. Copies of proposed amendments shall be sent to each Component President and reviewed by the Council of Presidents for recommendation to the *Rules and Regulations* Committee through the Chancellor. The *Rules and Regulations* Committee will submit to the full Board, for its consideration, any proposed amendments at the May Board Meeting. Emergency amendments may be considered by the Board as general motions at any Board Meeting. The Chancellor shall incorporate all adopted amendments into the appropriate *Sections* of the *Rules and Regulations* and mail same to each individual who has copies of the *Rules and Regulations* immediately following the adoption of the amendments. Should all or any part of the foregoing *Rules and Regulations* conflict with any constitutional, statutory, or legislative appropriation provisions, they shall be amended to conform therewith.

- 4.1 The Chancellor is authorized to make minor and non-substantive editorial changes to these *Rules and Regulations* as necessary to



keep the *Rules* current and correct. In the event such editorial changes are necessary, the Chancellor will ensure that members of the Board, administrative officers, and members of the public have ready access to the current version of the *Rules and Regulations*.

5. INVALIDITY OF CONFLICTING RULES AND PROCEDURES.

All rules and procedures contained in handbooks and other policy statements at the System's Components are invalid insofar as they conflict with these *Rules and Regulations*. Whenever the policies or procedures at a Component differ from the policies or procedures set forth in these *Rules and Regulations*, these *Rules and Regulations* will control, and the differing policies or procedures at the Component will be disregarded.

6. MANDATORY PERIODIC REVIEW OF RULES.

In 2012, and in each fourth year thereafter, the Chair of the *Rules and Regulations* Committee and the Vice Chancellor and General Counsel shall undertake a comprehensive review of these *Rules and Regulations* and recommend such comprehensive updates and revisions as may be necessary or appropriate.

## Appendix A-1

### EDUCATION CODE CHAPTER 95, SUBTITLE E

#### ADMINISTRATION OF THE TEXAS STATE UNIVERSITY SYSTEM

#### SUBCHAPTER A. ADMINISTRATIVE PROVISIONS

<p>§ 95.01. <b>BOARD OF REGENTS.</b> The organization, control, and management of the state university system is vested in the Board of Regents, Texas State University System. Acts 1971, 62nd Leg., p. 3218, ch. 1024, art. 1, § 1, eff. Sept. 1, 1971. Amended by Acts 1975, 64th Leg., p. 1160, ch. 434, § 3, eff. June 19, 1975.</p>	<p>Board vested with authority over system.</p>
<p>§ 95.02. <b>BOARD MEMBERS: APPOINTMENT, QUALIFICATIONS, TERMS.</b> The board is composed of nine members appointed by the governor with the advice and consent of the senate. The members hold office for terms of six years, with the terms of three members expiring February 1 of odd-numbered years. Each member of the board shall be a qualified voter; and the members shall be selected from different portions of the state. Acts 1971, 62nd Leg., p. 3218, ch. 1024, art. 1, § 1, eff. Sept. 1, 1971. Amended by Acts 1983, 68th Leg., p. 2837, ch. 484, art. III, § 3, eff. June 19, 1983.</p>	<p>Board terms expire February 1 of odd-numbered years.</p>
<p>§ 95.03. <b>BOARD MEETINGS.</b> The board shall provide for regular meetings for the transaction of business pertaining to the affairs of the state university system. The chairman or a majority of the members of the board by petition may at any time call a special meeting of the board and fix the time and place thereof. Acts 1971, 62nd Leg., p. 3219, ch. 1024, art. 1, § 1, eff. Sept. 1, 1971. Amended by Acts 1975, 64th Leg., p. 1160, ch. 434, § 3, eff. June 19, 1975; Acts 1983, 68th Leg., p. 3050, ch. 524, § 1, eff. Sept. 1, 1983.</p>	<p>Regular Meetings: Required. Special Meetings: Either chair or board majority may call.</p>
<p>§ 95.04. <b>PER DIEM; EXPENSES.</b> Members of the board shall receive a per diem payment as provided by the legislature and shall in addition be reimbursed for the actual expenses incurred by them in the performance of their duties. Payment shall be made out of the appropriation for the support and maintenance of the state university system as the board may direct. Acts 1971, 62nd Leg., p. 3219, ch. 1024, art. 1, § 1, eff. Sept. 1, 1971. Amended by Acts 1975, 64th Leg., p. 1160, ch. 434, § 3, eff. June 19, 1975; Acts 1983, 68th Leg., p. 3050, ch. 524, § 1, eff. Sept. 1, 1983.</p>	<p>Board members receive <u>per diem</u> plus expenses.</p>
<p>§ 95.05. <b>QUORUM.</b> Five members of the board shall be a quorum for the transaction of business at any meeting and, unless a greater number is required by the board's rules, the act of a majority of the members present at any meeting shall be the act of the board. Added by Acts 1983, 68th Leg., p. 3053, ch. 524, § 2, eff. Sept. 1, 1983.</p>	<p>Quorum is five members. Majority of those present acts for the board.</p>

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<p>§ 95.06. <b>SYSTEM CENTRAL ADMINISTRATION OFFICE; EXECUTIVE OFFICER.</b> (a) The central administration office of the university system shall provide oversight and coordination of the activities of each component institution within the system. (b) The board shall appoint an executive officer of the university system and determine the executive officer's term of office, salary, and duties. (c) The executive officer shall recommend a plan for the organization of the university system and the appointment of a president for each component institution within the system. (d) The executive officer is responsible to the board for the general management and success of the university system, and the board shall cooperate with the executive officer to carry out that responsibility. (e) In addition to other powers and duties provided by this code or other law, the central administration office of the system shall recommend necessary policies and rules to the governing board of the system to ensure conformity with all laws and rules and to provide uniformity in data collection and financial reporting procedures. Added by Acts 1989, 71st Leg., ch. 464, § 3, eff. June 14, 1989.</p>	<p>Chancellor Duties: oversight and coordination, recommendation of policies.</p>
<p><b>SUBCHAPTER B. POWERS AND DUTIES OF BOARD</b></p> <p>§ 95.21. <b>GENERAL RESPONSIBILITIES AND AUTHORITY OF BOARD.</b> (a) The board is responsible for the general control and management of the universities in the system and may erect, equip, and repair buildings; purchase libraries, furniture, apparatus, fuel, and other necessary supplies; employ and discharge presidents or principals, teachers, treasurers, and other employees; fix the salaries of the persons employed; and perform such other acts as in the judgment of the board contribute to the development of the universities in the system or the welfare of their students. (b) The board has authority to promulgate and enforce such rules, regulations, and orders for the operation, control, and management of the university system and its institutions as the board may deem either necessary or desirable. When a power is vested in the board, the board may adopt a rule, regulation, or order delegating such power to any officer, employee, or committee as the board may designate. Acts 1971, 62nd Leg., p. 3219, ch. 1024, art. 1, § 1, eff. Sept. 1, 1971. Amended by Acts 1975, 64th Leg., p. 1160, ch. 434, § 3, eff. June 19, 1975; Acts 1983, 68th Leg., p. 3050, ch. 524, § 1, eff. Sept. 1, 1983.</p>	<p>Board granted. Plenary authority over system institutions, including rule-making power.</p>
<p>§ 95.22. <b>INSPECTION OF UNIVERSITIES.</b> The board as a whole or by committee shall visit each university under its control and management at least once during each scholastic year, inspect its work, and gather information which will enable the board to perform its duties intelligently and effectively. Acts 1971, 62nd Leg., p. 3219, ch. 1024, art. 1, § 1, eff. Sept. 1, 1971. Amended by Acts 1975, 64th Leg., p. 1160, ch. 434, § 3, eff. June 19, 1975; Acts 1983, 68th Leg., p. 3050, ch. 524, § 1, eff. Sept. 1, 1983.</p>	<p>By committee or as a whole, Board must visit each university annually.</p>
<p>§ 95.23. <b>LOCAL COMMITTEES OF BOARD.</b> At least once a year each local committee of the board shall meet on the campus of the institution for which the local committee is responsible for reporting to the board. At the meeting, the local committee shall confer with the institution's officials and carefully examine all phases of the operations of the institution. Acts 1971, 62nd Leg., p. 3219, ch. 1024, art. 1, § 1, eff. Sept. 1, 1971.</p>	<p>Each institution has a local committee that must meet annually with campus officials.</p>
<p>§ 95.24. <b>ADMISSION; DIPLOMAS AND CERTIFICATES.</b> The board may determine the conditions on which students may be admitted to the universities, the grades of certificates issued, the conditions for the award of certificates and diplomas, and the authority by which certificates and diplomas are signed. Acts 1971, 62nd Leg., p. 3219, ch. 1024, art. 1, § 1, eff. Sept. 1, 1971. Amended by Acts 1975, 64th Leg., p. 1160, ch. 434, § 3, eff. June 19, 1975.</p>	<p>Board determines conditions of admissions and graduation.</p>

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<p>§ 95.25. <b>TEACHING CERTIFICATES.</b> Diplomas and teachers certificates of each of the system universities authorize the holders to teach in the public schools. Acts 1971, 62nd Leg., p. 3220, ch. 1024, art. 1, § 1, eff. Sept. 1, 1971. Amended by Acts 1975, 64th Leg., p. 1160, ch. 434, § 3, eff. June 19, 1975.</p>	<p>Graduates “authorized” to teach in public schools. Probably obsolete in view of state certification.</p>
<p>§ 95.27. <b>ANNUAL REPORT TO GOVERNOR.</b> The board shall make an annual report to the governor showing the general condition of the affairs of each university in the system and making recommendations for its future management and welfare. Acts 1971, 62nd Leg., p. 3220, ch. 1024, art. 1, § 1, eff. Sept. 1, 1971. Amended by Acts 1975, 64th Leg., p. 1160, ch. 434, § 3, eff. June 19, 1975.</p>	<p>Board must submit annual report to governor, including recommendations.</p>
<p>§ 95.28. <b>DISBURSEMENT OF FUNDS.</b> All appropriations made by the legislature for the support and maintenance of the system universities, for the purchase of land or buildings for the universities, for the erection or repair of buildings, for the purchase of apparatus, libraries, or equipment of any kind, or for any other improvement of any kind shall be disbursed under the direction and authority of the board. The board may formulate rules for the general control and management of the universities, for the auditing and approving of accounts, and for the issuance of vouchers and warrants which are necessary for the efficient administration of the universities. Acts 1971, 62nd Leg., p. 3220, ch. 1024, art. 1, § 1, eff. Sept. 1, 1971. Amended by Acts 1975, 64th Leg., p. 1160, ch. 434, § 3, eff. June 19, 1975.</p>	<p>Board disburses all legislative appropriations and may create structure to accomplish this.</p> <p><b>COMMENT: § 95.29</b> Suggests that central, fiscal and legislative functions were intended.</p>
<p>§ 95.29. <b>FINANCIAL STATEMENTS AND RECOMMENDATIONS.</b> The board shall file in each house of the legislature at each of its regular biennial sessions a statement of the receipts and expenditures of each of the system universities, showing the amount of salaries paid to the various teachers, contingent expenses, expenditures for improvements, and other items of expense. The board shall also file its recommendations for appropriations for the universities. Acts 1971, 62nd Leg., p. 3220, ch. 1024, art. 1, § 1, eff. Sept. 1, 1971. Amended by Acts 1975, 64th Leg., p. 1160, ch. 434, § 3, eff. June 19, 1975.</p>	<p>Board must account biennially to legislature as to financial operations and make recommendations.</p>
<p>§ 95.30. <b>EMINENT DOMAIN.</b> The board has the power of eminent domain to acquire for the use of the system universities the lands necessary and proper for carrying out their purposes, in the manner prescribed in Title 4, Chapter 21, of the Property Code. The taking of the land is for the use of the state. The board shall not be required to deposit a bond or the amount equal to the award of damages by the commissioners as provided in Section 21.021 of the Property Code. Acts 1971, 62nd Leg., p. 3220, ch. 1024, art. 1, § 1, eff. Sept. 1, 1971. Amended by Acts 1975, 64th Leg., p. 1160, ch. 434, § 3, eff. June 19, 1975; Acts 1987, 70th Leg., ch. 403, § 1, eff. Sept. 1, 1987.</p>	<p>Board has power of eminent domain in order to fulfill a public purpose.</p>
<p>§ 95.31. <b>ACQUISITION OF LAND; PROCEDURES.</b> The board may acquire land, including the improvements thereupon, needed for the proper operation of a system university. The acquisition may be by grant, purchase, lease, exchange, gift, devise, or by condemnation. If the board and the landowner cannot agree on the sale and purchase of the land, the board may request the attorney general to proceed to condemn the land as provided by law. Acts 1971, 62nd Leg., p. 3220, ch. 1024, art. 1, § 1, eff. Sept. 1, 1971. Amended by Acts 1975, 64th Leg., p. 1161, ch. 434, § 4, eff. June 19, 1975; Acts 1983, 68th Leg., p. 3050, ch. 524, § 1, eff. Sept. 1, 1983; Acts 1987, 70th Leg., ch. 403, § 1, eff. Sept. 1, 1987.</p>	<p>Board may acquire land by any lawful means, including condemnation, i.e., by eminent domain.</p>

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<p>§ 95.32. <b>DORMITORIES.</b> (a) The board may enter into contracts with persons, firms, or corporations for the erection of dormitories at a university, and may purchase or lease lands and other appurtenances for the construction of the dormitories, provided that the state incurs no liability for the buildings or the sites. (b) The board may make contracts with reference to the collection and disposition of the revenue derived from the dormitories in the acquisition, management, and maintenance of the buildings. (c) The board may adopt rules and regulations it deems reasonable requiring any class or classes of students to reside in the dormitories or other buildings. Absolute management and control of the dormitories constructed is vested in the board. Acts 1971, 62nd Leg., p. 3221, ch. 1024, art. 1, § 1, eff. Sept. 1, 1971. Amended by Acts 1975, 64th Leg., p. 1162, ch. 434, § 5, eff. June 19, 1975.</p>	<p>Board has broad powers to erect and pay for dormitories and to require students to live in them.</p>
<p>§ 95.33. <b>MANAGEMENT OF PROPERTY.</b> The board of regents of the Texas State University System has the sole and exclusive management and control of the lands set aside and appropriated to, or acquired by, the Texas State University System. The board may sell, lease, and otherwise manage, control, and use the lands in any manner and at prices and under terms and conditions the board deems best for the interest of the Texas State University System, not in conflict with the constitution. However, the land shall not be sold at a price less per acre than that at which the same class of other public land may be sold under the statutes. No grazing lease shall be made for a period of more than 10 years. Added by Acts 1979, 66th Leg., p. 1447, ch. 636, § 1, eff. June 13, 1979. Amended by Acts 1983, 68th Leg., p. 3050, ch. 524, § 1, eff. Sept. 1, 1983.</p>	<p>Board alone owns, manages and controls system property.</p> <p>Can sell land at fair market value.</p> <p>May grant grazing leases not to exceed 10 years.</p>
<p>§ 95.34. <b>DONATIONS, GIFTS, GRANTS, AND ENDOWMENTS.</b> (a) The board may accept donations, gifts, grants, and endowments for the universities under its control to be held in trust and administered by the board for the purposes and under the directions, limitations, and provisions declared in writing in the donation, gift, grant, or endowment, not inconsistent with the laws of the state or with the objectives and proper management of the universities. All money accepted under the authority of this section shall be deposited to the credit of one or more special funds created by the board for the university system or universities in the system. The board shall designate one or more depositories for the money received and shall accord money deposited in them the same protection by the pledging of assets of a depository as is required for the protection of public funds. (b) The board may deposit in one or more appropriate accounts created by the board all funds received as administrative fees or charges for services rendered in the management and administration of any trust estate under the control of the board. The funds so received as administrative fees or charges may be expended by the board for any educational purpose of the university system or universities in the system. Added by Acts 1979, 66th Leg., p. 1447, ch. 636, § 1, eff. June 13, 1979. Amended by Acts 1983, 68th Leg., p. 3050, ch. 524, § 1, eff. Sept. 1, 1983.</p>	<p>Board may accept and manage gifts, grants, and endowments.</p>

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<p>§ 95.36. <b>MANAGEMENT AND LEASE OF LAND.</b> (a) The board may lease for oil, gas, sulphur, ore, and other mineral development all land under its control. The board may make and enter into pooling agreements, division orders, or other contracts necessary in the management and development of its land. All leases, pooling agreements, division orders, or other contracts entered into shall be on terms which the board deems in the best interest of the system and the system universities. No lease shall be sold for less than the royalty and rental terms demanded at that time by the General Land Office in the sale of oil, gas, and other mineral leases of the public lands of the State of Texas. (b) Except as provided in Subsection (c) of this section, any money received by virtue of this section and the income from the investment of such money shall be deposited in the State Treasury to the credit of a special fund to be known as the Texas State University System special mineral fund, to be used exclusively for the university system and the universities in the system. However, no money shall ever be expended from this fund except as authorized by the General Appropriations Act. (c) All money received by virtue of the lease of land given to the board by a will, instrument in writing, or other means shall be deposited to the credit of one or more special funds created by the board for the university system or universities in the system. The board shall designate one or more depositories for the money received and shall accord money deposited in them the same protection by the pledging of assets of a depository as is required for the protection of public funds. Money deposited in a special fund may be used by the board for payment of principal and interest on revenue bonds or notes issued by the board and for any other use or purpose which in the judgment of the board may be for the good of the university system or the universities in the system. Added by Acts 1983, 68th Leg., p. 3053, ch. 524, § 2, eff. Sept. 1, 1983.</p>	<p>Board has plenary authority to lease land, including oil, gas, and other mineral interests.</p> <p>Texas GLO approval not required but Board instructed not to sell for less than GLO rate.</p> <p>Monies to be deposited into special, earmarked funds in state treasury.</p> <p>Board has broad discretion in expending non-earmarked funds.</p>
<p>§ 95.37. <b>DELINQUENT STUDENT LOAN ACCOUNTS; VENUE.</b> A suit by the Texas State University System on its own behalf or on behalf of a component institution of the Texas State University System to recover a delinquent student loan, account, or debt owed to the Texas State University System or a component institution of the Texas State University System shall be brought in Travis County. Added by Acts 1987, 70th Leg., ch. 403, § 2, eff. Sept. 1, 1987.</p>	<p>Lawsuits to collect delinquent loans are filed in Travis County.</p>

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### EDUCATION CODE CHAPTER 96, SUBTITLE E

#### INSTITUTIONS OF THE TEXAS STATE UNIVERSITY SYSTEM

##### SUBCHAPTER A. SUL ROSS STATE UNIVERSITY

<p><b>§ 96.01. SUL ROSS STATE UNIVERSITY.</b> Sul Ross State University is a coeducational institution of higher education located in the city of Alpine, with an upper-level educational center known as Sul Ross State University Rio Grande College operated in the cities of Del Rio, Eagle Pass, and Uvalde. The university is under the management and control of the Board of Regents, Texas State University System. Acts 1971, 62nd Leg., p. 3222, ch. 1024, art. 1, § 1, eff. Sept. 1, 1971. Amended by Acts 1975, 64th Leg., p. 1160, ch. 434, § 3, eff. June 19, 1975; Acts 1995, 74th Leg., ch. 118, § 2, eff. May 17, 1995.</p>	<p>Sul Ross State University and Rio Grande College (RGC) are created.</p>
<p><b>§ 96.02. REFERENCE TO UVALDE STUDY CENTER.</b> A reference in law to the Uvalde Study Center of Sul Ross State University means Sul Ross State University Rio Grande College. Added by Acts 1995, 74th Leg., ch. 118, § 3, eff. May 17, 1995.</p>	<p>Probably obsolete provision, clarifying that Uvalde Study Center and RGC are the same entity.</p>

##### SUBCHAPTER B. – VACANT SUBCHAPTER

##### SUBCHAPTER C. TEXAS STATE UNIVERSITY-

<p><b>§ 96.41. TEXAS STATE UNIVERSITY.</b> Texas State University is a coeducational institution of higher education located in the city of San Marcos. It is under the management and control of the Board of Regents, Texas State University System. Acts 1971, 62nd Leg., p. 3223, ch. 1024, art. 1, § 1, eff. Sept. 1, 1971. Amended by Acts 1975, 64th Leg., p. 1160, ch. 434, § 3, eff. June 19, 1975; Acts 2003, 78th Leg., ch. 386, § 2, eff. Sept. 1, 2003; Acts 2013, 83<sup>rd</sup> Leg., R.S., Ch. 30 (S.B. 974), Sec. 2, eff. Sept. 1, 2013.</p>	<p>TXST is created.</p>
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##### SUBCHAPTER D. SAM HOUSTON STATE UNIVERSITY

<p><b>§ 96.61. SAM HOUSTON STATE UNIVERSITY.</b> Sam Houston State University is a coeducational institution of higher education located in the city of Huntsville. It is under the management and control of the Board of Regents, Texas State University System. Acts 1971, 62nd Leg., p. 3223, ch. 1024, art. 1, § 1, eff. Sept. 1, 1971. Amended by Acts 1975, 64th Leg., p. 1160, ch. 434, § 3, eff. June 19, 1975.</p>	<p>SHSU is created.</p>
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<p><b>§ 96.62. UNIVERSITY AIRPORT.</b> (a) The board may construct or otherwise acquire without cost to the state or the university an airport for purposes of cooperation with the national defense program and for instruction in aeronautics. (b) The board may acquire by purchase, lease, gift, or by any other means, and may maintain, use, and operate any and all property of any kind, real, personal, or mixed, or any interest in property, necessary or convenient to the exercise of the powers conferred by this section. The board has the power of eminent domain for the purpose of acquiring by condemnation any real property, or any interest in real property, necessary or convenient to the exercise of the powers conferred by this section. The board shall exercise the power of eminent domain in the manner provided by general law, including Title 52, Revised Civil Statutes of Texas, 1925, except that it shall not be required to give bond for appeal or bond for costs. Acts 1971, 62nd Leg., p. 3223, ch. 1024, art. 1, § 1, eff. Sept. 1, 1971.</p>	<p>Board may acquire or construct an airport if at no cost to the state.</p> <p>Airport to be used for national defense programs and for aeronautics instruction.</p>
<p><b>§ 96.63. JOSEY SCHOOL OF VOCATIONAL EDUCATION.</b> (a) The Josey School of Vocational Education is a division of Sam Houston State University and is under the direction and control of the Board of Regents, State Senior Colleges. (b) The administration of the school is under the direction of the president of Sam Houston State University. (c) The school shall provide vocational training for individuals over the age of 18 who cannot qualify scholastically for college entrance and for other persons who desire to avail themselves of short intensive courses in vocational education in the following fields: agriculture, home management, distributive education, photography, plumbing, sheet metal work, machine shop, auto mechanics, furniture, electrical appliances, air conditioning and refrigeration, printing, radio, garment making, interior decorating, light construction contracting, photoengraving, watchmaking, and other trades of like nature. The training in these subjects shall be organized so that the courses may be completed in from 9 to 24 months. Courses may also be offered in English and mathematics and other subjects which will contribute to the vocational training of the student. Vocational courses in government, designed to prepare workers in various county, city, and state offices, may also be offered. (d) The rate of tuition charged students shall be the actual cost of teaching service, not to exceed \$500 per scholastic year of nine months. Scholarships may be awarded by the board to worthy indigent students who might greatly benefit from the training offered. The amount of the scholarships may vary according to the needs of the individuals, but in no case may it reduce the tuition payment by the student to a point less than the tuition fee regularly charged students at the state senior colleges. Acts 1971, 62nd Leg., p. 3224, ch. 1024, art. 1, § 1, eff. Sept. 1, 1971.</p>	<p>Creates a junior college at SHSU to provide vocational training to persons age 18 who do not qualify scholastically for college.</p>



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<p><b>96.64. BILL BLACKWOOD LAW ENFORCEMENT MANAGEMENT INSTITUTE OF TEXAS.</b> (a) The Bill Blackwood Law Enforcement Management Institute of Texas is created for the training of police management personnel. The headquarters of the institute are at Sam Houston State University. The institute is under the supervision and direction of the president of Sam Houston State University and shall be operated and managed as a joint program between Sam Houston State University, Texas A&amp;M University, and Texas Woman's University. (b) The president may establish rules relating to the institute. (c) The president shall establish reasonable charges for participation in institute training programs by participants who are not residents of this state. The participation costs of participants who are residents, including tuition, books, room, board, and travel costs, shall be paid from the Bill Blackwood Law Enforcement Management Institute of Texas fund. Participation in the institute training programs is open to every eligible resident of this state, whether or not the person is sponsored by an employing law enforcement agency. (d) The Bill Blackwood Law Enforcement Management Institute of Texas fund is in the state treasury. The president shall use the fund in administering the institute. (e) The board of regents of the Texas State University System may acquire, purchase, construct, improve, renovate, enlarge, or equip property, buildings, structures, facilities, roads, or related infrastructure for the institute to be financed by the issuance of bonds in accordance with Subchapter B, Chapter 55. The board of regents may pledge irrevocably to the payment of those bonds a portion of the proceeds of the Bill Blackwood Law Enforcement Management Institute of Texas fund. The amount of a pledge made under this subsection may not be reduced or abrogated while the bonds for which the pledge is made, or bonds issued to refund those bonds, are outstanding. Added by Acts 1989, 71st Leg., ch. 4, § 2.39(a), eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 19, § 1, eff. April 11, 1991; Acts 1991, 72nd Leg., ch. 561, § 26, eff. Aug. 26, 1991. Renumbered from V.T.C.A. Government Code, § 415.091 to 415.099 and amended by Acts 1993, 73rd Leg., ch. 1047, § 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 876, § 1.02, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 895, § 2, eff. Sept. 1, 1997.</p>	<p>Blackwood Law Enforcement Management Institute headquartered and under the supervision and direction of the president.</p> <p>Institute is joint with Texas A&amp;M and Texas Woman's University.</p> <p>Institute fund is kept in state treasury.</p>
<p><b>§ 96.641. INITIAL TRAINING AND CONTINUING EDUCATION FOR POLICE CHIEFS.</b> (a) The Bill Blackwood Law Enforcement Management Institute of Texas shall establish and offer a program of initial training and a program of continuing education for police chiefs. The curriculum for each program must relate to law enforcement management issues. The institute shall develop the curriculum for the programs. The curriculum must be approved by the Commission on Law Enforcement Officer Standards and Education. (b) Each police chief must receive at least 40 hours of continuing education provided by the institute under this section each 24-month period. (c) An individual appointed or elected to that individual's first position as chief must receive not fewer than 80 hours of initial training for new chiefs in accordance with Subsections (d) and (e). (d) A newly appointed or elected police chief shall complete the initial training program for new chiefs not later than the second anniversary of that individual's appointment or election as chief. The initial training program for new chiefs is in addition to the initial training and continuing education required by Chapter 415, Government Code. The first 24-month period begins under Subsection (b) for an individual who completes the initial training program for new chiefs on the first anniversary of the date the individual completed the initial training program. (e) The institute by rule may provide for the waiver of: (1) the requirement of all or part of the 80 hours of initial training for new chiefs to the extent the new chief has satisfactorily completed equivalent training in the 24 months preceding the individual's appointment or election; or (2) the continuing education requirements of Subsection (b) for an individual who has satisfactorily completed equivalent continuing education in the preceding 24 months.</p>	<p>Institute provides training and continuing education for police chiefs.</p>

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(f) An individual who is subject to the continuing education requirements of Subsection (b) is exempt from other continuing education requirements under Subchapter H, Chapter 1701, Occupations Code. (g) In this section, "police chief" or "chief" means the head of a police department. (h) The chief of a municipal police department must be licensed as a peace officer by the commission no later than one year after the date that the chief is appointed to the position of police chief. The commission shall establish requirements for licensing and for revocation, suspension, cancellation, or denial of peace officer license for a police chief. (i) A police chief who does not comply with this section cannot continue to be the chief. (j) As part of the initial training and continuing education for police chiefs required under this section, the institute shall establish a program on asset forfeiture under Chapter 59, Code of Criminal Procedure. The program must include an examination of the best practices for educating peace officers about asset forfeiture and monitoring peace officers' compliance with laws relating to asset forfeiture. (k) As part of the initial training and continuing education for police chiefs required under this section, the institute shall establish a program on racial profiling. The program must include an examination of the best practices for: (1) monitoring peace officers' compliance with laws and internal agency policies relating to racial profiling; (2) implementing laws and internal agency policies relating to preventing racial profiling; and (3) analyzing and reporting collected information. Added by Acts 1997, 75th Leg., ch. 770, § 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 929, § 4, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 947, § 3, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1420, § 14.740, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1275, § 2(47), eff. Sept. 1, 2003.

State requirements for continuing education for police chiefs are detailed.

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**96.65. CRIME VICTIMS' INSTITUTE.** (a) In this section: (1) "Close relative of a deceased victim" has the meaning assigned by Article 56.01, Code of Criminal Procedure. (2) "Guardian of a victim" has the meaning assigned by Article 56.01, Code of Criminal Procedure. (3) "Institute" means the Crime Victims' Institute. (4) "Victim" has the meaning assigned by Article 56.01, Code of Criminal Procedure. (b) It is the intent of the legislature to create an institute to: (1) compile and study information concerning the impact of crime on: (A) victims; (B) close relatives of deceased victims; (C) guardians of victims; and (D) society; (2) use information compiled by the institute to evaluate the effectiveness of criminal justice policy and juvenile justice policy in preventing the victimization of society by crime; (3) develop policies to assist the criminal justice system and the juvenile justice system in preventing the victimization of society by crime; and (4) provide information related to the studies of the institute. (c) The headquarters of the institute are at Sam Houston State University in Huntsville, Texas. The institute is under the supervision and direction of the president of Sam Houston State University. d) The institute shall: (1) conduct an in-depth analysis of the impact of crime on: (A) victims; (B) close relatives of deceased victims; (C) guardians of victims; and (D) society; (2) evaluate the effectiveness of and deficiencies in the criminal justice system and the juvenile justice system in addressing the needs of victims, close relatives of deceased victims, and guardians of victims and recommend strategies to address the deficiencies of each system; (3) determine the long-range needs of victims, close relatives of deceased victims, and guardians of victims as the needs relate to the criminal justice system and the juvenile justice system and recommend changes for each system; (4) assess the cost-effectiveness of existing policies and programs in the criminal justice system and the juvenile justice system relating to victims, close relatives of deceased victims, and guardians of victims; (5) make general recommendations for improving the service delivery systems for victims in the State of Texas; (6) advise and assist the legislature in developing plans, programs, and

Creates Crime Victims' Institute to study effects of crime on victims, their families and society and to assist the state criminal justice system in formulating policy in this area.

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<p>legislation for improving the effectiveness of the criminal justice system and juvenile justice system in addressing the needs of victims, close relatives of deceased victims, and guardians of victims; (7) make computations of daily costs and compare interagency costs on victims' services provided by agencies that are a part of the criminal justice system and the juvenile justice system; (8) determine the costs to attorneys representing the state of performing statutory and constitutional duties relating to victims, close relatives of deceased victims, or guardians of victims; (9) make statistical computations for use in planning for the long-range needs of the criminal justice system and the juvenile justice system as those needs relate to victims, close relatives of deceased victims, and guardians of victims; (10) determine the long-range information needs of the criminal justice system and the juvenile justice system as those needs relate to victims, close relatives of deceased victims, and guardians of victims; (11) enter into a memorandum of understanding with the Texas Crime Victim Clearinghouse to provide training and education related to the outcome of research and duties as conducted under Subdivisions (1)-(10); (12) issue periodic reports to the attorney general and the legislature on the progress toward accomplishing the duties of the institute; and (13) engage in other research activities consistent with the duties of the institute. (e) The institute shall cooperate with the Criminal Justice Policy Council in performing the duties of the institute. (f) The institute may enter into memoranda of understanding with state agencies in performing the duties of the institute. (g) Local law enforcement agencies shall cooperate with the institute by providing to the institute access to information that is necessary for the performance of the duties of the institute. (h) The president of Sam Houston State University may employ personnel as necessary to perform the duties of the institute. (i) The institute may contract with public or private entities in the performance of the duties of the institute. (j) The institute may accept gifts, grants, donations, or matching funds from a public or private source for the performance of the duties of the institute. The legislature may appropriate money to the institute to finance the performance of the duties of the institute. Money and appropriations received by the institute under this subsection shall be deposited as provided by Section 96.652. Added by Acts 1995, 74th Leg., ch. 485, § 1, eff. Sept. 1, 1995. Redesignated and amended from V.T.C.A., Government Code § 412.001, 412.002, 412.011 to 412.016 by Acts 2003, 78th Leg., ch. 927, § 1, eff. Sept. 1, 2003.</p>	
<p><b>§ 96.651. CRIME VICTIMS' INSTITUTE ADVISORY COUNCIL.</b> (a) In this section: (1) "Advisory council" means the Crime Victims' Institute Advisory Council. (2) "Victim" has the meaning assigned by Article 56.01, Code of Criminal Procedure. (b) The Crime Victims' Institute Advisory Council is created as an advisory council to the Crime Victims' Institute. (c) The advisory council is composed of the attorney general and the following individuals, each of whom is appointed by the governor: (1) a victim; (2) a member of the house of representatives; (3) a member of the senate; (4) a county judge or district judge whose primary responsibility is to preside over criminal cases; (5) a district attorney, criminal district attorney, county attorney who prosecutes felony offenses, or county attorney who prosecutes mostly criminal cases; (6) a law enforcement officer; (7) a crime victims' assistance coordinator; (8) a crime victims' liaison; (9) a mental health professional with substantial experience in the care and treatment of victims; (10) a person with broad knowledge of sexual assault issues; (11) a person with broad knowledge of domestic violence issues; (12) a person with broad knowledge of child abuse issues; (13) a person with broad knowledge of issues relating to the intoxication offenses described by Chapter 49, Penal Code; (14) a person with broad knowledge of homicide issues; (15) a person with broad knowledge of research methods; and (16) a designee of the governor.</p>	<p>Creates an advisory panel to the Crimes Victims' Institute.</p>

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<p>(d) The advisory council shall select a presiding officer from among the council members and other officers that the council considers necessary. (e) The advisory council shall meet at the call of the presiding officer. (f) Appointed members of the advisory council serve for staggered two-year terms, with the terms of eight of the members expiring on January 31 of each even-numbered year and the terms of eight members expiring on January 31 of each odd-numbered year. (g) Service on the advisory council by a public officer or employee is an additional duty of the office or employment. (h) A member of the advisory council serves without compensation for service on the council but may be reimbursed for actual and necessary expenses incurred while performing council duties. (i) The advisory council may establish advisory task forces or committees that the council considers necessary to accomplish the purposes of this section and Sections 96.65 and 96.652. (j) The advisory council shall advise the Crime Victims' Institute on issues relating directly to the duties of the institute as set forth under Section 96.65(d). Added by Acts 1995, 74th Leg., ch. 485, § 1, eff. Sept. 1, 1995. Redesignated and amended from V.T.C.A., Government Code § 412.051 to 412.057 by Acts 2003, 78th Leg., ch. 927, § 1, eff. Sept. 1, 2003.</p>	
<p><b>§ 96.652. CRIME VICTIMS' INSTITUTE ACCOUNT; AUDIT; REPORT.</b> (a) The Crime Victims' Institute account is an account in the general revenue fund. (b) The Crime Victims' Institute may use funds from the Crime Victims' Institute account to carry out the purposes of this section and Sections 96.65 and 96.651. (c) The comptroller shall deposit the funds received under Section 96.65 to the credit of the Crime Victims' Institute account. (d) Funds spent are subject to audit by the state auditor. (e) The Crime Victims' Institute shall file annually with the governor and the presiding officer of each house of the legislature a complete and detailed written report accounting for all funds received and disbursed by the institute during the preceding year. The form of the annual report and the reporting time shall be as provided by the General Appropriations Act. The Crime Victims' Institute shall determine the format and contents of the report and may have copies of the report printed for distribution as the institute considers appropriate. Added by Acts 1995, 74th Leg., ch. 485, § 1, eff. Sept. 1, 1995. Redesignated and amended from V.T.C.A., Government Code § 412.081, 412.082 by Acts 2003, 78th Leg., ch. 927, § 1, eff. Sept. 1, 2003.</p>	<p>Institute account is in the general revenue fund.</p> <p>Institute must report on and account for funds annually to the governor and legislature.</p>

### SUBCHAPTER E. LAMAR UNIVERSITY AND RELATED INSTITUTIONS

<p><b>§ 96.701. LAMAR UNIVERSITY.</b> Lamar University is a coeducational institution of higher education located in the city of Beaumont. The university is under the management and control of the board of regents, Texas State University System. Added by Acts 1995, 74th Leg., ch. 1061, § 7, eff. Sept. 1, 1995.</p>	<p>L U is created.</p>
<p><b>§ 96.702. SPINDLETOP MEMORIAL MUSEUM.</b> The board may create the Spindletop Memorial Museum at Lamar University and may administer the museum as the board considers appropriate. Added by Acts 1995, 74th Leg., ch. 1061, § 7, eff. Sept. 1, 1995.</p>	<p>Board may create museum on campus.</p>

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<p><b>§ 96.703. LAMAR INSTITUTE OF TECHNOLOGY.</b> (a) The board shall establish and maintain an educational center of Lamar University as a separate degree-granting institution to be known as Lamar Institute of Technology. (b) The primary purpose of the institute is to teach technical and vocational courses and related supporting courses. The board may confer degrees appropriate to the institute's curriculum. (c) For Lamar Institute of Technology, the board may expend funds allocated to Lamar University under Chapter 62 for any of the purposes listed in Section 17, Article VII, Texas Constitution, in the same manner and under the same circumstances as expenditures for those purposes for other separate degree-granting institutions. Added by Acts 1995, 74th Leg., ch. 1061, § 7, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 767, § 1, eff. June 18, 1999; Acts 2001, 77th Leg., ch. 1212, § 2, eff. June 15, 2001.</p>	<p>LIT created as an educational center of LU but is degree granting and focused on technical and vocational instruction.</p> <p>Board may use some of LU's Higher Education Assistance Fund for LIT.</p>
<p><b>§ 96.704. LAMAR STATE COLLEGE--PORT ARTHUR AND LAMAR STATE COLLEGE--ORANGE.</b> (a) The board shall establish and maintain coeducational lower-division institutions of higher education as separate accredited degree-granting institutions in the counties of Jefferson and Orange, to be known as Lamar State College-- Port Arthur and Lamar State College-- Orange, to teach only freshman- and sophomore-level courses. (b) The board may acquire, construct, or otherwise make provision for adequate physical facilities for use by Lamar State College-- Port Arthur and Lamar State College-- Orange and may accept and administer, on terms and conditions satisfactory to the board, grants or gifts of money or property tendered by any reason for the use and benefit of the school. (c) The board with approval of the Texas Higher Education Coordinating Board may prescribe courses leading to customary degrees. The board may make other rules and regulations for the operation, control, and management of Lamar State College-- Port Arthur and Lamar State College-- Orange as are necessary for each institution to be a first-class institution for freshman and sophomore students. (d) Nothing in this section shall be construed to limit the powers of the board as conferred by law. (e) For Lamar State College-- Port Arthur and Lamar State College-- Orange, the board may expend funds allocated to Lamar University under Chapter 62 for any of the purposes listed in Section 17, Article VII, Texas Constitution, in the same manner and under the same circumstances as expenditures for those purposes for other separate degree-granting institutions. (f) A reference in state law to Lamar University at Port Arthur means Lamar State College--Port Arthur. A reference in state law to Lamar University at Orange means Lamar State College--Orange. Added by Acts 1995, 74th Leg., ch. 1061, § 7, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 767, § 2, eff. June 18, 1999.</p>	<p>LSC-PA and LSC-O created as lower division schools, separate and independent from LU.</p> <p>Board has authority to construct facilities and curriculum.</p> <p>Board may use some of LU's Higher Education Assistance Fund for LSC-O and LSC-PA.</p>
<p><b>§ 96.705. APPLICATION OF OTHER LAW.</b> All other provisions of law, including provisions for student fees, applicable to institutions of the Texas State University System apply to Lamar University and its educational centers. Added by Acts 1995, 74th Leg., ch. 1061, § 7, eff. Sept. 1, 1995.</p>	<p>Lamar institutions subject to all laws affecting TSUS.</p>

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**§ 96.706. HAZARDOUS WASTE RESEARCH CENTER.** (a) The Hazardous Waste Research Center is established at Lamar University at Beaumont. The center is under the authority of the board of regents of the Texas State University System. The center may employ such personnel as are necessary. (b) The center shall carry out a program of research, evaluation, testing, development, and demonstration of alternative or innovative technologies that may be used in minimization, destruction, or handling of hazardous wastes to achieve better protection of human health and the environment. (c) The center shall provide coordination of the activities of a consortium of Texas universities initially consisting of the Texas Engineering Experiment Station of The Texas A&M University System, the University of Houston, The University of Texas at Austin, and Lamar University at Beaumont, and other entities that may become affiliated. (d) The center shall develop and maintain a database relevant to the programs of the center. (e) The programs of the center may include: (1) primary and secondary research; (2) collection, analysis, and dissemination of information; (3) the development of public policy recommendations; (4) training related to the handling and management of hazardous waste; (5) evaluation of technologies for the treatment and disposal of hazardous wastes; (6) demonstration projects and pilot studies of processing, storage, and destruction technologies; and (7) other services consistent with the purposes of the program. (f) In carrying out its established programs, the center may enter into agreements with: (1) the members of the Texas Consortium; (2) other universities in Texas, Louisiana, Mississippi, Alabama, Florida, and other states; (3) private research organizations; and (4) industry. (g) A policy board is created to determine the policies for program research, evaluation, testing, development, demonstration, intellectual property rights, and peer review. The policy board consists of each member of the consortium. The governing board of each institution of higher education belonging to the consortium shall appoint an individual to serve as a member of the policy board. (h) The institutions of higher education that are members of the policy board shall appoint an advisory council to develop recommendations on the priorities for research and to serve as a resource group on the projects. Each institution shall appoint two members from private industry and two other members to serve for terms to be set by the policy board. (i) The center shall seek grant and contract support from federal and other sources to the extent possible and accept gifts and donations to support its purposes and programs. (j) The center may receive state-appropriated funds as considered appropriate by the legislature. (k) Disbursement of funds received by the center on behalf of the consortium shall be on an equitable basis and in accordance with policy determined by the policy board subject to laws of the state and policies of member institutions. Disbursement policy shall recognize the need for core program support at each consortium institution, matching requirements for federal grants and contracts, general administration, and new initiatives. Disbursement of funds received in response to specific proposals shall be in accordance with those proposals. Added by Acts 1995, 74th Leg., ch. 1061, § 7, eff. Sept. 1, 1995.

Center for research and study of hazardous waste is created at LU.

Center coordinates activities of consortium of Texas universities, including UT-Austin, A&M and UH.

Each participating university's board of regents appoints a delegate to the center's policy board.

Each policy board member, in turn, appoints four members (two from private industry) to serve as the member's delegates on the board.

## Appendix A-1

**§ 96.707. TEXAS ACADEMY OF LEADERSHIP IN THE HUMANITIES.** (a) The Texas Academy of Leadership in the Humanities is established as a two-year program at Lamar University at Beaumont for secondary school students selected under this section. The academy is under the management and control of the board of regents of the Texas State University System. (b) The goals of the academy are to: (1) provide gifted and talented secondary school students with accelerated academic experiences to ensure success as undergraduates with advanced standing; (2) encourage those students to develop their full leadership potential and their ethical decision-making capabilities; (3) provide those students with academic and social role models and mentors to motivate them to pursue academic excellence and self-direction; (4) provide a model setting for the training of teachers in the educational materials and methods appropriate for gifted learners; (5) encourage the cooperation of business leaders and Lamar University staff to provide practical settings and experiences for those students through independent study, shadowing, and mentorship; (6) establish a setting to support necessary research to determine the academy's effectiveness and to disseminate results of that research; and (7) promote the active involvement of parents in all educational programs of the academy. (c) To be eligible for admission to the academy, a student must: (1) complete and file with the board, on a form prescribed by the board, an application for admission and a written essay on a topic selected by the board; (2) have successfully completed 10th grade in school; (3) be nominated by a teacher, school administrator, parent, community leader, or another secondary school student; (4) submit to the board two written recommendations from teachers; (5) have a composite score on an assessment test that is equal to or greater than the equivalent of 1,000 on the Scholastic Aptitude Test; (6) have a language score on an assessment test that is equal to or greater than the equivalent of 550 on the Scholastic Aptitude Test; and (7) have complied with any other requirements adopted by the board under this subchapter. (d) The board shall recruit minority secondary school students to apply for admission to the academy. (e) The board shall select for admission to the academy eligible students based on additional testing required by the board and on a personal interview by a selection committee appointed by the board. If the board selects an eligible student for admission to the academy, the board shall send written notice to the student and the student's school district. (f) The board shall establish a tuition and fee scholarship for each student who enrolls in the academy. A student who enrolls in the academy is responsible for room, board, and book costs and must live in a residence determined by board rule. (g) The academy courses are taught by the faculty members of Lamar University. The board may employ additional staff for the academy. (h) The board shall provide each student enrolled in the academy with a mentor who is a faculty member at Lamar University to assist the student in completing the student's course of study in the academy. (i) A student of the academy may attend a college course offered by Lamar University and receive college credit for that course. (j) The board may accept gifts and grants from a public or private source for the academy. (k) For each student enrolled in the academy, the academy is entitled to allotments from the Foundation School Program under Chapter 42 as if the academy were a school district, except that the academy has a local share applied that is equivalent to the local fund assignment of the Beaumont Independent School District. Added by Acts 1995, 74th Leg., ch. 1061, § 7, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1071, § 25, eff. Sept. 1, 1997.

A two-year accelerated program for gifted high school juniors and seniors is created on campus; upon completion, these students will have earned two years of college credit.



## **Appendix A-2**

### **TSUS Policy Guidelines**

**TSUS Policy Guideline:** Appropriate Use of Information Technology Resources

**Policy Guideline ID:** TSUS IT.01.03

**Approval Authority:** TSUS Board of Regents

**Initial ITTF Approval Date:** October 19, 2007

**Effective BOR Date:** May 16, 2008

**Last Revised:** August 13, 2015

#### **Purpose/Reason**

The Texas State University System (TSUS) considers information technology as a critical enabler in meeting its mission and has made significant investments in information technology assets and capabilities. Likewise, Texas Administrative Code, Chapter 202, Subchapter C, describes the information technology resources that support the operations of Texas public higher education institutions as “strategic and vital assets belonging to the people of Texas” and that these resources must be managed “commensurate with their value” in a fashion that assures their protection and availability for appropriate use by authorized individuals. Compliance with this policy contributes to the availability, protection, and appropriate use of the information technology resources of the Texas State University System and its component institutions.

#### **Policy Statement**

It is the policy of the Texas State University System to afford broad access to information technology resources by each institution’s students, faculty and staff for activities that are related to, and in fulfillment of, institutional missions. To guide the policies related to appropriate use of Information Technology, the Texas State University System has set forth the following specific topics to be addressed in each institution’s specific policy statement on appropriate use of information technology resources. Each component institution is charged with establishing and disseminating an institutional appropriate use policy statement that complies with the guidelines articulated in this TSUS policy statement.

#### **Policy Specifics**

##### **1. Institutional vs. Individual Purpose**

Access to information technology resources carries with it the responsibility for ensuring that the use of these resources is primarily for institutional purposes and institution-related activities, and for maintaining the integrity and security of the institution’s computing facilities. In the interest of making the use of information technology resources a natural part of the day-to-day work of all members of the institutional community, incidental personal use is tolerated. However, one should not use any information technology resources in an extensive or regularly recurring manner for activities that are unrelated to institutional purposes. Individuals with authorized access to information technology resources must ensure that their access permissions are not accessible to or usable by any other individuals.

##### **2. Personal vs. Official Representation**

Information technology resources are a dynamic mechanism for the free exchange of knowledge. It is desirable for the institution to foster the robust dialogue that results from the use of the resources and to encourage students, faculty and staff to participate in that dialogue. Those exchanges that reflect the ideas, comments and opinions of individual members of the institutional community must, however, be distinguished from those that represent the official positions, programs and activities of the institution. Students, faculty and staff using information technology resources for purposes of exchanging, publishing or circulating official institutional documents must follow institutional requirements concerning appropriate content and style. The institution is not responsible for the content of documents, exchanges or messages, including links to other information locations on the internet or world wide web, that reflect only the personal ideas, comments and opinions of individual members of the institutional community, even where they are published or otherwise circulated to the public at large by means of institutional information technology resources.

## **Appendix A-2 TSUS Policy Guidelines**

### **3. Limitations on the Availability of Information Technology Resources**

The institution's information technology resources are finite by nature. All members of the institutional community must recognize that certain uses of institutional information technology resources may be limited or regulated as required to fulfill the institution's primary teaching, research and public service missions. Examples of these limitations include those related to capacity management, performance optimization, or security of the institution's information technology systems.

### **4. Privacy and Confidentiality of Electronic Documents**

No information technology system can absolutely guarantee the privacy or confidentiality of electronic documents. More importantly, information technology resources provided by the TSUS and its component institutions are essentially owned by the State of Texas and subject to state oversight. Consequently, persons that use these state-owned resources, or any personally owned or third party device that may be connected to a state-owned resource, have no right to privacy in their use of these resources and devices. TSUS institutions should, however, take reasonable precautions to protect the privacy and confidentiality of electronic documents and to assure persons using institutional information technology resources that the institution will not seek access to their electronic messages or documents without their prior consent except where necessary to:

- Satisfy the requirements of the Texas Public Information Act, or other statutes, laws or regulations;
- Allow institutional officials to fulfill their responsibilities when acting in their assigned capacity;
- Protect the integrity of the institution's information technology resources, and the rights and other property of the institution;
- Allow system administrators to perform routine maintenance and operations, security reviews and respond to emergency situations; or
- Protect the rights of individuals working in collaborative situations where information and files are shared.

TSUS institutions should establish more detailed procedures for appropriately preserving the privacy of electronic documents and for determining the methodology by which non-consensual access to electronic documents will be pursued by the institution.

### **5. TSUS Institutional Responsibilities**

In order to assist members of the institutional community in fulfilling their responsibilities with respect to use of information technology resources, each component institution shall establish and disseminate an institutional appropriate use policy statement that complies with the guidelines articulated in this TSUS policy statement. Each institution shall also provide appropriate guidance with regard to other specific institutional policies affecting the use of information technology resources. These specific policies should at a minimum cover topics detailed in the Texas Administrative Code, Title 1, Part 10, Chapter 202, Subchapter C related to security standards for institutions of higher education.

### **6. Failure to Comply with Information Technology Resource Policies**

Failure to adhere to the provisions of this TSUS policy statement or the appropriate use policy statement of any component institution may result in:

- suspension or loss of access to institutional information technology resources
- appropriate disciplinary action under existing procedures applicable to students, faculty and staff, and
- civil or criminal prosecution

To preserve and protect the integrity of information technology resources, there may be circumstances where the institution must immediately suspend or deny access to the resources. Should an individual's access be suspended under these circumstances, the institution shall strive to inform the individual in a timely manner and afford the individual an opportunity to respond. The institution shall then determine what disciplinary action is warranted and shall follow the procedures established for such cases.

## **Appendix A-2 TSUS Policy Guidelines**

### **Scope and Applicability**

This policy statement applies to all persons and organizations that manage or utilize information technology resources belonging to the TSUS or any of its component institutions.

### **Definitions**

**Information Technology Resources** include any of the following that are owned, operated, or supplied by the TSUS or one of its component institutions: usernames or computer accounts, hardware, software, communication networks and devices connected thereto, electronic storage media, related documentation in all forms, and professional and technical support services. Also included are data files resident on hardware or media owned or supplied by the TSUS or a component, regardless of their size, source, author, or type of recording media, including e-mail messages, system logs, web pages and software.

**Institution** refers to any of the following eight components of the Texas State University System:

- Lamar University
- Sam Houston State University
- Sul Ross State University
- Sul Ross State University Rio Grande College
- Texas State University
- Lamar Institute of Technology
- Lamar State College-Orange
- Lamar State College-Port Arthur.

### **Authority and Responsibility**

Questions related to this policy statement or to the appropriate use policy statement at any component institution should be addressed to the Chief Information Officer at the component institution.

### **Additional background, Related Policies, and other References**

In addition to the general principles set forth in this policy statement, the use of information technology resources may be affected by a number of other legal requirements and ethical principles. While it is not possible to list all potentially applicable laws and regulations, the most relevant to the use of institutional information technology resources are listed in TSUS Policy Guideline TSUS IT.02.01, Information Security Policy, and are included in this policy guideline by reference.

Students, faculty and staff are responsible for understanding and observing these and all other applicable policies, regulations and laws in connection with their use of the institution's information technology resources.

## Appendix A-3 TSUS Policy Guidelines

**TSUS Policy Guideline:** Information Security Policy

**Policy Guideline ID:** TSUS IT.02.03

**Approval Authority:** TSUS Board of Regents

**Initial ITTF Approval Date:** October 19, 2007

**Effective BOR Date:** May 16, 2008

**Last Revised:** August 13, 2015

### **Purpose/Reason**

The Texas State University System (TSUS) considers information technology to be a critical enabler in meeting its mission and has made significant investments in information technology assets and capabilities. The Texas State University System recognizes the inherent value of these information technology resources to the state, the System, and their constituents. Likewise, Texas Administrative Code, Title 1, Part 10, Chapter 202, Subchapter C (TAC 202) underlines the importance of information technology resources that support the operations of Texas public higher education institutions by requiring state institutions “to protect these assets against unauthorized access, disclosure, modification or destruction,” and “to assure the availability, integrity, utility, authenticity, and confidentiality of information.” Compliance with this policy contributes to the availability, protection, and appropriate use of the information technology resources of the Texas State University System and its component institutions.

### **Policy Statement**

The Texas State University System and its component institutions must ensure the confidentiality, integrity, and availability of their information technology resources to fulfill their institutional missions and to assure compliance with the security standards for public institutions of higher education described in TAC 202. Thus, each component institution shall develop and disseminate an institutional policy statement on information security consistent with TAC 202 and utilizing the following additional resources as guidelines:

- ISO/IEC 27002:2005 standards jointly published by the International Organization for Standardization (ISO) and the International Electrotechnical Commission (IEC);
- Information Security Guide published by the EDUCAUSE Higher Education Information Security Council; and
- NIST Special Publication 800-53 Security and Privacy Controls for Federal Information Systems and Organizations, published by the National Institute of Standards and Technology (NIST).

### **Policy Specifics**

The specific topics and objectives to be addressed by institutional information security policies are outlined below.

#### **1. Information Security Policy**

Objective: To have management provide clear direction and strong support for the institution’s information security program. Management should affirm its support for the information security policies, roles, practices and other program components necessary to achieve security, consistent with business requirements, relevant laws, and regulations.

#### **2. Information Security Organization:**

Objective: To effectively manage and execute the institution’s information security program. A management framework should be defined that clearly delineates the roles and responsibilities for management of information security within the institution.

#### **3. Risk Assessment**

Objective: To identify, quantify, and prioritize risks to the organization and its information assets. Risk assessment results should guide and determine the appropriate management action and priorities for managing information security risks and for implementing controls to protect against these risks.

## Appendix A-3 TSUS Policy Guidelines

### 4. Information Asset Management

Objective: To achieve and maintain appropriate protection of campus information assets. Assets should be classified according to their need for security protection. Owners should be identified for all assets, and the responsibility for the maintenance of appropriate controls should be assigned.

### 5. Human Resources Security

Objective: To ensure that employees, contractors and other users understand their information security responsibilities and to reduce the risk of theft, fraud or misuse of information resources. Employees, contractors, and other users should be fully apprised of their security responsibilities. Their access to information assets should be managed consistent with their current institutional status, roles, and qualifications. Information security training should be provided to employees at new employee orientation and annually thereafter.

### 6. Physical and Environmental Security

Objective: To prevent unauthorized physical access, damage, and interference to the institution's information infrastructure, premises and information. Critical or sensitive information processing facilities should be housed in secure areas and protected from unauthorized physical access by defined security barriers and entry controls. They should be protected against loss from environmental threats commensurate with the identified risks and their importance to the institution's mission critical business processes.

### 7. Communications and Operations Management

Objective: To ensure the correct and secure operation of information processing facilities. Responsibilities and procedures for the management and operation of all information processing facilities should be defined. This includes the development and documentation of appropriate operating procedures.

### 8. Identity and Access Management

Objective: To ensure proper control over virtual access to the institution's information resources consistent with business and security requirements. Rules, responsibilities, and procedures should be defined for determining the initial and ongoing eligibility of persons to access information resources based on their respective affiliations and roles (e.g., students, employees, contractors, guests, etc.). Responsibilities should be ascribed to the institutional entities charged with validating the identities of eligible persons and managing the user accounts assigned to the eligible persons. Conditions and restrictions applicable to acquisition, retention, and loss of access should be clearly documented. Responsibilities for managing user accounts and authentication credentials should be clearly stated, including rules governing suspension of user account access and non-consensual access to account content.

### 9. Information Systems Acquisition, Development, and Maintenance

Objective: To ensure that security is an integral part of information systems management. Security requirements should be identified, agreed upon, and addressed in all phases of information systems administration, from procurement and development through implementation and ongoing maintenance.

### 10. Information Security Incident Management

Objective: To ensure information security events and weaknesses associated with information systems are managed in a manner allowing timely corrective action to be taken. Formal event reporting and escalation procedures should be established and documented.

### 11. Business Continuity Management

Objective: To protect critical business processes and activities from the effects of major information system failures or environmental disruptions and to ensure their timely resumption. A business impact analysis and continuity management process should be developed to minimize the impact on the organization and to assure an acceptable level of recoverability.

## **Appendix A-3**

### **TSUS Policy Guidelines**

#### **12. Compliance**

Objective: To avoid breaches of any law, regulation, contractual obligation, or institutional policy.  
Information resources should be regularly tested and audited to assure adherence with both external and internal standards.

#### **Scope and Applicability**

This policy statement applies to all persons and organizations that manage or utilize information technology resources belonging to the TSUS or any of its component institutions.

#### **Definitions**

**Information Technology Resources** include any of the following that are owned, operated or supplied by the TSUS or one of its component institutions: usernames or computer accounts, hardware, software, communication networks and devices connected thereto, electronic storage media, related documentation in all forms, and professional and technical support services. Also included are data files resident on hardware or media owned or supplied by the TSUS or a component, regardless of their size, source, author, or type of recording media, including e-mail messages, system logs, web pages and software.

**Institution** refers to any of the following eight components of the Texas State University System:

- Lamar University
- Sam Houston State University
- Sul Ross State University
- Sul Ross State University Rio Grande College
- Texas State University
- Lamar Institute of Technology
- Lamar State College-Orange
- Lamar State College-Port Arthur.

#### **Authority and Responsibility**

Questions related to this policy statement or to the appropriate use policy statement at any component institution should be addressed to the Chief Information Officer at the component institution.

#### **Additional background, Related Policies, and other References**

In addition to the general guidelines set forth in this policy statement, information security policies may be affected by a number of other legal requirements and ethical principles. While it is not possible to list all potentially applicable laws and regulations, the following are particularly likely to have implications for information security policies:

1. The federal Family Educational Rights and Privacy Act (commonly known as FERPA) - restricts access to personally identifiable information from students' education records.
2. Texas Government Code, Title 5, Subtitle A, Chapter 552: The Texas Public Information Act (formerly known as the Texas Open Records Act) – provides that all information collected, assembled, or maintained by governmental bodies is public information and available to the public during normal business hours, unless the information falls within certain exceptions specified in the Act.
3. Texas Administrative Code, Title 1, Part 10, Chapter 202 - Regulations from the Department of Information Resources establishing information resources security requirements for Texas state agencies and higher education institutions.
4. Texas Penal Code, Chapter 33: Computer Crimes - Texas law pertaining to computer crimes. This statute specifically prohibits unauthorized use of University computers, unauthorized access to stored data, or dissemination of passwords or other confidential information to facilitate unauthorized access to the University's computer system or data.

## **Appendix A-3**

### **TSUS Policy Guidelines**

5. Texas Penal Code, § 37.10: Tampering with Governmental Record - Prohibits any alteration, destruction, or false entry of data that impairs the validity, legibility or availability of any record maintained by the University.
6. United States Code, Title 18, § 1030: Fraud and Related Activity in Connection with Computers - Federal law specifically pertaining to computer crimes. Among other stipulations, prohibits unauthorized and fraudulent access to information resources, accessing a computer to obtain restricted information without authorization; altering, damaging, or destroying information on a government computer without authorization; trafficking in passwords or similar information used to gain unauthorized access to a government computer, and transmitting viruses and other malicious software.
7. Copyright Act of 1976 – Federal law that forms the primary basis of copyright law in the United States, as amended by subsequent legislation. The Act spells out the basic rights of copyright holders, codifies the doctrine of "fair use," and for most new copyrights adopts a unitary ownership period based on the date of the author's death rather than the prior scheme of fixed initial and renewal terms.
8. Digital Millennium Copyright Act - Signed into law on October 20, 1998, as Public Law 105-304. Created to address the digitally networked environment, the DMCA implements the WIPO Internet Treaties; establishes safe harbors for online service providers; permits temporary copies of programs during the performance of computer maintenance; and makes miscellaneous amendments to the Copyright Act, including amendments that facilitate Internet broadcasting.
9. Electronic Communications Privacy Act of 1986 - Prohibits the interception or disclosure of electronic communication and defines those situations in which disclosure is legal.
10. Computer Software Rental Amendments Act of 1990 - Deals with the unauthorized rental, lease, or lending of copyrighted software.
11. Texas Government Code § 556.004 - Prohibits using state resources or programs to influence elections or to achieve any other political purpose.
12. Health Insurance Portability and Accountability Act – Public Law 104-191, August 21, 1996. The final standards were published in February, 2003 and emphasize security management principles and broad management controls as primary vehicles for protecting patient health information. Subsequently enhanced by the HITECH Act to extend HIPAA provisions to the business associates of covered entities and to impose new notification requirements on covered entities, their business associates, and the vendors of personal health records for breaches of protected health information.
13. Federal Information Security Management Act of 2002 (FISMA), 44 U.S.C. § 3541, Public Law 107-296. Provides a framework for ensuring the effectiveness of information security controls over information resources that support Federal operations and assets.

Students, faculty and staff are responsible for understanding and observing these and all other applicable policies, regulations and laws in connection with their use of the institution's information technology resources.

## Appendix A-4 TSUS Policy Guidelines

**TSUS Policy Guideline:** Network Management Policy

**Policy Guideline ID:** TSUS IT.03.03

**Approval Authority:** TSUS Board of Regents

**Initial ITTF Approval Date:** January 11, 2008

**Effective BOR Date:** May 16, 2008

**Last Revised:** August 13, 2015

### **Purpose/Reason**

The Texas State University System (TSUS) considers information technology to be a critical enabler in meeting its mission and has made significant investments in information technology assets and capabilities. The Texas State University System recognizes the inherent value of these information technology resources to the state, the TSUS, and their constituents. Likewise, Texas Administrative Code, Title 1, Part 10, Chapter 202, Subchapter C (TAC 202) underlines the importance of information technology resources residing in Texas public higher education institutions by requiring state institutions “to protect these assets against unauthorized access, disclosure, modification or destruction,” and “to assure the availability, integrity, utility, authenticity, and confidentiality of information.” TAC 202 also stipulates that “access to state information resources must be appropriately managed.” Compliance with this policy guideline contributes to the availability, protection, management and appropriate use of the data, voice, and video networks of the Texas State University System and its component institutions.

### **Policy Statement**

The Texas State University System and its component institutions must ensure the confidentiality, integrity, reliability, and availability of their data, voice, and video networks to fulfill their institutional missions and to assure compliance with the management and security standards for public institutions of higher education described in TAC 202. To guide institutional policies related to the management and use of institutional networks, the Texas State University System has set forth the following specific topics and provisions to be incorporated into each institution’s specific policy statement on network management. Thus, each component institution shall develop and disseminate an institutional policy statement on network management that is consistent with TAC 202 and the specific topics and provisions described below.

### **Policy Specifics**

The following specific topics and objectives must be addressed by institutional network management policies:

#### **1. Network Purpose**

Objective: To affirm the purpose of the institutional network. The institutional network is a state information resource that exists to achieve the mission, goals, and objectives of the institution. Utilization of the network must be consistent with and in support of institutional initiatives.

#### **2. Network Address and Device Management**

Objective: To assure appropriate oversight over the connection of devices to the institutional network. The integrity, security, and proper operation of the network require an orderly assignment of network addresses and the correct configuration of devices attached to the network. Network access, performance and security are put at risk when devices are introduced into the network environment without appropriate planning and coordination. All devices acting in the role of a server (regardless of their specific function, hardware, or software) must have a designated device administrator and must be registered in a network device registry administered by the institution’s Information Resource Manager (IRM) or designee.

#### **3. Network Management Roles and Responsibilities**

Objective: To assign responsibility and accountability for management of the institutional network. A management framework should be defined that clearly delineates the roles and responsibilities for management of the institutional network. Institutional networks should be centrally administered by the institutional IRM (or designee) to assure consistency and compliance with the state’s network administration standards and best practices.



## **Appendix A-4**

### **TSUS Policy Guidelines**

#### **4. Network Usage Responsibilities**

Objective: To delineate the responsibilities of network users and device administrators. Users and administrators of network-connected devices must understand their accountability for device management practices that might result in damage or harm to network operations, performance, or other network-connected devices.

#### **5. Threat and Incident Response**

Objective: To set expectations regarding the disconnection or isolation of threatening devices or networks. Devices or network addresses that pose an immediate threat to network operations, performance, or other network-connected devices must be disconnected or quarantined to minimize risk until the threat is removed. Sources of repeated threats should be isolated for longer periods of time as required to permanently eliminate the threat.

### **Scope and Applicability**

This policy guideline applies to all persons and organizations that manage or utilize information technology resources belonging to the TSUS or any of its component institutions.

### **Definitions**

**Device** - Any hardware component involved with the processing, storage, or forwarding of information making use of the institutional information technology infrastructure or attached to the institutional network. These devices include, but are not limited to, laptop computers, desktop computers, servers, and network devices such as routers, switches, wireless access points, and printers.

**Device Administrator** - An individual with principal responsibility for the installation, configuration, registration, security, and ongoing maintenance of a network-connected device.

**Device Owner** – The department head charged with overall responsibility for the networking component in the university’s inventory records. The device owner must designate an individual to serve as the primary device administrator and may designate a backup device administrator. All network infrastructure devices, (e.g., network cabling, routers, switches, wireless access points, and in general, any non-endpoint device) shall be centrally owned and administered.

**Information Technology Resources** - any of the following that are owned, operated or supplied by the TSUS or one of its component institutions: usernames or computer accounts, hardware, software, communication networks and devices connected thereto, electronic storage media, related documentation in all forms, and professional and technical support services. Also included are data files resident on hardware or media owned or supplied by the TSUS or a component, regardless of their size, source, author, or type of recording media, including e-mail messages, system logs, web pages and software.

**Institution** refers to any of the following eight components of the Texas State University System:

- Lamar University
- Sam Houston State University
- Sul Ross State University
- Sul Ross State University Rio Grande College
- Texas State University
- Lamar Institute of Technology
- Lamar State College-Orange
- Lamar State College-Port Arthur.

**Institutional Network** - the data transport and communications infrastructure at the institution. It includes the campus backbone, local area networks, and all equipment connected to those networks (independent of ownership).

**Network Address** - A unique number associated with a device’s network connection used for the routing of traffic across the Internet or another network. Also known as Internet Protocol Address or IP Address.

## **Appendix A-4 TSUS Policy Guidelines**

**User** - An individual who uses an information technology resource, such as the institutional network or any network-connected device.

### **Authority and Responsibility**

Questions related to this policy guideline or to the network management policy statement at any component institution should be addressed to the Chief Information Officer at the component institution.

### **Additional background, Related Policies, and other References**

In addition to the general guidelines set forth in this document, network management policies may be affected by a number of other legal requirements and ethical principles. While it is not possible to list all potentially applicable laws and regulations, the most relevant to network management policies are listed in TSUS Policy Guideline TSUS IT.02.02, Information Security Policy, and are included in this policy guideline by reference.

Students, faculty and staff are responsible for understanding and observing these and all other applicable policies, regulations and laws in connection with their use of the institution's information technology resources.

## **Appendix A-5 TSUS Policy Guideline**

**TSUS Policy Guideline:** Server Management Policy

**Policy Guideline ID:** TSUS IT.04.03

**Approval Authority:** TSUS Board of Regents

**Initial ITTF Approval Date:** January 11, 2008

**Effective BOR Date:** May 16, 2008

**Last Revised:** August 13, 2015

### **Purpose/Reason**

The Texas State University System (TSUS) considers information technology to be a critical enabler in meeting its mission and has made significant investments in information technology assets and capabilities. The Texas State University System recognizes the inherent value of these information technology resources to the state, the System, and their constituents. Likewise, Texas Administrative Code, Title 1, Part 10, Chapter 202, Subchapter C (TAC 202) underlines the importance of information technology resources residing in Texas public higher education institutions by requiring state institutions “to protect these assets against unauthorized access, disclosure, modification or destruction,” and “to assure the availability, integrity, utility, authenticity, and confidentiality of information.” Compliance with this policy contributes to the availability, protection, and appropriate use of the information technology resources of the Texas State University System and its component institutions.

### **Policy Statement**

The Texas State University System and its component institutions must ensure the confidentiality, integrity, reliability, and availability of their server hardware and software to fulfill their institutional missions and to assure compliance with the management and security standards for public institutions of higher education described in TAC 202. To guide institutional policies related to the management and use of institutional servers, the Texas State University System has set forth the following specific topics and provisions to be incorporated into each institution’s specific policy statement on server management. Thus, each component institution shall develop and disseminate an institutional policy statement on server management that is consistent with TAC 202 and the specific topics and provisions described below.

### **Policy Specifics**

The following specific topics and objectives must be addressed by institutional server management policies.

#### **1. Server Purpose and Function**

Objective: To assure the suitability of the server and its connection to the institutional network. The institutional network is a state information resource that exists to achieve the mission, goals, and objectives of the institution. The purpose and function of any server connected to the institutional network must also be consistent with and in support of institutional initiatives.

#### **2. Server Management Roles and Responsibilities**

Objective: To assign responsibility and accountability for management of the server hardware, software, and data. A management framework should be defined that clearly delineates the roles and responsibilities for management of the server. At a minimum, distinct roles should be delineated for a server owner and a server administrator. Owners are typically responsible for establishing server usage policies, specifying server access controls (both physical and electronic), and assuring compliance with state and institutional server management standards. Administrators are typically responsible for enforcing the owner’s usage policies, implementing the owner-specified access controls, and configuring the server according to the required standards.

#### **3. Conformance with Server Management Best Practices**

Objective: To assure that all server owners and administrators adhere to documented standards and best practices for server management. An institutional guide to server management standards and best practices should be made available to all server owners and administrators. Compliance review procedures should be established and exceptions should be justified by documented risk management decisions. At a minimum, the guide should address the following topics:

## Appendix A-5 TSUS Policy Guideline

- A. Licensing, support, and update management for the operating system and all hosted services and applications
- B. Automated threat mitigation (e.g., anti-virus software, host-based firewall)
- C. Protection for any sensitive and confidential data accessible via the server
- D. Disablement of prohibited, unauthorized, and unnecessary services
- E. Disablement and/or modification of default and unnecessary accounts and passwords
- F. Physical and electronic access controls that support role-based access, appropriate separation of duties, and the principle of “least privilege”
- G. Backup and recovery
- H. User authentication
- I. Activity and event logging
- J. Network connection requirements and standards (e.g., server registration)

#### 4. Threat and Incident Response

Objective: To set expectations regarding the disconnection or isolation of threatening servers. Servers that pose an immediate threat to network operations, performance, or other network-connected devices must be disconnected or quarantined to minimize risk until the threat is removed. Incident response best practices must be followed to assure appropriate preservation and treatment of forensic data.

#### Scope and Applicability

This policy guideline applies to all persons and organizations that manage or utilize information technology resources belonging to the TSUS or any of its component institutions.

#### Definitions

**Information Technology Resources** - any of the following that are owned, operated or supplied by the TSUS or one of its component institutions: usernames or computer accounts, hardware, software, communication networks and devices connected thereto, electronic storage media, related documentation in all forms, and professional and technical support services. Also included are data files resident on hardware or media owned or supplied by the TSUS or a component, regardless of their size, source, author, or type of recording media, including e-mail messages, system logs, web pages and software.

**Institution** refers to any of the following eight components of the Texas State University System:

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- Lamar Institute of Technology
- Lamar State College-Orange
- Lamar State College-Port Arthur.

**Server** – A network device that performs a specific service or function on behalf of other network devices or users.

**Server Administrator** – The individual designated by the server owner as responsible for performing server management functions.

**Server Management** – Functions associated with the oversight of server operations. These include controlling user access, establishing/maintaining security measures, monitoring server configuration and performance, and risk assessment and mitigation.

**Server Owner** – The department head charged with overall responsibility for the server asset in the university’s inventory records. The server owner must designate an individual to serve as the primary system administrator and may designate a backup system administrator.

## **Appendix A-5 TSUS Policy Guideline**

### **Authority and Responsibility**

Questions related to this policy guideline or to the server management policy statement at any component institution should be addressed to the Chief Information Officer at the component institution.

### **Additional background, Related Policies, and other References**

In addition to the general guidelines set forth in this document, server management policies may be affected by a number of other legal requirements and ethical principles. While it is not possible to list all potentially applicable laws and regulations, the most relevant to server management are listed in TSUS Policy Guideline TSUS IT.02.02, Information Security Policy, and are included in this policy guideline by reference.

Students, faculty and staff are responsible for understanding and observing these and all other applicable policies, regulations and laws in connection with their use of the institution's information technology resources.

**TEXAS STATE UNIVERSITY SYSTEM  
SEXUAL MISCONDUCT POLICY AND PROCEDURES**

**1. Introduction**

- 1.1 Institutional Values. The Texas State University System, its colleges, and universities (collectively referred to as “System” and/or “Components” and used interchangeably herein) are committed to creating and maintaining educational communities in which each individual is respected, appreciated and valued. The System diligently strives to foster an environment that permits and encourages everyone to perform at their highest levels in academia. The System’s focus on tolerance, openness, and respect is key in providing every member of the TSUS community with basic human dignity free from harassment, exploitation, intimidation or other sexual misconduct. Any report of behavior that threatens our institutional values, and breaches this Policy shall be promptly investigated and remediated in accordance with principles of law, fairness and equity to all parties involved.
- 1.2 Purpose of Policy. The Texas State University System and its Components are firmly committed to maintaining an educational environment free from all forms of sex discrimination. Sexual Misconduct, as defined in this Policy, is a form of sex discrimination and will not be tolerated. The System and Components will maintain an environment that promotes prompt reporting of all types of Sexual Misconduct and timely and fair resolution of Sexual Misconduct complaints. The Components will take prompt and appropriate action to eliminate Sexual Misconduct when such is committed, prevent its recurrence, and remedy its effects. This Policy defines and describes prohibited sexual conduct, establishes procedures for processing complaints of sexual misconduct, permits appropriate sanctions, and identifies available resources.
- 1.3 Notice of Nondiscrimination. The System complies with Title IX of the Higher Education Amendments of 1972 (Title IX), which prohibits discrimination on the basis of sex in educational programs or activities; Title VII of the Civil Rights Act of 1964 (Title VII), which prohibits sex discrimination in employment; and the Campus Sexual Violence Elimination Act. Sexual misconduct, as defined in this

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Policy, constitutes a form of sex discrimination prohibited by Title IX and Title VII.

- 1.4 Applicability of this Policy. This Policy applies to all students, faculty, staff, and third parties within the System's or its Components' control. This Policy prohibits sexual misconduct committed by or against a student, faculty, staff, or third parties. This Policy applies to sexual misconduct:
  - 1.41 on Component premises;
  - 1.42 at Component-affiliated educational, athletic, or extracurricular programs or activities;
  - 1.43 that has an adverse impact on the education or employment of a member of the Component community; or
  - 1.44 that otherwise threatens the health and/or safety of a member of the Component community.
- 1.5 Extent of Authority. While the Texas State University System is committed to investigating all complaints of sexual misconduct and there is no geographical limitation to invoking this Policy, sexual misconduct that is alleged to have occurred at a significant distance from the Component and/or outside the Component property may be difficult for the Component to investigate. Additionally, the Component's disciplinary authority may not extend to third parties who are not students or employees of the Component.
- 1.6 Effect of Criminal Prosecution. Proceedings under this Policy will not be dismissed or delayed because criminal investigation or prosecution is pending or charges have been reduced or dismissed. Proceedings may also continue if a party is no longer employed with or currently enrolled as a student of the Component.
- 1.7 Supersedes Existing Policies. In the case of allegations of sexual misconduct, this Policy supersedes any conflicting procedures and policies set forth in other Component documents.
- 1.8 Campus Sexual Assault Policy. This Policy Shall be adopted by each Component as its campus sexual assault policy. It shall be made available to students, faculty and staff by including it in the Component's student, faculty and personnel handbooks and by

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creating and maintaining a web page on the Component's website dedicated solely to the Policy.

### 2. DEFINITIONS

- 2.1 Complainant refers to the person making a complaint of sexual misconduct, and shall be referred to herein as either Complainant, Survivor, or Victim, and these terms may be used interchangeably throughout this Policy.
- 2.2 Component refers to all member institutions of the Texas State University System, including but not limited to, Lamar University, Lamar Institute of Technology, Lamar State College - Orange, Lamar State College - Port Arthur, Sam Houston State University, Sul Ross State University, Sul Ross State University Rio Grande College and Texas State University.
- 2.3 Component Affiliated Program or Activity refers to any program or activity, on or off campus, that is initiated, aided, authorized or supervised by the Component or by an officially-recognized organization of, or within, the Component.
- 2.4 Component Premises. Buildings or grounds owned, leased, operated, controlled or supervised by the Component including property that is within or reasonably contiguous to the premises owned by the Component but controlled by another person, is frequently used by students, and supports institutional purposes (such as a food or other retail vendor).
- 2.5 Consent is an informed and freely and affirmatively communicated willingness to participate in a particular sexual activity. Consent can be expressed either by words or by clear and unambiguous actions, as long as those words or actions create mutually understandable permission regarding the conditions of each instance of sexual activity. It is the responsibility of the person who wants to engage in the sexual activity to ensure that s/he has the consent of the other to engage in each instance of sexual activity. (The definition of consent for the crime of sexual assault in Texas can be found at Texas *Penal Code Section 22.011*.)  
<http://www.statutes.legis.state.tx.us/Docs/PE/htm/PE.22.htm#22.011>



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- 2.51 The Component will consider the following factors in determining whether consent was provided:
- 2.511 consent is a voluntary agreement or assent to engage in sexual activity;
  - 2.512 someone who is incapacitated cannot consent;
  - 2.513 consent can be withdrawn at any time;
  - 2.514 past consent does not imply future consent;
  - 2.515 silence or an absence of resistance does not imply consent;
  - 2.516 consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another;
  - 2.517 coercion, force, or threat invalidates consent; and,
  - 2.518 being intoxicated or under the influence of alcohol, drugs, or any other substance is never an excuse for engaging in sexual misconduct.
- 2.6 Dating Violence is violence committed by a person:
- 2.61 who is or has been in a social relationship of a romantic or intimate nature with the Victim; and
  - 2.62 where the existence of such a relationship shall be determined by the Victim with consideration of the following factors:
    - 2.621 the length of the relationship;
    - 2.622 the type of relationship; and
    - 2.623 the frequency of interaction between the persons involved in the relationship (Texas *Family Code Section 71.0021*).
- <http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.71.htm#71.0021>
- 2.7 Dean of Student's Office includes the Student Affairs Office, the Student Services Office and the Dean of Student Life Office.
- 2.8 Family (Domestic) Violence includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the Victim, by a person with whom the Victim shares a child in common, by a person who is cohabitating with or has cohabitated with the Victim as a spouse or intimate partner or roommate, by a person similarly situated to a spouse of the Victim under the domestic or family violence laws of the State of Texas, or

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by any other person against an adult or youth Victim who is protected from that person's acts under the domestic or family violence laws of the State of Texas (Texas *Family Code Section 71.004*).

<http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.71.htm#71.004>

- 2.9 Incoming Student refers to a student in their first semester of enrollment.
- 2.10 New Employee refers to a faculty or staff member who has not been previously employed by the Component or whose previous employment with the Component was more than one year from his or her latest date of hire with the Component.
- 2.11 Parties refers to the Complainant and Respondent.
- 2.12 Preponderance of the Evidence means the greater weight and degree of credible evidence. Preponderance of the evidence is the standard for determining allegations of sexual misconduct under this Policy. Preponderance of the evidence is satisfied if the action is more likely to have occurred than not.
- 2.13 Respondent refers to the person accused of sexual misconduct and shall be referred to herein as either Respondent, Alleged Perpetrator, Accused, or Perpetrator, and these terms may be used interchangeably throughout this Policy.
- 2.14 Responsible Employee refers to a campus employee who has the authority to redress sexual misconduct; who has the duty to report incidents of sexual misconduct to the Title IX Coordinator or other appropriate designee, or whom a student could reasonably believe has this authority or duty. Responsible employees shall include all administrators, faculty, staff, student workers, except:
- 2.141 any employee with confidentiality obligations as described in Section 3 below;
  - 2.142 cafeteria staff who are not assigned administrative duties;
  - 2.143 custodial staff who are not assigned administrative duties;
  - 2.144 groundskeeper staff who are not assigned administrative duties;

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- 2.145 maintenance staff who are not assigned administrative duties;
  - 2.146 ranch/agricultural staff who are not assigned administrative duties; or
  - 2.147 staff of campus physical plant who are not assigned administrative duties.
- 2.15 Retaliation means any adverse action threatened or taken against a person because he or she has filed, supported, or provided information in connection with a Complaint of Sexual Misconduct, including but not limited to direct and indirect intimidation, threats, and harassment.
- 2.16 Sexual Assault means any form of non-consensual sexual activity representing a continuum of conduct from forcible rape to non-physical forms of pressure designed to compel individuals to engage in sexual activity against their will (Texas Penal Code Section 22.011).  
<http://www.statutes.legis.state.tx.us/Docs/PE/htm/PE.22.htm#22.011>
- 2.161 Examples of sexual assault include, but are not limited to, the following non-consensual sexual activity:
- 2.1611 sexual intercourse (vaginal or anal);
  - 2.1612 oral sex;
  - 2.1613 rape or attempted rape;
  - 2.1614 penetration of an orifice (anal, vaginal, oral) with the penis, finger or other object;
  - 2.1615 unwanted touching of a sexual nature;
  - 2.1616 use of coercion, manipulation or force to make someone else engage in sexual touching, including touching of breasts, chest, buttocks and genitalia;
  - 2.1617 engaging in sexual activity with a person who is unable to provide consent; or
  - 2.1618 knowingly transmitting a sexually-transmitted disease to another.
- 2.17 Sexual Exploitation occurs when a person takes non-consensual or abusive sexual advantage of another for his or her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited.

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- 2.171 Examples can include, but are not limited to, the following behaviors:
- 2.1711 prostituting another;
  - 2.1712 non-consensual electronically recording, photographing, or transmitting intimate or sexual utterances, sounds or images without the knowledge and consent of all parties involved;
  - 2.1713 voyeurism (spying on others who are in intimate or sexual situations);
  - 2.1714 going beyond the boundaries of consent (such as letting friends hide in a closet to watch another friend having consensual sex); or
  - 2.1715 distributing intimate or sexual information about another person without that person's consent.

2.18 Sexual Harassment is any unwelcome verbal, nonverbal, written, electronic or physical behavior of a sexual nature directed at someone, or against a particular group, because of that person's or group's sex, or based on gender stereotypes, severe or pervasive, and where it meets either of the following criteria:

2.181 Submission, consent, or rejection of the behavior is believed to carry consequences for the individual's education, employment, on-campus living environment or participation in a Component affiliated activity.

2.1811 Examples of this type of sexual harassment include, but are not limited to:

- 2.18111 pressuring another to engage in sexual behavior for some educational or employment benefit;
- or
- 2.18112 making a real or perceived threat that rejecting sexual behavior will result in a negative tangible employment or academic consequence.

2.182 The behavior has the purpose or effect of substantially interfering with another's work or educational performance by

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creating an intimidating or hostile environment for employment, education, on-campus living or participation in a Component affiliated activity.

Examples of this type of sexual harassment can include, but are not limited to:

- 2.1821 persistent unwelcome efforts to develop a romantic or sexual relationship;
- 2.1822 unwelcome commentary about an individual's body or sexual activities;
- 2.1823 unwanted sexual attention;
- 2.1824 repeatedly engaging in sexually-oriented conversations, comments or horseplay, including the use of language or the telling of jokes or anecdotes of a sexual nature in the workplace, office or classroom, even if such conduct is not objected to by those present; or
- 2.1825 gratuitous use of sexually-oriented materials not directly related to the subject matter of a class, course or meeting even if not objected to by those present.

2.19 Sexual Intimidation includes but is not limited to:

- 2.191 threatening another with a non-consensual sex act;
- 2.192 stalking or cyber-stalking; or
- 2.193 engaging in indecent exposure as defined in Texas *Penal Code* 21.08.  
<http://www.statutes.legis.state.tx.us/docs/pe/htm/pe.21.htm#21.08>

2.20 Sexual Misconduct is a broad term encompassing a range of non-consensual sexual activity or unwelcome behavior of a sexual nature. The term includes but is not limited to sexual assault, sexual exploitation, sexual intimidation, sexual harassment, domestic violence, dating violence, and stalking. Sexual misconduct can be committed by men or women, strangers or acquaintances, and can occur between or among people of the same or opposite sex.

2.21 Sexual Violence Sexual violence refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent. All such acts are forms of Sexual Misconduct.

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- 2.22 Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
- 2.221 fear for his or her safety or the safety of others; or
  - 2.222 suffer substantial emotional distress (Texas *Penal Code Section 42.072*).
- <http://www.statutes.legis.state.tx.us/Docs/PE/htm/PE.42.htm#42.072>
- 2.23 Student refers to any person who has been accepted for admission, or who is currently or was previously enrolled in the Component on either a full-time or part-time basis.
- 2.24 Third party refers to any person who is not a current student or employee of the Component, including but not limited to vendors and invited and uninvited visitors.
- 2.25 Third-Party Reporting refers to the submission of a complaint of sexual misconduct by a person on behalf of another person.
- 2.26 Title IX Coordinator is the person who has been designated by each Component to coordinate efforts to comply with and implement this Policy. The Title IX Coordinator is responsible for conducting the administrative investigation of reports of sexual misconduct and is available to discuss options, provide support, explain Component policies and procedures, and provide education on relevant issues. The Title IX Coordinator may designate one or more Deputy Title IX Coordinators. Each Component will identify and provide complete contact information for their Title IX Coordinator and all Deputy Coordinators in various locations, including but not limited to the Component's website; the student's handbook; the Dean of Student's Office; Human Resources; and Campus Police or Security; or their equivalents.
- 2.27 Title IX Investigator refers to the person who conducts the Title IX investigation.

### 3. Confidentiality

- 3.1 Limited Confidentiality of Reports to Employees. When considering reporting options, Victims should be aware that certain Component personnel can maintain strict confidentiality, while others have mandatory reporting and response obligations. Component

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personnel that are not confidential reporters as described in 3.4 and who receive a report of alleged sexual misconduct are required to share the information with appropriate administrative authorities for investigation and follow up. The Component will protect a Complainant's confidentiality by refusing to disclose his or her information to anyone outside the Component to the maximum extent permitted by law. As for confidentiality of information within the Component, the Component must balance a Victim's request for confidentiality with its responsibility to provide a safe and non-discriminatory environment for the Component community.

- 3.2 Confidentiality Requests and Interim Measures. The Component's inability to take disciplinary action against an alleged discriminator or harasser because of a Complainant's insistence of confidentiality, will not restrict the Component's ability to provide appropriate measures for the reasonable safety of the Component community. The Complaint may also be used as an anonymous report for data collection purposes under the Clery Act.
- 3.3 Victim Identity Protected from Open Records. The Texas Public Information Act permits the identity of Victims of sexual assault to be withheld from those seeking records under the Act (Texas *Attorney General Open Records Decision 339* (1982)).  
<https://www.texasattorneygeneral.gov/opinions/openrecords/46white/ord/1982/pdf/ORD19820339.pdf>
- 3.4 Employees Required to Maintain Confidentiality. The following individuals are required to maintain confidentiality and shall not report any information about an incident to the Title IX Coordinator without a Victim's permission:
  - 3.41 physical and mental health professionals, including licensed counselors who provide mental health counseling to members of the school community, and those who act under the supervision of a health care employee; and
  - 3.42 individuals whose scope of employment include confidentiality requirements under Texas law.
  - 3.43 Each Component will identify and provide complete contact information of such individuals in various locations, including but not limited to the Component's website; the student's

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handbook; the Dean of Student's Office; and Campus Police or Security.

- 3.44 These individuals will maintain confidentiality in accordance with the law and their professional rules of conduct. They will assist in a crisis situation and provide information about possible resources, some of which may include law enforcement, medical assistance, psychological counseling, victim advocacy assistance, legal assistance, Component disciplinary action, immigration services and criminal prosecution. They will not reveal the Victim's identity to anyone without the Victim's permission except under very limited exceptions (e.g., if an immediate threat to the Victim or others is present, or if the Victim is a minor). Victims need not reveal their names if calling these individuals for information.

- 3.5 Employees Who Must Report – Responsible Employees. A responsible employee who receives a report of sexual misconduct must report to the Title IX Coordinator all relevant details about the alleged sexual misconduct shared by the Victim. A responsible employee should not share information with law enforcement without the Victim's consent, or unless the Victim has also reported the incident to law enforcement.

- 3.51 Before a Victim reveals any information to a responsible employee, the employee should ensure that the Victim understands the employee's reporting obligations - and, if the Victim wants to maintain confidentiality, direct the Victim to confidential resources.

- 3.52 If the Victim chooses to tell the responsible employee what happened but also states that she or he wants to maintain confidentiality or does not want the matter investigated, the employee should tell the Victim that the Component will consider the request but cannot guarantee that the Component will be able to honor it. In reporting the details of the incident to the Title IX Coordinator, the responsible employee will also inform the Title IX Coordinator of the Victim's request for confidentiality.



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- 3.53 When weighing a Victim's request for confidentiality or that no investigation or discipline be pursued, the Component will consider a range of factors, including the following:
- 3.531 the increased risk that the Alleged Perpetrator will commit additional acts of sexual or other violence, such as:
    - 3.532 whether there have been other sexual misconduct complaints about the same Alleged Perpetrator;
    - 3.533 whether the Alleged Perpetrator has a history of arrests or records from a prior school indicating a history of violence;
    - 3.534 whether the Alleged Perpetrator threatened further sexual misconduct or other violence against the Victim or others;
    - 3.535 whether the alleged sexual misconduct was committed by multiple Perpetrators;
    - 3.536 whether the alleged sexual misconduct was perpetrated with a weapon;
    - 3.537 whether the Victim was a minor at the time of the alleged conduct;
    - 3.538 whether the Component possesses other means to obtain relevant evidence of the alleged sexual misconduct (e.g., security cameras or personnel, physical evidence); or
    - 3.539 whether the Victim's report reveals a pattern of conduct (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group.

- 3.6 Breaches of Confidentiality. Breaches of confidentiality or privacy committed by anyone receiving a report of alleged sexual misconduct or investigating the report of alleged sexual misconduct, may be considered a separate violation of this Policy and may result in disciplinary sanctions.

#### 4. Reporting Policies and Protocols

- 4.1 Reporting Options. A Victim of sexual misconduct is encouraged to report to any of the sources below. Although the Victim of sexual misconduct may decline to report the incident, the Component supports, encourages and will assist those who have been the Victim

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of sexual misconduct to report the incident to any individual or entity listed in 3.4, 3.5 above and/or in this Section.

- 4.11 **Local Law Enforcement.** An individual may report an incident of sexual misconduct directly with local law enforcement agencies by dialing 911. Individuals who make a criminal complaint may also choose to pursue a complaint through the Title IX Coordinator.
- 4.12 A criminal investigation into the matter does not preclude the Component from conducting its own investigation. The result of a criminal investigation does not determine whether sexual misconduct, for purposes of this Policy, has occurred.
- 4.13 **Component Police or Security.** An individual may also report an incident of sexual misconduct to the Component police or security. Reporting to such officials helps protect others from future victimization; apprehend the alleged assailant; and maintain future options regarding criminal prosecution, Component disciplinary action and/or civil action against the alleged wrongdoer. For Components that employ sworn peace officers, a Victim may request that his or her identity be kept confidential when reporting sexual misconduct to a sworn peace officer. Filing a police report does not obligate the Victim to continue with criminal proceedings or Component disciplinary action. Components shall provide the Victim contact information for their campus police or security personnel.
- 4.14 **Title IX Coordinator.** Any incident of sexual misconduct can be brought to the attention of the Title IX Coordinator. Although the Component strongly encourages reporting sexual misconduct to the police, a Victim may request administrative action by the Component with or without filing a police report.
- 4.15 **Dean of Student's Office.** Any incident of sexual misconduct can be brought to the attention of the Dean of Student's Office. Although the Component strongly encourages reporting sexual misconduct to the police, a Victim may request administrative action by the Component with or without filing a police report. The Dean of Students Office will promptly inform the Title IX Coordinator of the complaint.
- 4.16 **Campus Security Authority.** A complaint of sexual misconduct can be brought to a Campus Security Authority (CSA) as

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defined in each Component's Annual Security Report. The CSA will promptly inform the Title IX Coordinator of the complaint. Each Component will identify and provide complete contact information for their CSA in various locations, including but not limited to the Component's web page; the student's handbook; the annual security report; and the Dean of Student's Office.

- 4.17 Human Resources. A complaint of sexual misconduct may be brought to the Human Resources Department, which will promptly inform the Title IX Coordinator of the complaint.
- 4.18 Responsible Employee. An individual may report alleged sexual misconduct to a Responsible Employee, as that term is defined in 2.14 above. A faculty or staff member with any knowledge (including firsthand observation) about a known or suspected incident of sexual misconduct (other than those individuals identified in section 3.4 above) must report the incident to the Component police or security or the Component's Title IX Coordinator. No employee is authorized to investigate or resolve Complaints without the involvement of the Component's Title IX Coordinator.
- 4.19 Individuals may also file anonymous reports. Each Component shall provide the phone number and web address available for anonymous reports. Individuals who choose to file anonymous reports are advised that it may be very difficult for the Component to follow up and/or take action on anonymous reports, where corroborating information is limited. Anonymous reports may be used for Clery Act data collection purposes.

4.2 Preservation of Evidence. Preservation of evidence is critical in instances of sexual misconduct. Prompt reporting may preserve options that delayed reporting does not, including the preservation of physical evidence (which may be necessary to prove sexual misconduct or to obtain a judicial order of protection), the support of crisis counseling, and immediate police response.

4.3 Interim Measures. When an incident of sexual misconduct is formally reported, the Component will consider interim measures to protect the Alleged Victim while the incident is investigated and

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adjudicated through this Policy. The Title IX Coordinator and other appropriate Component administrators cooperate together to identify alternative arrangements to preserve the rights of both the Alleged Victim and the Accused, as well as provide a safe overall educational or working environment until (and perhaps after) the conclusion of the process.

- 4.31 Interim measures may include changing academic, living, transportation or working situations; and, any interim disciplinary action must comply with *System Rules and Regulations Chapters IV § 2.2(14), V § 2.141, and VI § 5.(14)*.
- 4.32 Failure to adhere to the parameters of any interim measures may be considered a separate violation of this Policy and may result in disciplinary sanctions.
- 4.33 Component will honor any order of protection, no contact order, restraining order or similar lawful order issued by any criminal, civil or tribal court.

### 5. **Retaliation**

The Component takes reports of sexual misconduct very seriously and will not tolerate retaliation against those who make such reports or participate in the investigatory or adjudicatory process. Retaliation includes, but is not limited to, any adverse employment or educational action taken for making a report of sexual misconduct, or otherwise participating under this Policy. Any actual or threatened retaliation, or any act of intimidation to prevent or otherwise obstruct the reporting of sexual misconduct, or the participation in proceedings relating to sexual misconduct may be considered a separate violation of this Policy and may result in disciplinary sanctions. Any person who believes that she or he has been subjected to retaliation should immediately report this concern to their Title IX Coordinator.

### 6. **Immunity**

The Component considers the reporting and adjudication of sexual misconduct cases of paramount importance. The Component does not condone underage drinking, illegal use of drugs or other criminal behavior; however, the Component may extend limited immunity from punitive sanctions when appropriate for those reporting incidents and/ or assisting Victims of sexual misconduct, provided they are acting in good faith in reporting or participating in an investigation.

**7. Prohibition on Providing False Information**

Any individual who knowingly files a false Complaint under this Policy, or knowingly provides false information to Component officials, or who intentionally misleads Component officials who are involved in the investigation or resolution of a Complaint shall be subject to disciplinary action.

**8. Risk Reduction Strategies**

8.1 Purpose. The Component will engage in the risk reduction strategies outlined below to limit the risk of sexual misconduct for the campus community.

8.2 Training.

8.21 Primary Prevention Training. Every incoming student, including undergraduate transfer student, and new employee shall attend prevention and education training or orientation regarding sexual misconduct and the campus sexual assault policy during the first semester or term of enrollment or employment. The Component shall establish the format and content of the training or orientation. Primary prevention training programs shall be designed to promote awareness of sexual offenses and to incorporate risk reduction strategies to enable community members to take a role in preventing and interrupting incidents of sexual misconduct. The Component training will be based upon research and will be assessed periodically for effectiveness. Specifically, training will include:

- 8.211 awareness and prevention of rape, acquaintance rape, domestic violence, dating violence, sexual assault, and stalking;
- 8.212 definitions of sexual misconduct offenses which are prohibited by the Component as defined by Texas law;
- 8.213 definition of consent as defined by Texas law;
- 8.214 risk reduction, such as recognition of warning signs of possible sexual misconduct, situational awareness and safety planning;
- 8.215 bystander intervention to encourage identification of situations that might lead to sexual misconduct and promote safe intervention as a means to prevent the misconduct - bystander intervention includes

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recognizing situations of potential harm, understanding institutional structures and cultural conditions that facilitate violence, overcoming barriers to intervening, identifying safe and effective intervention options, and taking action to intervene;

8.216 procedures for reporting, investigating, and accessing possible sanctions for sexual misconduct as described in this Policy;

8.217 options for reporting sexual misconduct and the confidentiality that may attach to such reporting;

8.218 campus and community resources available to Complainants or Respondents;

8.219 interim safety measures available for Complainants; and,

8.21(10) descriptions of additional and ongoing sexual misconduct training.

8.3 Ongoing Sexual Misconduct Training. The Component's commitment to raising awareness of the dangers of sexual misconduct includes offering ongoing education in the form of annual training, lectures by faculty, staff, mental health professionals, and/or trained non-Component personnel. Ongoing training may include dissemination of informational materials regarding the awareness and prevention of sexual misconduct.

8.4 Training of Coordinators, Investigators, Hearing and Appellate Authorities. All Title IX Coordinators, Deputy Coordinators, Investigators, and those with authority over sexual misconduct hearings and appeals shall receive training each academic year including, knowledge of offenses, investigatory procedures, due process, and Component policy and procedures related to sexual misconduct.

## 9. Informal Resolution (Mediation)

9.1 Eligibility for Mediation. Informal resolution is available and appropriate for claims of Sexual Harassment, only if:

9.12 both parties are both willing to engage in mediation and consent to do so in writing;

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- 9.13 the Complainant and the Respondent are both students or are both employees of the Component;
- 9.14 the Title IX Coordinator agrees that informal resolution is an appropriate mechanism for resolving the Complaint; and
- 9.15 the Complaint involves only Sexual Harassment as described in this Policy and does not involve any other sexual offense.

9.2 Mediation and Agreements. When the Title IX Coordinator determines informal resolution is appropriate and the parties consent in writing, the Title IX Coordinator will arrange or facilitate mediation in attempt to resolve the complaint. Agreements reached in mediation will be reduced to writing and signed by both parties. Agreements will be maintained by the Coordinator and shared only as necessary to implement the agreed resolution or as required by law.

9.3 Referral for Investigation. When mediation is not successful, or, if in the course of facilitating informal resolution the Title IX Coordinator learns of sexual offenses beyond sexual harassment, the informal resolution process will immediately terminate. The matter will then be referred for investigation in accordance with the procedures outlined below.

### 10. Investigation Procedures and Protocols

10.1 Actions Upon Receiving Report. Upon Component's receipt of a report of sexual misconduct:

10.11 Assignment. The Title IX Coordinator will review the complaint and investigate the matter. Alternatively, the Title IX Coordinator may assign the investigation to a Deputy Coordinator or Investigator and advise the Complainant of the name and contact information of the individual assigned. Subsequent references to Investigator in this section refers to the individual investigating the complaint, whether a Title IX Coordinator, Deputy Coordinator, or Investigator.

10.12 Initial Meeting with Complainant. As soon as is practicable, the Investigator shall contact the Complainant (subsequent

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references to Complainant in this section include the Alleged Victim if the original Complainant was not the Victim) and schedule an initial meeting. At the initial meeting the Investigator will:

- 10.121 provide an electronic and/or hard copy of this Policy which explains the process and rights of all parties;
  - 10.122 request additional information regarding the reported incident;
  - 10.123 explain the investigatory process;
  - 10.124 explain the options for reporting to law enforcement authorities, whether on campus or local police;
  - 10.125 discuss confidentiality standards and concerns with the Complainant and advise that confidentiality may impact the Component's ability to investigate fully;
  - 10.126 determine whether the Complainant wishes to pursue a resolution (formal or informal) through the Component or seeks no resolution;
  - 10.127 refer the Complainant, as appropriate, to the Counseling Center or other resources which may include law enforcement, medical assistance, psychological counseling, victim advocacy resources, legal resources, Component disciplinary action, immigration services, and criminal prosecution; and
  - 10.128 discuss with the Complainant, as appropriate, possible interim measures as described herein.
- 10.13 Interim Measures. The Investigator will determine and implement interim measures as appropriate and necessary for the Complainant's safety and to limit potential retaliation. Such measures may include, but are not limited to:
- 10.131 campus no-contact orders;
  - 10.132 reassignment of housing or work assignments;
  - 10.133 temporary withdrawal or suspension from the Component, in accordance with *System Rules and Regulations Chapters IV § 2.2(14), V § 2.141, and VI § 5.(14)*;



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- 10.134 escort or transportation assistance;
- 10.135 modification of class schedules; or
- 10.136 restrictions from specific activities or facilities.

The Component shall maintain as confidential any measures provided to the Victim, to the extent allowed by law and to the extent that maintaining such confidentiality will not impair the ability to provide the measures.

Failure of any party to adhere to the parameters of any interim measure may be considered a separate violation of this Policy and may result in disciplinary sanctions.

### 10.2 Prompt, Fair, and Equitable Investigation.

10.21 Timing of Investigation and Resolution. The Component shall make every reasonable effort to ensure that the investigation and resolution of a Complaint occurs in as efficient a manner as possible, with an expectation that the process (exclusive of any appeal procedures) will generally be completed within sixty (60) calendar days of the Complaint, absent extenuating circumstances. The Title IX Coordinator may modify this and any other deadlines contained in this Policy as necessary to accomplish the purposes stated and for good cause, including, but not limited to, the complexity of the investigation and semester breaks.

10.22 Notice of Allegations to Respondent. At the outset of an investigation, the Investigator will provide the Respondent prompt notice of the allegations against him or her in writing together with a copy of this Policy. Written Notice of Allegations will be provided to the Complainant concurrently with Respondent.

#### 10.23 Equitable Treatment.

10.231 Investigator will remain neutral throughout the investigation and provide both the Complainant and Respondent opportunities to respond in person and in

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writing, to submit relevant documents, and to produce relevant witnesses.

- 10.232 The Complainant and Respondent will receive a minimum of forty-eight hours' notice of any sanction meeting, due process hearing, or appellate meeting, if any.
- 10.233 Both Complainant and Respondent may have one representative and/or one advisor present at all meetings a party has with the Investigator, Title IX Coordinator, Deputy Coordinator or other Component administrator related to a complaint. The representative or advisor may provide support, guidance or advice to the Complainant or Respondent, but may not otherwise directly participate in the meetings.
- 10.234 The Complainant, Respondent, and appropriate officials will, at least forty-eight hours' in advance, be provided access to any information that will be used after the investigation but during disciplinary meetings.

10.24 Investigation Activities. Investigator will gather and review information from Complainant, Respondent, and Witnesses. Investigator shall conduct site inspection, if necessary, and obtain other information from sources as appropriate given the nature of the complaint.

10.25 Report of Investigation. The Investigator will complete a written Investigative Report that includes summaries of interviews conducted; photographs, if any; documents and materials received; descriptions of relevant evidence; summaries of relevant electronic records; and a detailed report of the events related to the incident. When the Investigator is not the Title IX Coordinator the Investigative Report will be submitted to the Title IX Coordinator for review and finding.

## **11. Standard of Review and Finding**

- 11.1 Review. The Title IX Coordinator will review the Report of Investigation under the "preponderance of the evidence" standard as defined in Section 2.12 of this Policy.

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- 11.2 Finding. The Title IX Coordinator will make a written finding as to whether:
- 11.21 no reasonable grounds exist that the Sexual Misconduct Policy was violated and the matter is closed, or
  - 11.22 it is more likely than not that Respondent violated the Sexual Misconduct Policy, and which specific sections of the Policy were violated.
- 11.3 Rationale and Recommended Sanctions. The finding shall include the Title IX Coordinator's basis for the decision and recommended sanctions, if any. The Title IX Coordinator will communicate the Finding in writing simultaneously to the Complainant, Respondent, and Component Administrator (as defined in 12.2 below) with authority to determine and issue appropriate sanctions, if any.

## 12. Sanctions

- 12.1. Possible Sanctions. Sanctions for a Finding of a Policy violation will depend upon the nature and gravity of the misconduct and/or any record of prior discipline for sexual misconduct. Sanctions may include:
- 12.11 withholding a promotion or pay increase;
  - 12.12 reassigning employment;
  - 12.13 terminating employment;
  - 12.14 barring future employment;
  - 12.15 temporary suspension without pay;
  - 12.16 compensation adjustments;
  - 12.17 expulsion or suspension from the Component and/or System;
  - 12.18 no-contact orders,
  - 12.19 probation (including disciplinary and academic probation);
  - 12.20 expulsion from campus housing;
  - 12.21 restricted access to activities or facilities;
  - 12.22 mandated counseling (e.g. educational programs such as batterer's intervention);
  - 12.23 disqualification from student employment positions;
  - 12.24 revocation of admission and/or degree;
  - 12.25 withholding of official transcript or degree;
  - 12.26 bar against readmission;
  - 12.27 monetary restitution; or
  - 12.28 withdrawing from a course with a grade of *W*, *F*, or *WF*.

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12.2 Sanction Decision. The responsible Component Administrator will issue a decision regarding sanctions simultaneously to the Complainant, Respondent, and Title IX Coordinator in writing within seven (7) class days of receipt of the Finding. Administrators responsible for imposing sanctions are:

12.21 Student Respondent Sanctions. The Dean of Students will issue sanctions for students.

12.211 Student Employees. Where the Respondent is both a student and an employee, the Title IX Coordinator will determine whether the Respondent's status is that of student, staff, or faculty for disciplinary purposes. When the Respondent's status is determined to be that of a student employed by the Component, the Dean of Students will consult with the AVP of Human Resources or their equivalent prior to issuing sanctions.

12.212 Due Process Hearing. Complainant or Student Respondent may elect to dispute the Finding and/or the sanction through a due process hearing. Procedures for the hearing are outlined in the *System Rules and Regulations, Chapter VI §§ 5.7-5.9* and the Component's Student Discipline Procedures, with exceptions as follows:

12.2121 The Component Representative for student due process hearings related to Sexual Misconduct shall be the Component's Title IX Coordinator or his or her designee;

12.2122 The role of the hearing adjudicator(s) is to review the investigation and the appropriateness of the sanction for significant procedural errors or omissions;

12.2123 Parties may question their own witnesses, but they shall not ask questions of each other or the other party's witnesses;

12.2124 Each party shall receive notice of the hearing and has a right to be present; however, neither party shall be compelled to attend any hearing; and

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12.2125 When a finding of sexual misconduct is upheld, sanctions listed in section 12.1 of this policy shall be imposed.

12.213 Staff Employee Respondents. The Respondent's supervisor, or other authority within the Respondent's chain of command, will issue sanctions in consultation with Human Resources.

12.214 Faculty Employee Respondents. The Dean, who may consult with the Department Chair as appropriate, will issue sanctions in consultation with the Provost.

12.2141 Tenured Faculty Due Process Hearing. Tenured faculty receiving a sanction that impacts the faculty member's continued employment, full-time salary (not including administrative positions or summer teaching) or demotion in rank may elect to dispute the Finding and the sanction through a due process hearing.

12.2142 Non-Tenured Faculty Due Process Hearing. A non-tenured faculty member receiving a sanction impacting the faculty member's continued employment, full-time salary (not including possible summer teaching) or demotion in rank termination sanction before the expiration of the stated period of his or her appointment may elect to dispute the Finding and sanction through a due process hearing.

12.2143 Procedures for Faculty Due Process Hearing. Hearing procedures are outlined in the *System Rules and Regulations, Chapter V, § 4.54* and the Component's Faculty Grievance Procedures or its equivalent with the following exceptions:

12.21431 The role of the hearing adjudicator(s) is to review the investigations and the appropriateness of the sanction for

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significant procedural errors or omissions; and

12.21432 Complainant shall receive notice of the hearing and has a right to be present. Complainant shall neither be compelled to attend any hearing, nor be questioned by the Respondent.

12.215 In any situation where the responsible administrator has a conflict, the employee next in line in authority will impose sanctions.

### 13. Appeal of Finding or Sanctions

13.1 Right to Appeal. If either Complainant or the Respondent is dissatisfied with the Title IX Coordinator's Finding, sanction, and/or determination of a due process hearing, either party may appeal to the appropriate Component Appellate Authority as indicated below. References to "parties" in this section and in the *System Rules and Regulations* refer to the Respondent, Component Representative (Title IX Coordinator or designee), Component Administrator who imposed sanctions, and Complainant.

13.2 Grounds for Appeal. The grounds for any appeal are limited to the following:

13.21 previously unavailable relevant evidence;

13.22 substantive procedural error in the investigation or hearing; or

13.23 sanction is substantially disproportionate to the Finding;

13.24 the finding was not supported by the evidence.

13.3 Procedure for Appeal.

13.31 An administrator receiving notice of appeal will provide a copy of the notice to the parties concurrently with receipt.

13.32 Students. Any appeal of the finding, sanction or determination of a due process hearing is governed by the procedures outlined in the Student Conduct and Discipline Procedures in the *System Rules and Regulations, Chapter VI, § 5.(10)* and the Component's Student Code of Conduct. However, the appeal officer (Component Appellate Authority) may only approve,

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reject, or modify the decision and the appeal officer's decision is final.

13.33 Staff Employees. Any appeal of the Finding or sanction against a staff employee is governed by the procedures outlined in the *System Rules and Regulations, Chapter V, § 2.15* and the Component's Staff/Employee Grievance Procedures or its equivalent.

13.34 Non-Tenured Faculty.

13.341 Should the sanction against a non-tenured faculty member result in the termination of the faculty member during his/her contract period, the faculty member is entitled to a due process hearing pursuant to section 12.2152, and the faculty member may appeal the findings and/or sanctions resulting from such due process hearing. Such appeal is governed by the *System Rules and Regulations, Chapter V, § 4.5*.

13.342 Should the sanction against a non-tenured faculty member result in the non-reappointment or termination of the faculty member after expiration of his/her contract period, the faculty member is not entitled to a due process hearing pursuant to section 12.2152. However, the faculty member may appeal the findings and/or sanctions and such appeal is governed by the *System Rules and Regulations, Chapter V, § 4.4*.

13.343 All other appeals of the finding or sanction against a non-tenured faculty member is governed by the procedures outlined in the *System Rules and Regulations, Chapter V, § 2.15* and the Component's Staff/Employee Grievance Procedures or its equivalent.

13.35 Tenured Faculty

13.351 Should the sanction against a tenured faculty member result in revocation of tenure, termination of employment, and/or reduction of his/her academic

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year base salary (not including possible administrative roles or summer teaching) or demotion in rank, the faculty member shall be entitled to a due process hearing under the *System Rules and Regulations, Chapter V, § 4.5*.

13.352 All other appeals of a finding or sanction against a tenured faculty member are governed by the procedures outlined in the *System Rules and Regulations, Chapter V, § 2.15* and the Component's Staff/Employee Grievance Procedures or its equivalent.

13.4 Sanctions Pending Appeal. Any sanction(s) imposed will remain in place while any appeal is pending, unless, in the discretion of the Component Administrator imposing the sanction, good cause exists to stay the sanction.

### 14. Final Decision

14.1 No Appeal. Decisions and sanctions imposed under this Policy are final when the period for appeal under the rules and policies referenced in paragraph 13 above have expired without initiation of an appeal by either party.

14.2 Conclusion of Appeal. An appealed decision is final as outlined in the rules and policies referenced in section 13 above.

14.3. Notification of Outcomes.

14.31 The Title IX Coordinator will simultaneously notify the Complainant and the Respondent in writing of the outcome of the following stages of the process:

14.311 the Finding;

14.312 the sanction;

14.313 the outcome of a due process hearing, if any; and

14.314 the outcome of due process appeal, if any.

14.32 Any notice of outcome must include:

14.321 whether the alleged conduct occurred;



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- 14.322 any sanctions imposed on the respondent that directly relate to the complainant,
- 14.323 and other steps the school has taken to eliminate the hostile environment, if the school finds one to exist, and prevent recurrence.

14.33 The Respondent should not be notified of the individual remedies offered or provided to the Complainant.

### **15. Biennial Policy Review**

Each biennium, this Policy shall be reviewed. Any revisions determined necessary shall be brought before the System's Board of Regents for approval.

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### Lamar Institute of Technology Campus Carry Policy

Changes enacted by Senate Bill 11 (Campus Carry), 84<sup>th</sup> Texas Legislative, are effective August 1, 2016.

#### **Current Law**

Type of License, Concealed Handgun License (CHL)

A CHL holder can carry a concealed handgun on a university campus on public or private driveway, street, sidewalk, parking lot, parking garage or other parking area.

#### **August 1, 2016**

Type of License: Handgun License

The handgun license holder can now also carry a concealed handgun anywhere on a university campus, including buildings, unless prohibited by state or federal law, or university rule associated with changes in the law.

1. Lamar Institute of Technology permits their faculty, staff, students and visitors holding a valid Concealed Handgun License (CHL) or Handgun License to carry a concealed handgun anywhere on the Lamar Institute of Technology campus.
2. Students, faculty, staff and visitors from Lamar Institute of Technology attending classes, clinics, internships, co-ops, seminars and other Lamar Institute of Technology programs/events shall be subject to the laws, rules, regulations and policies addressing concealed handgun carry for that agency or site.
3. Students, faculty, staff and visitors from Lamar Institute of Technology utilizing services and programs at Lamar University shall be subject to the policy of the university addressing concealed handgun carry at the university.

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### LAMAR STATE COLLEGE – ORANGE

#### Concealed Handgun Policy

##### 1. Introduction

In 2015, the Texas Legislature approved and the governor signed legislation permitting individuals who possess a concealed handgun license to carry a concealed handgun on a college campus. The legislation becomes effective on August 1, 2016. Lamar State College – Orange has developed this policy pursuant to the requirements of *Texas Government Code*, Title 4, Subtitle B, Chapter 411, Subchapter H, Section 411.2031.

##### 2. Definitions

- a. “Campus” means all land and buildings owned or leased by Lamar State College – Orange.
- b. “Premises” is any building or portion of a building.
- c. “Handgun” is any firearm that is designed, made, or adapted to be fired with one hand.
- d. “Concealed handgun” is any handgun, the presence of which is not openly noticeable to the ordinary observation of a reasonable person.
- e. “Concealed handgun license” is a license issued by the Texas Department of Public Safety pursuant to *Texas Government Code*, Title 4, Subtitle B, Chapter 411, Subchapter H.
- f. “Prohibited Concealed Carry Location” is any location and/or event where the president of Lamar State College – Orange has determined that the carrying of a concealed handgun poses an undue risk to campus safety or any location and/or event that is exempt by virtue of other statutory requirements.

##### 3. Right to Carry

- a. An individual possessing a valid concealed handgun license is entitled to carry a concealed handgun on the campus and premises of Lamar State College – Orange.
- b. License holders who carry a handgun on campus must carry it on or about their persons, concealed at all times, or secured in a locked, privately-owned or leased motor vehicle.
- c. A license holder may not carry a handgun that is partially or wholly visible on the campus of Lamar State College – Orange.
- d. Students who expose or otherwise reveal the presence of a concealed handgun are subject to disciplinary action up to and including suspension or expulsion.
- e. Members of the faculty and staff who expose or otherwise reveal the presence of a concealed handgun are subject to disciplinary action up to and including termination of employment.

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- f. Any individual who fails to meet the responsibilities required of a concealed handgun license holder may be reported to state authorities and may be subject to penalties that result in the revocation of their license.
- g. Concealed Handgun License holders are not required to disclose their status to anyone other than a law enforcement officer. Lamar State College – Orange employees may not, under any circumstances, require faculty, staff, students, or visitors to disclose their concealed handgun status.

### 4. Prohibited Concealed Carry Locations

- a. Any premise where a high school interscholastic event is taking place.
- b. Any premise where a governmental meeting is taking place.
- c. Any premise where a formal hearing such as student disciplinary hearing, student grade appeal hearing, or employee disciplinary hearing is being held.
- d. Any and all Prohibited Concealed Carry Locations must be clearly identified and the campus community must be given advance notice of when and where the restrictions will be imposed. Written notices must include the following language:

*Pursuant to Section 30.06, Penal Code (trespass by license holder with a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun.*

- e. Any signage designating a Prohibited Concealed Carry Location must meet these minimum requirements: include the above italicized language in both English and Spanish; use contrasting colors with block lettering at least one inch in height; and be displayed in a conspicuous manner clearly visible to the public.

### 5. Review

- a. The president will appoint a Concealed Carry Committee that will in each even numbered year review the policy and its effectiveness. The committee may recommend changes to the Prohibited Conceal Carry Locations and address any other concerns of the campus community.
- b. Any changes to this policy shall be submitted to the TSUS Board of Regents for approval in accord with the timeline provided in Section 411.2031 of the *Texas Government Code*.
- c. The president shall submit a report to the Texas Legislature by September 1<sup>st</sup> of each even numbered year describing Lamar State College – Orange’s policies, rules, regulations, and/or provision relating to the carrying of concealed handguns on campus. The Texas State University System Chancellor and the Board of Regents shall each be provided copies of the report.

**Lamar State College Port Arthur**  
**“Campus Carry” or Concealed Handgun Policy**  
**March 30, 2016**

**1.0 Introduction**

1.1 Background: Senate Bill 11, commonly referred to as the “campus carry” law, was passed by the Texas Legislature and signed into law by Governor Greg Abbott in 2015. The law states that, beginning on August 1, 2016, a person who holds a Texas License to Carry a Concealed Handgun may carry a concealed handgun on the grounds and in the buildings of an institution of higher education. While the President of Lamar State College Port Arthur may not generally prohibit license holders from carrying concealed handguns on the campus, the law gives public colleges and universities some discretion to regulate campus carry including designating certain areas on campus where concealed handguns are prohibited. The law requires the College to receive approval of its campus carry policy from the Board of Regents and implement the same by August 1, 2016.

Lamar State College Port Arthur recognizes that a safe and secure environment is critical to maintaining a climate that is conducive to learning. The College’s Campus Carry Policy is consistent with the State of Texas Law and the governing policies and procedures of the Texas State University System Board of Regents.

1.2 Purpose: The purpose of the Campus Carry or Concealed Handgun Policy is to set forth the College’s Policy on concealed handguns on campus and to provide the consequences of violation of this Policy including College disciplinary action and possible criminal penalties.

1.3 Application: The Campus Carry or Concealed Handgun Policy applies to all faculty, staff, students, and visitors; and individuals and organizations doing business on or on behalf of Lamar State College Port Arthur.

1.4 Effective Date: The Campus Carry or Concealed Handgun Policy will become effective on August 1, 2016.

**2.0 Definitions**

2.1 Concealed Carry is defined as carrying a firearm in a fashion so that the firearm is not discernible by ordinary observation, and is in such close proximity to the person that it is readily accessible for prompt use.

2.2 Campus is defined as all land and buildings owned or leased by Lamar State College Port Arthur.

2.3 Premises is defined by Section 46.035 of the Penal Code as a “building or a portion of a building”. The term does not include any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area.

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2.4 Open Carry or Texas House Bill 910 became law on January 1, 2016 and makes it legal for concealed handgun license (CHL) holders to carry visible handguns in the state of Texas. However, open carry does not apply to public colleges and universities, including LSCPA.

2.5 Handgun is defined by the Texas Penal Code 46.01 as “any firearm that is designed, made, or adapted to be fired with one hand.”

2.6 Concealed handgun is defined as a handgun, the presence of which is not openly noticeable to the ordinary observation by a reasonable person.

2.7 Concealed Handgun License is defined as a current Concealed Handgun License issued by the Texas Department of Public Safety under the authority of the Texas Government Code, Chapter 411, Subchapter I.

### 3.0 Carrying of Concealed Handgun by a License Holder

3.1 Right to Carry. A Licensed Holder may carry a concealed handgun while on the campus premises (including public driveways, streets, sidewalks or walkways, parking lots, and other parking areas) and in Lamar State College Port Arthur passenger transportation vehicles, unless prohibited by state or federal law, or by this policy

3.2 Intoxication. A Concealed Handgun License Holder may not carry a concealed handgun while intoxicated.

3.3 Display of Concealed Handgun. A Concealed Handgun License Holder may not carry a partially or wholly visible handgun, or intentionally or knowingly display a handgun in plain view of another person, even if holstered, on the campus premises, including public driveways, streets, sidewalks, walkways, parking lots, or other parking areas on the premises of Lamar State College Port Arthur.

3.4 Requirement to Display License. A Concealed Handgun License Holder must display his/her License to Carry a Concealed Handgun issued by the Texas Department of Public Safety when directed by a law enforcement officer in accordance with Section 411.205 of the Texas Government Code. Otherwise, an individual is not required to disclose whether he/she is a Concealed Handgun License Holder in order to participate in any program or service offered by Lamar State College Port Arthur, except as required by law.

### 4.0 Designated No Handgun Areas

4.1 Lamar State College Port Arthur has designated No Handgun Areas as those areas that are already prohibited by law per Texas Penal Code 46.035. This would include, but is not limited to, all collegiate level competitive sporting events and any UIL sanctioned event hosted on the campus of Lamar State College Port Arthur.

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4.2 Notice. A notice for 'No Handgun Areas' will be displayed on campus. The notice must state:

*Pursuant to Section 30.06, Penal Code (trespass by license holder with a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun.*

4.3 The notice may be provided to individuals on a card, document or sign. If notice is provided through signage, it must:

- Include the language italicized above in both English and Spanish,
- Use contrasting colors, block letters at least 1 inch in height; and,
- Be displayed in a conspicuous manner clearly visible to the public.

### 5.0 Handgun Storage

5.1 Lamar State College Port Arthur will not provide storage for handguns on the campus. It is the responsibility of the Concealed Handgun License Holder to properly store their handgun in a location allowable by law.

### 6.0 Concealed Handgun License Status

6.1 Authorized Concealed Handgun License Holders are not required to disclose their status to anyone other than a law enforcement officer. Lamar State College Port Arthur employees may not, under any circumstances, require faculty, staff, students, visitors or third parties to disclose their concealed handgun license status.

### 7.0 Employees

7.1 Employees with a Concealed Handgun License may exercise their right to carry a concealed handgun; however, under no circumstances is the concealed handgun to be shown or used within the scope of their employment. If found in violation of this provision and/or this policy, an employee may be subject to disciplinary actions that include written or verbal reprimands and/or termination.

### 8.0 Others on Campus

8.1 Others on campus such as vendors, contractors, and visitors must comply with this policy.

8.2 Anybody that does not comply with this policy may be subject to disciplinary and/or legal action. Disciplinary action may include removal from the campus while legal action may include criminal prosecution.

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### 9.0 Closing

9.1 Lamar State College Port Arthur is obliged to follow Senate Bill 11, commonly referred to as the “campus carry” law and may not enact policies or provisions that violate the law. Any changes to the law must be initiated by the Texas legislature.



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### Sul Ross State University Sul Ross State University Rio Grande College Campus Carry Policy

#### I. Policy Statement

Sul Ross State University (University) is committed to providing a safe environment for students, faculty, staff and visitors while respecting the rights of individuals licensed to carry concealed handguns where permitted by law. Licensed individuals may carry licensed handguns on campus premises except in locations and at activities prohibited by law and regulation.

#### II. Purpose

The purpose of this policy is to set forth the University's guidelines on firearms on university property as outlined by Senate Bill 11 of the Texas Legislature and State and Federal Laws. This policy does not apply to commissioned peace officers as defined in the Texas Code of Criminal Procedures.

#### III. Scope

- A. Right to Carry: A Licensed Holder may carry a concealed handgun while on the university grounds and in University transportation vehicles, unless prohibited by state or federal law, or prohibited by signage posted by the University.
- B. Open Carry Prohibited: All persons, including license holders, are prohibited from openly carrying a handgun on University grounds.
- C. Display of Concealed Handgun: A License Holder may not carry a partially or fully visible handgun, holstered or otherwise, or intentionally display a handgun in plain view of another person on the university grounds.
- D. License: A License Holder must carry his or her Concealed Handgun License as required by law and display said license to law enforcement officials in accordance with 411.205 of the Texas Government Code. License Holders are not required to disclose their status as a concealed handgun licensee in order to participate in any program or service offered by the University, except as required by law.
- E. Storage of Firearms: It is the responsibility of the license holder to properly store their concealed handgun in accordance with the Texas Government Code Subchapter H Section 411.188.4. In addition, the University does not provide gun storage at any of the university campuses for concealed handguns or other firearms.

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### IV. REFERENCES

#### State Laws & Other Regulations

1. [Senate Bill 11 – Campus Carry](#)
2. [Texas Government Code Section 411.205 – Requirement to Display License](#)
3. [Texas Government Code Subchapter H, Section 411.188.4 – Law Enforcement and Public Protection](#)

## Appendix A-11

### LAMAR UNIVERSITY CONCEALED HANDGUN POLICY

#### I. **Statement of Purpose:**

Lamar University, a component of the Texas State University System, hereby establishes the Concealed Handgun Policy pursuant to Senate Bill 11 (also known as “Campus Carry”) [84<sup>th</sup> Texas Legislature].

#### II. **Scope:**

This policy applies to all students, employees, and visitors licensed to carry a handgun under Texas law on the Lamar University campus or premises.

#### III. **Definitions**

**About the Person:** A license holder may carry a handgun in a manner such that it must be close enough to the license holder that he or she can grasp it without materially changing position.

**Athletic Event:** An athletic event taking place between or among different high school, collegiate, and professional teams or university-sponsored sporting clubs.

**Board of Regents:** The ten member Board of Regents for The Texas State University System.

**Campus:** All land and buildings owned or leased by Lamar University [*Texas Government Code §411.2031(a)(1)*]

**Concealed Handgun:** A handgun, the presence of which is not openly discernible to the ordinary observation of a reasonable person.

**Handgun:** Any firearm designed, made, or adapted to be fired with one hand. [*Texas Penal Code, § 46.01*]

**License Holder:** A person licensed to carry a handgun under Texas law. [*Texas Government Code, Ch. 411, Subchapter H*]

**Premises:** A building or portion of a building owned or leased by Lamar University. The term does not include any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area. [*Texas Penal Code §46.035(f)(3)*]

**Texas Academy of Leadership in the Humanities:** A residential honors program on the campus of Lamar University for gifted and talented Texas high-school aged students.

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### IV. Policy Statement:

Lamar University is committed to maintaining a welcoming and safe educational environment for students, employees, and visitors and adopts this policy in compliance with Senate Bill 11 (84<sup>th</sup> Texas Legislature) which authorizes license holders to possess concealed handguns on university campuses or premises.

Effective August 1, 2016, a license holder may carry a concealed handgun on or about the license holder's person while on Lamar University's campus, except in areas specifically restricted by this policy and law. *The "open carry" of handguns on Lamar University's campus or premises is against the law.*

### V. Places and Events Where Concealed Handguns Are Prohibited (Gun-Free Zones):

Lamar University prohibits students, employees, visitors and guests from carrying concealed handguns on the following premises and at the following events:

- 1) Cardinal Village residence hall rooms housing students enrolled in the Texas Academy for Leadership in the Humanities (currently in Morris Hall), and related Academy offices and meeting rooms located in Cardinal Village and the Center for College Readiness Building. License holders who reside in other Cardinal Village Residence Halls, including non-Academy students residing in Morris Hall rooms, are allowed to possess concealed handguns; however, a gun safe, approved by Lamar University Police Department, must be provided by the resident in rooms leased to and occupied by those licensed to carry a handgun. If the handgun is not on or about the person, it must be stored in the gun safe.
- 2) University-designated health and mental health counseling facilities to include the Lamar University Student Health Center and the Psychology Department Counseling Clinic.
- 3) University-designated disciplinary/personnel facilities to include the Student Disciplinary Hearing Office and Employee Hearing Office.
- 4) Lamar University premises associated with high school, collegiate, professional, and interscholastic athletic events.
- 5) Lamar University premises associated with governmental meetings, as well as the Lamar University's Police Department.
- 6) At the discretion of the President, other Lamar University premises associated with temporary events involving safety considerations (e.g., election sites) and/or areas in which federal or state law, licensing or contract requirements prohibit the carry of handguns.

### VI. Notice:

Oral or written notice must be given as to where license holders may not carry a concealed handgun. Notice that is given on a card or document must contain the following language:

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*Pursuant to Section 30.06, Penal Code (trespass by license holder with a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun.*

Alternatively, notice may be posted on a sign at the entrance of an area in which the carrying of a concealed handgun is forbidden (“gun-free zone”). The sign must conform to the requirements of the *Penal Code*, in format and content, as follows:

- 1) Include the above italicized language in both English and Spanish;
- 2) Use contrasting colors, block letters, at least 1 inch in height; and
- 3) Be displayed in a conspicuous manner clearly visible to the public.

### VII. **Enforcement:**

A license holder commits a criminal offense if the licensee carries a partially or wholly visible handgun, regardless of whether the handgun is holstered, on or about the licensee’s person, and intentionally or knowingly displays the handgun in plain view of another person:

- 1) On the campus or premises of Lamar University
- 2) On any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area of Lamar University

Any individual who observes violations of this policy should report the matter to the Lamar University Police (or call 409-880-8311). Violation of this policy may result in one or more of the following:

- 1) Individuals (including students, employees, or visitors) may be excluded from Lamar’s campus and premises.
- 2) Individuals (including students, employees, or visitors) may be referred to law enforcement for arrest and prosecution.
- 3) Students may be subject to discipline up to and including expulsion.
- 4) Employees may be subject to discipline up to and including termination.

### VIII. **Amendment:**

In accordance with SB 11, the President or officer may amend the provisions of this policy as necessary for campus safety. Such amendment shall be subject to review by the Board of Regents in accordance with the Texas State University System Rules and Regulations.

### IX. **Effective Date:**

This policy is effective August 1, 2016.

**X. Responsible Parties:**

Office of the President  
Lamar University Police

## Appendix A-12

### Sam Houston State University Concealed Carry Campus Policy

#### 1. General

Sam Houston State University (“SHSU”) is committed to developing and implementing a Concealed Carry Policy to meet Texas Law to be implemented under Texas Government Code Section 411.2031 (Carrying of Handguns by License Holders on Certain Campus) and Texas Penal Code 46.035.

#### 2. Purpose

2.01 This Policy articulates the reasonable rules, regulations and provisions regarding carrying of concealed handguns by license holders on all SHSU campuses.

- a. In accordance with Government Code Section 411.2031 and Texas Penal Code 46.035, Sam Houston State University recognizes the right of individuals licensed to carry concealed handguns to do so on campus land and in buildings owned or leased by SHSU, unless otherwise provided herein.
- b. Individuals who possess a valid handgun license from the State of Texas or an approved reciprocating state may legally carry a concealed handgun on or about their person.
- c. Campus housing resident license holders may carry their weapon on or about their person in the residence halls. License holders residing in campus housing are responsible for the safe storage of their handgun whenever it is not on or about their person by use of secure storage devices as required by the Department of Residence Life. All other weapons (to include long guns) remain prohibited in campus housing units.

#### 3. Areas that are Prohibited Concealed Carry Locations (PCCL).

- 3.01 Official Athletic Events (Collegiate or University Interscholastic League) held in Bowers Stadium, Don Sanders Baseball Complex, Bearkat Softball Complex, Meredith and Miriam York Field Events Center, the McAdams Tennis Center, the Johnson Coliseum, and Pritchett Field Stadium.
- 3.02 Any governmental meeting that takes place on the campuses of SHSU will be a PCCL.
- 3.03 Powell Health & Counseling Center (1608 Avenue J), Jack Staggs Counseling Center (1932 Bobby K. Marks Drive), Psychological Services Center (919 Bearkat Boulevard), Services for Students with Disabilities Office (Lee Drain

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Annex 1916 Avenue J), & Counseling Clinic at the Woodlands Campus Suite 151 (3380 College Park Drive; The Woodlands, Texas 77384).

- 3.04 Official University Student/Employee Disciplinary/Grievance Hearings. (See also § 4 below).
- 3.05 Nuclear Magnetic Resonance Lab (Chemistry & Forensic Science Building, Room 302 & 323).
- 3.06 Department of Public Safety Services (Secure Areas of Building Only in the Charles W. Tackett University Police Building 2424 Sam Houston Avenue; Huntsville, Texas 77340).
- 3.07 Buildings, grounds, or other University venues hosting a University Interscholastic League Event (Official, Sanctioned Competitions).

#### 4. Student and Employee Discipline or Grievance Hearings and Appeals Procedures

It is recognized that student discipline and employee grievance proceedings are held in multi-use venues. During the period a venue is used for such proceedings, the venue shall be a PCCL. The Dean of Students' or the Director of Human Resources may designate a room to be used for a proceeding that will be a PCCL. Prior to the proceeding, the student, employee and any additional proceeding participants shall be notified that the disciplinary, grievance, or appeal hearing location is a PCCL. Signage shall be placed at the designated hearing venue at least thirty minutes prior to the proceeding. Proceeding participants may also be given notice through a written document prior to entering the room. At the conclusion of the proceeding, signage shall be removed from the location.

#### 5. University Signage for PCCL Areas

- 5.01 Signage that is clearly visible, noting that the premise in question is a PCCL, shall be placed in conspicuous areas (entrances). Notice that is given on a card, document, or sign must contain the following language:

***Pursuant to Section 30.06, Penal Code (trespass by license holder with a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun.***

***De conformidad con la Sección 30.06, Código Penal (violación por el titular de la licencia con una pistola oculta), una persona con licencia bajo el Subcapítulo H, Capítulo 411, Código de Gobierno (ley de licencias arma de mano), no puede entrar en esta propiedad con una pistola oculta.***



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- a. PCCL signs must meet the minimum requirements:
  - i. Include the above italicized language in both English and Spanish;
  - ii. Use contrasting colors, block letters, at least 1 inch in height; and
  - iii. Be displayed in a conspicuous manner clearly visible to the public.
- b. All signage and other documentation used to indicate a PCCL shall be approved by the President.

### 6. Review of Policy

6.01 Each even numbered year, SHSU shall review this policy as follows:

- a. The committee for Concealed Carry on Campus shall,
  - i. Review PCCL on campus; and
  - ii. Provide recommendations on new locations designated as PCCL or any updates to the President.
- b. Any changes to this Policy, shall be submitted to Board of Regents in accordance with provisions stated in the Board's Rules and Regulations for approval in accord with the timelines provided in Texas Government Code Section 411.2031; and
- c. The President shall submit a report to the Texas Legislature by September 1<sup>st</sup> of each even numbered year describing SHSU rules, regulations, or other provisions and justifications on carrying of concealed weapons on campus. A copy of the report shall be provided to the Chancellor and the Board of Regents.

### References

Texas Government Code Section 411.2031  
Texas Government Code Section 422.207  
Texas Penal Code 46.035

## Appendix A-13

### Texas State University Campus Carry Policy

#### BACKGROUND AND PURPOSE

1. Effective August 1, 2016, as authorized by Texas Government Code Section 411.2031, individuals who hold a valid license to carry a concealed handgun (“license holder”) will be allowed to carry a concealed handgun on or about their person on the campus or on the premises located on the campus of a public institution of higher education. The law defines a campus to include all land and buildings owned or leased by the institution of higher education. The law does not allow the institution of higher education to establish provisions that generally prohibit or have the effect of generally prohibiting the carrying of concealed handguns by license holders on the campus. However, it does state that the president or other chief executive officer shall establish reasonable rules, regulations, or other provisions regarding the carrying of concealed handguns by license holders on the campus of the institution or on premises located on the campus of the institution.
2. Consistent with the legislative mandates contained in Texas Government Code Section 411.2031 and Texas Penal Code Section 46.035, effective August 1, 2016, Texas State University (Texas State) will allow individuals that hold a valid license to carry a concealed handgun (Concealed Handgun License and/or License to Carry) to carry a concealed handgun on land and in buildings owned or leased by Texas State, subject to the reasonable, rules, regulations, and other provisions regarding the carrying of concealed handguns by license holders as established by the President of Texas State and approved by The Texas State University System Board of Regents.
3. The purpose of this Policy is to set forth the reasonable rules, regulations, and provisions regarding the carrying of concealed handguns by license holders on all Texas State Campuses.

#### RULES REGARDING THE CARRYING OF CONCEALED HANDGUNS BY LICENSE HOLDERS ON TEXAS STATE UNIVERSITY CAMPUSES

4. General Rules Regarding the Carrying of Concealed Handguns by License Holders on Texas State University Campuses
  - 4.01 A license holder has the individual responsibility to safely carry and store a handgun. Texas State will not provide storage for handguns on the San Marcos Campus or on the Round Rock Campus.
  - 4.02 At the discretion of the President, concealed carry of a handgun by a license holder may be prohibited on other Texas State premises associated with temporary events involving safety considerations.
  - 4.03 Texas State will provide appropriate notice and signage as required by Texas law.

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- 4.04 A license holder must carry a concealed handgun on or about the license holder's person. For the purpose of these rules, the phrase "on or about the license holder's person" is defined as carrying a handgun in a manner such that it must be close enough to the license holder that he or she can grasp it without materially changing position.
5. Rules That Prohibit the Carrying of Concealed Handguns by License Holders (Concealed Carry) in Certain Locations on Texas State University Campuses
- 5.01 Concealed Carry is Prohibited in Premises Providing Services or Events for **Minor Children** as described below:
- a. *Child Development Center* on San Marcos Campus
  - b. *Clinic for Autism Research Evaluation and Support (CARES)* – 1<sup>st</sup> floor, Education Building on San Marcos Campus
  - c. *Assessment and Counseling Clinic (ACC)* – Rooms 111 and 112, Avery Building on Round Rock Campus
  - d. *Speech-Language-Hearing and Physical Therapy Clinics*, Rooms 101, 104, 111, 110A, 112-128 in Health Professions Building on San Marcos Campus
  - e. *Locations used for Pre-K through Grade 12 Summer Activities and Camps* on the San Marcos Campus and the Round Rock Campus including, but not limited to the following locations: Residence Halls used for summer camps, the Music Building on San Marcos Campus during summer terms and Avery Building on Round Rock Campus during summer I term
- 5.02 Concealed Carry is Prohibited in Premises Providing **Health Services**
- a. *Student Health Center* on San Marcos Campus
  - b. *Student Health Center* in Room 116, Nursing Building on Round Rock Campus
- 5.03 Concealed Carry is Prohibited in Premises Used for **Disciplinary, Legal Compliance, and Counseling**
- a. *5<sup>th</sup> Floor of the LBJ Student Center* on San Marcos Campus
  - b. *Room 116, Nursing Building* on Round Rock Campus
  - c. *Premises when used for disciplinary action*
- 5.04 Concealed Carry is Prohibited in Premises When Used for **Competitive Sporting, NCAA, and UIL Events**
- a. *Bobcat Stadium*
  - b. *Strahan Coliseum*

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- c. *Bobcat Baseball and Softball Complex*
- d. *Track and Field Stadium*
- e. *Other locations* on San Marcos Campus and Round Rock Campus where and when said location is used for competitive sporting, NCAA, and UIL events

### 5.05 Concealed Carry is Prohibited in Premises Used for **Official Residence or Governmental Events**

- a. *President's House* and surrounding grounds on San Marcos Campus
- b. *Locations when used for governmental meetings* on San Marcos Campus and Round Rock Campus
- c. *Polling Location on the 3<sup>rd</sup> floor, LBJ Student Center* on San Marcos Campus

## CERTIFICATION STATEMENT

- 6. This PPS has been approved by the reviewer listed below and represents President's policy and procedure from the date of this document until superseded.

Review Cycle: June 1, EY  
Review Date: 6/1/17  
Reviewer: President  
Date:

Approved: Denise M. Trauth  
Date: 6/1/16

Denise M. Trauth  
Texas State University

**SUPPLEMENT**

**Justifications for Rules Regarding the Carrying of Concealed Handguns by License Holders on Texas State University Campuses**

1. Effective August 1, 2016, consistent with Texas law, the President of Texas State University will implement Presidential Policy and Procedure Statement 10.01, which sets forth the rules regarding the carrying of concealed handguns by license holders on Texas State University Campuses.
2. As in set forth in Texas Government Code Section 411.2031, the Texas Legislature required the president or other chief executive officer of an institution of higher education, prior to establishing rules regarding the carrying of concealed handguns by license holders on their campuses, to consult with students, staff, and faculty regarding the following three factors: the nature of the student population, specific safety concerns, and the uniqueness of the campus environment.
3. This supplement provides justifications for each rule based on one or more of the three factors that the legislature deemed relevant for consideration by the president of the institution of higher education in establishing the rules.
4. Justifications for General Rules Regarding the Carrying of Concealed Handguns on Texas State University Campuses

**4.01 No Gun Storage Will Be Provided by the University on Campus**

- a. Background for the Rule:  
Texas law does not require the university to provide handgun storage for license holders. Under Texas Government Code Section 411.188, license holders must take a training class and license holders are taught proper handgun storage principles. It is the responsibility of a license holder to properly carry and store the handgun in a safe manner.
- b. Justification Based on the Nature of the Student Population:  
The student population of license holders does not differ from those in the general population in that both must meet the same requirements to obtain a license and safely store their weapons.
- c. Justification Based on Specific Safety Concerns:  
Texas Government Code Section 411.188 requires that license holders are taught proper handgun storage. Providing handgun storage on campus would raise issues regarding cost, availability, security, privacy, and liability.
- d. Justification Based on Unique Campus Environment:

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Since the University's campuses are expansive and have many separated areas and buildings, one centralized storage area is not feasible. Multiple storage locations would be needed and would be very expensive to establish and maintain.

### 4.02 Discretionary Authority

#### a. Background for Rule:

There may be unique, temporary, or unforeseen circumstances wherein the carrying of a concealed handgun would pose safety concerns. Other universities, in states that allow the concealed carry of a handgun on the campus of a public university, have incorporated language in their policies that allow the appropriate authorities to establish areas on campus where concealed carry is prohibited when the nature of a particular academic setting or event would create a safety concern relative to the presence of a concealed handgun. This discretionary authority is consistent with Texas Government Code Section 411.2031 (d-1), that allows the president or other officer to amend the provisions as necessary for campus safety, on a temporary basis.

#### b. Justification Based on Unique Campus Environment:

Texas State offers a broad curriculum that requires unique classroom and lab environments. The campuses host events that allow interactions with the broader community and many guests come on each campus daily.

### 4.03 Notice and Signage

Texas law specifies required notice and signage.

### 4.04 Definition of Phrase "On or About a License Holder's Person"

Texas law requires that a license holder carry a concealed handgun on or about the license holder's person. For the purpose of these rules, the phrase "on or about the person" is defined as carrying a handgun in a manner such that it must be close enough to the license holder that he or she can grasp it without materially changing position.

## 5. Justifications for Rules that Prohibit the Carrying of Concealed Handguns (Concealed Carry) by License Holders in Certain Locations on Texas State University Campuses

### 5.01 Concealed Carry is Prohibited in Premises Providing Services or Events for Minor Children

#### a. *Child Development Center (CDC) on San Marcos Campus*

##### (1) Background for Rule:

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CDC provides a model early education and child care program for students, staff, faculty, and the community. It serves infants, toddlers, and preschoolers. Currently, there are 90 children enrolled. Each year, 500-600 University students visit as “lab students.” The Texas Department of Family and Protective Services prohibits firearms on the premises of a licensed child care facility.

- (2) Justification Based on the Nature of the Student Population:  
Although enrolled students are not CDC clients, the client population consists of infants, toddlers, and pre-school age children. This population presents unique safety concerns.
- (3) Justification Based on Specific Safety Concerns:  
Young children may exhibit behaviors that are unpredictable and aggressive. Armed adults in the CDC will increase the risk of an accidental discharge.
- (4) Justifications Based on Unique Campus Environment:  
Not all universities operate a Child Development Center. Moreover, the state recognizes the uniqueness of the environment and state licensure regulations prohibit weapons in licensed child care facilities. (Texas Department of Family and Protective Services Child Care Licensing Division: Minimum Standards for Child-Care Centers, Section 746.3707, Subchapter S, Division 1)

b. *Clinic for Autism Research Evaluation and Support (CARES)* on 1<sup>st</sup> floor, Education Building on San Marcos Campus

- (1) Background for Rule:  
CARES provides assessment and treatment to people with intellectual and developmental disabilities (e.g. autism). More than a dozen such individuals between the ages of 2 and adulthood (18+ years old) are in CARES rooms, moving through the hallways between CARES rooms, or near the front doors located on the 1<sup>st</sup> floor of the education building.
- (2) Justification Based on the Nature of the Student Population:  
Although enrolled students are not CARES clients, the clinical population that includes children from 2 to 18 years presents unique safety concerns.
- (3) Justification Based on Specific Safety Concerns:  
CARES provides treatment to reduce aggressive behaviors. Grabbing someone who is armed could lead to an accidental discharge. CARES’ adult clients with milder intellectual disabilities or mental illnesses, if a license holder, would be able to bring a gun into the clinic. Children and adults with intellectual disabilities may not know how to behave upon seeing a gun, and would likely not behave in predictable ways.

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(4) Justification Based on Unique Campus Environment:

Not all universities operate a clinic that serves individuals with autism and intellectual disabilities.

c. *Assessment and Counseling Clinic (ACC)* – Rooms 111 and 112, Avery Building on Round Rock Campus

(1) Background for Rule:

ACC houses several programs/departments and serves diverse client populations including members of the general public. The focus is on children and family counseling. Among the clients served, children are the most vulnerable, as are adults with mental illness, and individuals in abusive relationships seeking support.

(2) Justification Based on the Nature of the Student Population:

Although enrolled students are not ACC clients, the clinical population that includes children from 2 to 18 years presents unique safety concerns.

(3) Justification Based on Specific Safety Concerns:

ACC serves families in crisis who often exhibit problematic behavior including conflict, aggression, abuse, and/or violence. ACC also serves clients who are in the process of leaving abusive relationships. Providing mental health services to potentially volatile clientele creates safety concerns.

(4) Justification Based on Unique Campus Environment:

Not all universities operate clinics that provide counseling services to children and families in crisis.

d. *Speech-Language-Hearing and Physical Therapy Clinics*, Rooms 101, 104, 111, 110A, 112-128, Health Professions Building on San Marcos Campus

(1) Background for Rule:

The Speech-Language-Hearing Clinic is a training facility for undergraduate and graduate student in the Department of Communication Disorders. An on-campus clinic is required for the program's national accreditation. Disorders range from hearing loss and problems expressing wants and needs, to understanding others. The causes of these speech and hearing problems range from autism to developmental delays, reduced cognitive abilities, neurological problems, dementia, stroke, learning disabilities, and prenatal/birth defects. Aggression, tantrums, impulsivity, and agitation are common in these populations.

The Physical Therapy Clinic is a clinical training facility for Doctor of Physical Therapy graduate students. About 70 patients are seen by these



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students under faculty supervision. Clientele include children and adults, many with neurological, developmental, and cognitive disorders. The mobility of all patients is compromised or reduced in some way. In certain cases, cognition may be compromised or reduced.

(2) Justification Based on the Nature of the Student Population:

Although enrolled students are not clients, the clinical population that includes children in pre-K through grades 12, presents unique safety concerns.

(3) Justification Based on Specific Safety Concerns:

Behavioral, cognitive, emotional/affective, and communicative issues in the populations served by these clinics may cause situations wherein a patient does not understand the implications of playing with or touching a gun. Many younger patients cannot delineate between a toy and a real gun. Due to limited understanding, specifically through talking and hearing, many patients cannot follow directions, tell others what they saw, or hear a communicated warning. The safety of the patients would be jeopardized in the case of an accidental discharge or a found handgun. Additionally, in the Physical Therapy Clinic a concealed handgun may restrict the prescribed therapeutic program especially in situations where clothing must be removed and/or where body manipulations and treatments would make the requirement that all weapons remain “concealed” impossible.

(4) Justification Based on Unique Campus Environment:

Few public universities have a degree in Communications Disorders and/or Physical Therapy. Therefore, few have an on-campus Speech-Language-Hearing Clinic or Physical Therapy Clinic.

- e. *Locations used for Pre-K through Grade 12 Summer Activities and Camps* on the San Marcos Campus and on the Round Rock Campus including, but not limited to the following locations: Residence Halls used for summer camps; the Music Building on San Marcos Campus during summer terms and Avery Building on Round Rock Campus during summer I term.

(1) Background for Rule:

During the summer months (June and July), the Department of Housing and Residential Life offers on-campus housing to over 50 camps and conference groups serving pre-K through grade 12 attendees. The School of Music offers summer camps in the Music Building and additional locations on the San Marcos Campus offer such programs. The Avery Building on the Round Rock Campus is used for these events during the summer 1 session.

(2) Justification Based on the Nature of the Student Population:

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The majority of attendees are school-aged students. Typically, one adult supervises groups of roughly 30 participants.

(3) Justification Based on Unique Campus Environment:

Not all universities offer summer programs on-campus for pre-K through grade 12 participants.

### 5.02 Concealed Carry is Prohibited in Premises Providing Health Services

a. Background for Rule:

Texas State University Student Health Centers on the San Marcos Campus and in Room 116 in the Nursing Building on the Round Rock Campus provide primary, women's, and psychiatric healthcare services to university students. The Student Health Centers have experienced healthcare providers, including physicians and nurse practitioners. Medical, laboratory, digital radiography, and pharmacological services and prescription drugs are available on-site.

b. Justification Based on the Nature of the Student Population:

All undergraduate and graduate students are eligible to receive services at the Student Health Centers.

c. Justification Based on Specific Safety Concerns:

The nature of the student population served and diversity of services provided raise concerns about the fear of injury to self and others in the Student Health Centers. The combination of mental health services and the ability to prescribe and dispense pharmaceutical medications, creates additional concerns. The law does not provide a mechanism, nor would it be safe or appropriate, for a mental health provider to require that a handgun be relinquished after a diagnosis is made.

d. Justification Based on Unique Campus Environment:

The Student Health Centers serve students suffering from psychological, as well as alcohol and other drug abuse disorders, which can lead to threatening behaviors and violence.

### 5.03 Concealed Carry is Prohibited in Premises Used for Disciplinary, Legal Compliance, and Counseling

a. Background for Rule:

The 5<sup>th</sup> floor of the LBJ Student Center on the San Marcos Campus contains Student Affairs offices that provide sensitive services to vulnerable and potentially volatile populations. The majority of distressed students served in this area have an immediate need for assistance and there is a high density of vulnerable and potentially volatile students served in this area. Distressed students are frequently walked between offices on this floor. It is not unusual

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for University Police Department officers to respond to situations involving safety concerns for students and/or staff. On the Round Rock Campus the Counseling Center, located in *Room 116 in the Nursing Building*, provides clinical services to individuals, groups, and couples. It engages in crisis intervention and consultation. Concerns addressed include stress, anxiety, depression, relationship challenges, substance abuse, and adjustment to college. The center also trains new mental health professionals.

*Various locations are used for disciplinary action* as defined by official UPPS on both the San Marcos and Round Rock Campuses. Disciplinary action can be taken against students, staff, organizations, and faculty members. Adjudication of a disputed matter is done in accordance with the processes and procedures required by the applicable University policies. Processes often include quasi-judicial, administrative hearings and dispositions. Disciplinary sanctions vary from verbal warnings to employment termination or student expulsion.

b. Justification Based on the Nature of the Student Population:

Services accessible to students on the 5<sup>th</sup> floor of the LBJ Student Center on the San Marcos Campus, include the Dean of Students Office (which includes Student Justice), Alcohol and Drug Compliance Services, and the Counseling Center. The Counseling Centers on both the San Marcos and Round Rock Campuses provide counseling and crisis intervention services to students, including students in crisis with an immediate need for said services. Texas Government Code Section 411.172 makes a chemically dependent person, or a person diagnosed by a licensed physician as suffering from a psychiatric condition, ineligible to be a license holder. A disciplinary action may be brought against an undergraduate or graduate student, an organization, a staff member or a faculty member. Disciplinary action involves adjudicatory processes that can include individual and/or group meetings, hearings, mediations, quasi-judicial proceedings, and appellate proceedings.

c. Justification Based on Specific Safety Concerns:

At Student Justice, violations of the code of student conduct are adjudicated. Students often demonstrate high levels of anger and frustration at adjudicatory proceedings. Additionally, populations prone to substance and alcohol abuse can be present at the Alcohol and Drug Compliance Services. Students with mental illness who might present a danger to themselves or others attend the counseling centers. The law does not provide a mechanism, nor would it be safe or appropriate, for a mental health provider to require that a handgun be relinquished after a diagnosis is made. Premises of the University wherein formal disciplinary actions are being conducted are comparable to governmental courts. The Texas Penal Code Section 46.03 prohibits carrying weapons into a court. That same rationale provides justification to disallow weapons in matters involving adjudication at the university level.

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d. Justification Based on Unique Campus Environment:

The 5<sup>th</sup> floor of the LBJ Student Center and the Counseling Center on the Round Rock Campus are unique because there is a density of vulnerable, volatile, and distressed students seeking services for which they have an immediate need. The majority of the offices on the San Marcos Campus that deal with disciplinary matters, quasi-judicial and administrative hearings, legal compliance issues, as well as substance abuse, mental health and disability issues are on the 5<sup>th</sup> floor. University Police Department officers are often required to assist in many of these situations. Disciplinary matters, hearings, and legal compliance of faculty, staff, organizations, and students may occur in a variety of locations.

5.04 **Concealed Carry is Prohibited in Premises When Used for Competitive Sporting, NCAA, and UIL Events**

a. Background for Rule:

Texas State hosts a number of competitive sporting events where guns are prohibited by Texas law, and NCAA and UIL rules and regulations. (Texas Penal Code Sections 46.03 and 46.035; Texas State's Safety and Security Plan, approved by the NCAA; NCAA rules; and UIL Rules and Regulations.)

b. Justification Based on the Nature of the Student Population:

Students and the general public, including children, attend these competitive sporting events. UIL events are specifically held for middle and high school aged participants and guests.

c. Justification Based on Specific Safety Concerns:

Texas Penal Code Section 46.035, NCAA rules, and UIL rules prohibit weapons at athletic and interscholastic events

d. Justification Based on Unique Campus Environment:

Large capacity sporting events and UIL events, are hosted on both the San Marcos and Round Rock Campuses. Said events require that safety and security plans are in place in order to provide a safe environment.

5.05 **Concealed Carry is Prohibited in Premises Used for Official Residence or Governmental Events**

a. *President's House* and Surrounding Grounds

(1) Background for Rule:

The President's House is both a private residence and a location where the President hosts official University events. The President is required to reside in the President's House that is located on the San Marcos Campus.

(2) Justification Based on the Nature of the Student Population:

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Guests include individuals from the University community, community-at-large, minors, elected and/or appointed public officials, donors, prospective donors, University Presidents, the System's Board of Regents, Chancellor, staff, and invited speakers.

(3) Justification Based on Specific Safety Concerns:

The President is the Chief Executive Officer of the University and is required to reside in the President's House. Specific safety concerns can suddenly arise when uninvited individuals arrive at the residence and/or when unanticipated intrusions occur at the residence.

(4) Justification Based on Unique Campus Environment:

The President's House is located on University property and is owned and maintained by the University.

b. *Locations used for governmental meetings on San Marcos Campus or Round Rock Campus*

(1) Background for Rule:

Texas law does not allow a license holder to carry a handgun in governmental meeting venues [Texas Penal Code Section 46.035 Subsection (c).]

(2) Justification Based on Specific Safety Concerns:

At various times, in various locations, on both the San Marcos and Round Rock Campuses governmental meetings are held. Under Texas Penal Code Section 46.035, concealed carry of handguns are not permitted in those locations during the time governmental meetings are held.

c. *Polling Location on 3<sup>rd</sup> Floor, LBJ Student Center on San Marcos Campus*

(1) Background for Rule:

During governmental elections, citizens are allowed to cast ballots on the 3<sup>rd</sup> floor of the LBJ Student Center located on the San Marcos Campus. Pursuant to Texas Penal Code Section 46.03, license holders are not permitted to carry concealed weapons at polling sites.

(2) Justification Based on Specific Safety Concerns:

When the 3<sup>rd</sup> floor of the LBJ Student Center is used as an official polling site in a governmental election, under these rules and under state law, a license holder is prohibited from carrying a concealed weapon in that location.